

Retirement Board

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Memorandum

To: Retirement Liaison Officers

From: Tina Leiss, Operations Officer

Date: January 22, 2010

Re: Judicial Retirement System Official Policies

The Public Employees' Retirement Board has approved for notice the **adoption of new policies and the re-adoption of all previously adopted policies** of the Board in accordance with NRS 1A.100. Please immediately cause a copy of this notice to be posted on a bulletin board or in some conspicuous place in your office.

The public hearing on the revised policies will take place no earlier than 10:30 a.m. on February 17, 2010, in the PERS' Board Room, 693 West Nye Lane, Carson City. Any person wishing to testify should be in attendance at the meeting. The revised policies may be adopted at the February 17, 2010, meeting.

The following pages include the proposed changes to the policy; additions are underlined and deletions have a strikethrough line.



Official Policies

Of the

JUDICIAL RETIREMENT SYSTEM OF NEVADA

693 West Nye Lane
Carson City, Nevada 89703

Effective: September 1, 2008

TABLE OF CONTENTS

Definitions.....	1
Membership	4
Contributions.....	7
Monthly Retirement Reports.....	9
Service Credit.....	11
Purchase of Service.....	12
Disability Retirement	15
Survivor Benefits	21
Service Retirement.....	26
General	34
Public Employers	38
Domestic Relations Order.....	41
Benefit Restoration Plan and Trust	43
Economic Growth and Tax Relief Reconciliation Act of 2001	51

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DEFINITIONS

- 1A.230 1.1 ACTUARIAL COMPUTATION – The computation based on benefits earned and life expectancy of member and beneficiary to determine necessary reduction of benefits under retirement options or to determine cost of purchasing additional benefits.
- 1A.520 1.2 ALTERNATE PAYEE – The spouse, former spouse, *registered domestic partner, former registered domestic partner*, child, or other dependent of a member or retired justice or judge who, pursuant to a judgment, decree, or order relating to child support, alimony, or the disposition of community property, is entitled to receive all or a portion of the allowance or benefit of a member or retired member from the System.
- 1A.440 1.3 AVERAGE COMPENSATION – The average of a member’s 36 consecutive months of highest compensation as certified by the Court Administrator if the member is a justice of the Supreme Court or a district judge, by the county if the member is a justice of the peace, or by the city if the member is a municipal judge.
- 1A.100 1.4 BASE BENEFIT – The original monthly benefit from a member or retired justice or judge.
- 1A.450 1.5 BENEFICIARY – A person eligible for a *survivor* benefit ~~from a member~~ or *as a result of an option selection by a* retired justice or judge.
- 1A.100 1.6 BENEFIT CANCELLATION – Discontinuance of a benefit with no possible reinstatement.
- 1A.100 1.7 BENEFIT SUSPENSION – Temporary withdrawal of benefit with possible reinstatement when certain conditions are met.
- 1A.020 1.8 BOARD – The Public Employees’ Retirement Board.
- 1A.540 1.9 CHILD – An unmarried person under 18 years of age who is the issue or legally adopted child of a deceased member. As used in this policy, “issue” means the progeny or biological offspring of the deceased member.
- 1A.030 1.10 COMPENSATION – The salary paid to a member by the member’s public employer which is subject to contribution.
- Policy*
[1A.100](#) 1.11 CONSECUTIVE MONTHS – The months, one following the other, in which some compensation is reported or service credit received, whether any actual work was performed or not. For the calculation of average

compensation, compensation reported shall not be prorated to reflect the portion of the month that the reported compensation represents. Months for which a member does not receive service credit shall be spanned and not included in determining average compensation.

- 1A.550 1.12 DEPENDENT PARENT – The surviving parent of a deceased member of the Plan who was dependent upon the deceased member for at least 50% of the parent’s support for at least 6 months immediately preceding the death of the member.

- 1A.480 1.13 DISABILITY RETIREMENT – Benefit provided to an eligible member who becomes totally unable to perform his current or any comparable job for which he is qualified by his training and experience because of injury or physical or mental illness of a permanent nature.

- 1A.550-
1A.660 1.14 ELIGIBLE SURVIVORS – Child, spouse, *registered domestic partner*, survivor beneficiary of an unmarried member, or dependent parent eligible to receive survivor benefits if the eligible member should die.

- 1A.100 1.15 EXECUTIVE OFFICER – Administrator of the Public Employees’ Retirement System appointed by the Board.

- 1A.160 1.16 FUND – The Judicial Retirement Fund established by NRS 1A.160(1).

- 1A.100 1.17 LIAISON OFFICER – An employee selected by the Court Administrator, city, or county to certify records and coordinate retirement matters between the System and members of participating public employers.

