

CHAPTER 215. GENERAL ADMINISTRATION**GENERAL PROVISIONS**

- Sec.
215.1. Public School Employes' Retirement Board. [Reserved].
215.2. Administrative duties of the Board.
215.3. [Reserved].
215.4. [Reserved].
215.5. Duties of the Board.
215.6. Duties of employers.
215.7. Rights and duties of school employees and members.
215.8. [Reserved].

MANAGEMENT OF FUND AND ACCOUNTS

- 215.21. [Reserved].
215.22. Public School Employes' Retirement Fund.
215.23. Member's savings account.
215.24. State accumulation account.

MISCELLANEOUS PROVISIONS

- 215.31. [Reserved].
215.32. Commonwealth supervision.
215.33. Taxation, attachment and assignment of funds.
215.34. [Reserved].
215.35. [Reserved].
215.36. [Reserved].

Authority

The provisions of this Chapter 215 issued under the Public School Employees' Retirement Code, 24 Pa.C.S. § 8502(h), unless otherwise noted.

Source

The provisions of this Chapter 215 adopted April 2, 1976, 6 Pa.B. 827, unless otherwise noted.

§ 215.1. [Reserved].**§ 215.2. Administrative duties of the Board.**

(a) The Board will furnish, to the extent required by Federal law, information to members concerning those provisions of the Internal Revenue Code which may impose a tax liability upon a member or beneficiary. The sole responsibility for the tax liability, including the tax computation, is imposed upon the member and

not the Board and the member should consult tax counsel or legal counsel for advice in these matters since the Board is not qualified or required to offer advice.

(b) Under section 8502(g) of the Retirement Code (relating to administrative duties of board), an employer failing to comply with procedures as mandated in the Retirement Code dealing with duties imposed upon employers, shall pay for the cost of performing these duties, if the Board initiates action to perform the duties on behalf of the employer not doing so. If an employer is delinquent in the payment of contributions in accordance with section 8327 of the Retirement Code (relating to payments by employers), the Board will notify the Secretary of Education and the State Treasurer of the delinquency for the action as those officials are required to take hereunder, consistent with the billing and delinquency requirements in § 213.27(a) (relating to payments by employers).

(c) Regulations adopted and promulgated for the uniform administration of the System shall be subject to prior approval by the actuary with respect to all computational procedures used in the calculation of contributions, benefits and related matters.

(d) The Board will, each year, in addition to its itemized budget, which is submitted through the Governor's Office for General Assembly approval, also certify to the employers and the Commonwealth that percentage of total member's payroll necessary for the funding of prospective annuities for active members and the rates and amounts of normal accrued liability and supplemental contributions to be paid to the Fund, which actuarial certification will be regarded as final after Board approval. It is not subject to modification by the Budget Secretary or any other Commonwealth official.

(e) The Board will, in compliance with the percentage certifications in subsection (e), determine within 30 days following the end of each quarter the amount due based thereon, taking into consideration the member's total payroll and shall submit simultaneously therewith a requisition for the amount determined to be due from the Commonwealth.

(f) The Board will credit to the account of each member all amounts paid by the member into the fund, including the member's contributions for current service, payroll deductions for the purchase of service as otherwise provided in this part or lump sum payments for the purchase of service. A person or governmental employer may not make payments on behalf of the member unless authorized by the Retirement Code or this part. Member contributions shall be credited with statutory interest until the date of termination of service, except in the case of the vestee. In that event, statutory interest shall be credited until the effective date of retirement or until a return of the accumulated deductions, if the member so elects. In the case of a multiple service member, interest shall be credited to the member's accounts in each system until a termination of State and school service.

(g) *Retirement Code reference:* Section 8502 of the Retirement Code.

Source

The provisions of this § 215.2 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; amended August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial pages (328587) to (328588) and (249423).

§§ 215.3 and 215.4. [Reserved].**Source**

The provisions of these §§ 215.3 and 215.4 reserved October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226. Immediately preceding text appears at serial pages (238111) to (238112).

§ 215.5. Duties of the Board.

(a) *Application, elections and disability annuities.* Duties of the Board regarding applications and elections of members and disability annuities include the following:

(1) Subsequent to the receipt of an application for a disability annuity based on physical and mental incapacity for the performance of a job for which the member is employed, the Board will, through its chief medical examiner, and other medical examiners it may engage, cause the applicant to be examined. On the basis of the medical evidence submitted, a recommendation shall be submitted to the Board stating whether a disability should be granted, together with a report as to the permanency of the disability or the need for periodic examinations as well as the time interval for the examinations. The Board will also establish an effective date of disability which shall be the day following the last day of compensation.

(2) A disability applicant who is required by the Board to furnish additional medical documentation to support the application, shall provide the documentation within 30 days of the request, or the Board may render the disability application void.

(3) The chief medical examiner, or other medical examiners the Board may engage, may recommend to the Board, on the basis of subsequent medical examinations, whether a disability annuitant should continue on disability or whether a finding of nondisability may be appropriate. In the latter event, the Board will establish the date of termination of disability, based on the recommendation of the medical examiner, whereupon the disability annuity shall be discontinued in excess of any annuity to which the member may be otherwise entitled under section 8342 of the Retirement Code (relating to maximum single life annuity).

(4) If the Board denies a disability applicant for insufficient medical evidence, the applicant may still file, within 90 days after notification of the denial, an application to vest or take an annuity, if the applicant is eligible. The filing shall be considered timely, as of the original eligibility date, for the purposes of payment of other benefits or vesting, as the case may be.

(5) A disability annuity may also be subject to a disability annuity adjustment depending upon the earned income of the annuitant, as provided in section 8505(c)(3) of the Retirement Code (relating to duties of board regarding applications and elections of members).

(b) *Refund to members.* If the Board finds that a member is terminating service at the end of a school year intending to return the subsequent school year, following vacation periods, and to reinstate accumulated deductions, the Board may choose not to pay the deductions in the first instance. The Board may require certification from the employer that these events are not intended.

(c) *Payment of annuities.* Payment of annuities shall include tax information required by the Internal Revenue Code.

(d) *Miscellaneous duties.* Miscellaneous duties include the following:

(1) If a member dies in service and is eligible for a death benefit, the Board will, within 60 days after receipt of the necessary data and death certificate, pay the death benefit to the designated beneficiary or survivor annuitant, as the case may be.

(2) If the Board receives notification from an insurance carrier approved by the Board that an annuitant has elected appropriate hospitalization insurance coverage, the Board will deduct from the annuity payments the appropriate monthly installment and forward the deduction to the particular insurance carrier at times as the Board and carrier mutually agree.

(3) In cases of doubt, the Board will determine whether any person is a school employee within the meaning of the Retirement Code. The Board will also determine whether a person is an independent contractor or a person compensated on a fee basis upon review of all the circumstances surrounding the employment of the person seeking membership in the program.

(e) *Retirement Code reference:* Section 8505 of the Retirement Code.

Source

The provisions of this § 215.5 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; amended August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial pages (249423) to (249424).

§ 215.6. Duties of employers.

(a) The following procedures shall be employed for reporting salaried, per diem and hourly employees:

(1) *Salaried employees.* Reporting procedures for salaried employees must comply with the following:

(i) Part time salaried employees, irrespective of the percentage of time employed, shall be reported based on the percentage of time employed, as it relates to full time salaried employees. If requested, the employer shall fur-

nish, under section 508 of the Public School Code of 1949 (24 P. S. § 5-508), minutes of board meetings indicating the conditions of employment of the individuals.

(ii) This procedure does not affect the enrollment of salaried employees who are currently members of the System. The member's purchase of the previous part time salaried service in the 1975-76 school year shall be either a lump sum payment or a method agreed upon by the System and the member without application of interest.

(2) *Per diem and hourly employees.* Since a per diem or hourly employee is required to become a member of the System during a school year in which the employee works 80 days or 500 hours, an employer is responsible for determining if that person becomes eligible for membership during the fiscal year.

(i) If the employer anticipates that an employee shall become eligible for membership during the school year, the employee shall be enrolled as a member at the beginning of the school year, or upon employment, and contributions shall be deducted on a current basis. This service shall be counted for retirement purposes.

(ii) If an employee is enrolled as a member at the beginning of the school year, or when employed, and does not qualify during that school year, the employee is then entitled to a refund of accumulated deductions. If an employee is not enrolled at the beginning of the school year, or date of employment, but qualifies during the school year, the employer shall make deductions from that time forward and the employee and employer shall be billed for the first 500 hours or 80 days.

(b) *Retirement Code reference:* Section 8506 of the Retirement Code (relating to duties of employees).

Source

The provisions of this § 215.6 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; amended August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial pages (249424) to (249425).

§ 215.7. Rights and duties of school employees and members.

(a) *Information on new employees.* Each new school employee shall provide the employer with a complete record of previous school or State service, or creditable nonschool service, proof of date of birth, in the order of preference set forth in subsection (b), home address, current status in the System and other information the Board may require. Willful failure to provide the information required by this subsection, to the extent available, or the furnishing of erroneous information upon entrance into the System shall result in the forfeiture of the right of the member to subsequently assert any right to benefits based on the erroneous information or on any of the required information which the member failed to provide,

intentionally or otherwise. If the Board finds that a member is receiving an annuity based on false, misleading or improper information, the additional amounts received predicated on the information together with statutory interest doubled and compounded shall be deducted from the present value of any remaining benefits to which the member is legally entitled and the remaining benefits shall be correspondingly decreased.

(b) *Proof of date of birth.* Proof of date of birth will be accepted in the following order of preference:

- (1) Birth certificate.
- (2) Baptismal record.
- (3) Selective service record.
- (4) Armed forces discharge.
- (5) Passport.
- (6) School record.
- (7) Life insurance policy.
- (8) Naturalization record.
- (9) Alien registration record.
- (10) Other records as may be submitted by the member, which are acceptable to the Board.

(c) *Election of multiple service.* An active member from and after the effective date of the Retirement Code who was formerly a member in the State Employees' Retirement System, may elect multiple service coverage if the election is made no later than 365 days after active membership in this System.

(d) *Beneficiaries.* Every member shall nominate a beneficiary and, if desired, a contingent beneficiary, in writing with the Board. In all these cases, the designated or contingent beneficiary, as the case may be, shall be the only one entitled to receive the accumulated deductions or the death benefit for those who die in service or those who would be entitled to a benefit under Option 1 under section 8345 of the Retirement Code (relating to member's options). If the beneficiary or designated contingent beneficiary fails to survive the member, the payment, subject to the limitation in 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors) shall be paid to the next of kin. If the applicable limitation cannot be met, the payment, in the absence of a designated beneficiary, shall be paid to the estate upon the submission of documents required by the Board to authorize payment.

(e) *Termination.* Upon termination of service, a member, by written application, may elect to do one of the following:

- (1) Withdraw the accumulated deductions, thereby forfeiting other benefit, to which the member would otherwise be entitled.
- (2) Vest the retirement account, thereby making the member eligible for the vesting benefits as otherwise provided in this part. If the member is a joint

coverage member, the member may elect to become a full-coverage member and to pay the lump sum required within 30 days subsequent to termination of service.

(3) Receive an immediate annuity and, in the case of joint coverage membership, pay the lump sum required to become a full-coverage member within 30 days of termination of service.

(f) *Rights of vestees.* A vestee may, subsequent to vesting, and at any time during the vesting period, withdraw the accumulated deductions, thereby forfeiting other benefits to which the vestee would be otherwise entitled, or apply for an annuity, if the vestee has at least five eligibility points. The vestee shall also nominate a beneficiary to receive the vested benefits should the vestee fail to survive the receipt of the benefit.

(g) *Right of vestee at superannuation age.* For a vestee to be entitled to, and receive, an annuity, effective the date the vestee attains superannuation age, the vestee shall file an application no later than 90 days thereafter. An application subsequently filed shall be effective upon the date filed. If a vestee dies within the 90-day period subsequent to superannuation age, not having filed an application for benefits, the vestee shall be deemed to have elected the automatic death benefit Option 1.

(h) *Nomination of beneficiary or survivor annuitant.* A member in receipt of a reduced annuity, under any of the options, shall have the following rights with regard to designation of a beneficiary or survivor annuitant:

(1) If a member elects Option 1, the member may change the designated beneficiary at any time.

(2) If the member elects a survivor annuity option, a new survivor annuitant may not be named except when the survivor annuitant predeceases the member or the member has a change in marital status subsequent to the election of the option. In these cases, the annuity shall be recomputed to be actuarially equivalent as of the date of recomputation to the annuity in effect immediately prior thereto. In this case, the member may elect a new option in addition to the new survivor annuitant. A benefit plan may not be changed by an annuitant.

(3) An annuitant having a right to reelect an option and name a new survivor annuitant under the circumstances in paragraphs (1) and (2), may do so at any time after the death of the beneficiary or change in marital status.

(i) *Retirement Code reference:* Section 8507 of the Retirement Code (relating to rights and duties of school employees and members).

Source

The provisions of this § 215.7 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; amended August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial pages (249426) and (328589) to (328590).

Notes of Decisions*Election of Multiple Service*

A claimant cannot be permitted to purchase years of prior State service after the statutory 30-day limit has expired even though the only notice of the 30-day time period she received was in a "welcome" letter from the Public School Employees' Retirement System personally addressed to her with an application enclosed, and allegedly she received no such notice from her employer, the school district. *Tyson v. Public School Employees' Retirement System*, 737 A.2d 325 (Pa. Cmwlth. 1999); appeal denied 757 A.2d 937 (Pa. 2000).

Nomination of Beneficiaries Form

Decedent, who was a member of the Public School Employees' Retirement System (PSERS) and had previously designated her children as beneficiaries on Nomination of Beneficiaries form supplied by PSERS, executed an Assignment shortly before her death purporting to make trust beneficiary of her PSERS account; the Assignment filed by Trustee was rejected because purported change in beneficiaries was not an effective change since it was not on the form provided by the Public School Employees' Retirement Board as required by regulation. *Greene v. Public School Employees' Retirement Board*, 878 A.2d 153, 157 (Pa. Cmwlth. 2005).

§ 215.8. [Reserved].**Source**

The provisions of this § 215.8 reserved October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226. Immediately preceding text appears at serial page (238121).

MANAGEMENT OF FUND AND ACCOUNTS**§ 215.21. [Reserved].****Source**

The provisions of this § 215.21 reserved October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226. Immediately preceding text appears at serial pages (238121) to (238122).

§ 215.22. [Reserved].**§ 215.23. Member's savings account.**

(a) Interest is credited to each member's savings account during active or inactive service and also during the period a vestee retains vested credits. Interest is not credited to a member's savings account if the member has terminated service or has been an inactive member over 2 years and is not eligible for vested benefits. The rate of interest when credited is the statutory rate of 4% per annum.

(b) Retirement Code reference: Section 8523 of the Retirement Code (relating to member's savings account).

Source

The provisions of this § 215.23 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226. Immediately preceding text appears at serial page (238122).

§ 215.24. [Reserved].**MISCELLANEOUS PROVISIONS****§ 215.31. [Reserved].****Source**

The provisions of this § 215.31 reserved October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226. Immediately preceding text appears at serial page (238122).

§ 215.32. [Reserved].**§ 215.33. Taxation, attachment and assignment of funds.**

(a) The exemption provided in this section also includes a spouse's election authorized under 20 Pa.C.S. §§ 6108 and 6111 (relating to designation of beneficiaries of insurance or employee death benefits not testamentary; and, 6109 = combination of charitable trusts (repealed), 6111 = conveyances to defeat marital rights (repealed)) to the extent applicable.

(b) *Retirement Code reference:* Section 8533 of the Retirement Code (relating to taxation, attachment and assignment of funds).

Source

The provisions of this § 215.33 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; amended August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial page (328591).

§ 215.34. [Reserved].**Source**

The provisions of this § 215.34 reserved October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226. Immediately preceding text appears at serial page (238123).

§ 215.35. [Reserved].**Source**

The provisions of this § 215.35 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; reserved August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial page (328592).

§ 215.36. [Reserved].**Source**

The provisions of this § 215.36 amended October 16, 1998, effective October 17, 1998, 28 Pa.B. 5226; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2276; reserved August 1, 2008, effective August 2, 2008, 38 Pa.B. 4083. Immediately preceding text appears at serial pages (328592) and (314701).

[Next page is 231-1.]

215-10

(335710) No. 407 Oct. 08

Copyright © 2008 Commonwealth of Pennsylvania