- 1A.030 1.18 LONGEVITY PAY – Additional compensation based on years of service *not including any payment based, in whole or in part, upon any pay type that does not meet the definition of compensation in NRS 1A.030.*

- 1A.260 1.19 MEMBER – A justice of the Supreme Court or district judge, if not a member of the Public Employees’ Retirement System, or a justice of the peace or municipal judge who is allowed and elects to participate in the Plan pursuant to NRS 1A.285.

- 1A.050 1.20 PLAN – The retirement plan established pursuant to NRS 1A.300.

- 1A.240 1.21 POST-RETIREMENT INCREASE – The increase paid monthly to eligible benefit recipients.

- 1A.100
1A.180 1.22 PUBLIC EMPLOYER – The State, through the Court Administrator, in the case of a justice of the Supreme Court or a district judge, the county

in the case of a justice of the peace, and the city in the case of a municipal judge.

- 1A.100 1. *REGISTERED DOMESTIC PARTNERS – Persons who have a valid domestic partnership pursuant to Section 6 of Senate Bill 283 (2009) and who have not terminated that domestic partnership pursuant to Section 9 of Senate Bill 283 (2009).*
- 1A.180 1.23 REPORTING PERIOD – The calendar month for which member’s compensation and service credit are reported and certified by the participating public employer.
- 1A.060 1.24 RETIRED JUSTICE OR JUDGE – A justice of the Supreme Court, district judge, justice of the peace, or municipal judge who was a member of the Plan at the time he retired or a justice of the Supreme Court or district judge who decides, pursuant to NRS 1A.270 or 1A.280, to receive benefits for retirement pursuant to the Plan.
- 1A.560 1.25 SPOUSE – The husband or wife of a member of the Plan.
- 1A.620 1.26 SURVIVOR BENEFICIARY – Beneficiary of a member who was unmarried at the time of his death, had met the minimum eligibility requirements, and had designated a beneficiary to receive payments.
- 1A.620 1.27 SURVIVOR BENEFICIARY ADDITIONAL PAYEE(S) – Person(s) designated to receive direct payment of a portion of the survivor beneficiary benefit.
- 1A.530-
1A.660 1.28 SURVIVOR BENEFIT – Monthly allowance paid to eligible survivor(s) of a deceased member.
- 1A.090 1.29 SYSTEM – The Judicial Retirement System established pursuant to NRS chapter 1A.
- 1A.100 1.30 TERMINAL LEAVE – All accumulated leave or bonus payments that are made upon the termination of employment for any cause including death.
- 1A.340 1.31 VESTING – The attainment of creditable service which guarantees to a member those benefits accrued as of that date.

MEMBERSHIP

- 1A.260 2.1 No person may become a member of the System unless he is a justice of the Supreme Court, a district judge, a justice of the peace, or a municipal judge who is allowed and elects to participate in the Plan pursuant to NRS 1A.285.
- 1A.270 2.2 Each justice of the Supreme Court or a district judge who is elected or appointed as a justice of the Supreme Court or a district judge on or after November 5, 2002, who takes office on or after January 1, 2003, and who previously has not served as either a justice of the Supreme Court or a district judge shall be a member of the System, unless he is a member of the Public Employees' Retirement System. If he is a member of the Public Employees' Retirement System, he will remain a member unless he withdraws pursuant to NRS 1A.280, if eligible to do so.
- 1A.270 2.3 Each justice of the Supreme Court or a district judge who is elected or appointed as a justice of the Supreme Court or a district judge on or after November 5, 2002, and who previously has served as either a justice of the Supreme Court or a district judge and each justice of the Supreme Court or district judge who is serving as a justice of the Supreme Court or district judge on November 5, 2002, shall be a member of the System, unless he is a member of the Public Employees' Retirement System. If he is a member of the Public Employees' Retirement System, he will remain a member unless he withdraws pursuant to NRS 1A.280, if eligible to do so.
- 1A.280 2.4 A person who is elected or appointed as a justice of the Supreme Court or a district judge on or after November 5, 2002, who takes office on or after January 1, 2003, and who is a member of the Public Employees' Retirement System established pursuant to NRS chapter 286 on the date that he is elected or appointed may withdraw from the Public Employees' Retirement System and become a member of the System if he gives written notice to the Board of his intention to withdraw from the Public Employees' Retirement System and to become a member of the System.
- 1A.280 2.5 Written notice pursuant to NRS 1A.280(1) and Official Policy 2.4 must be received by the Board by March 31 of the year immediately following election or within 90 days of appointment. Notice must be given the first time that the justice or judge is elected or appointed while he is a member of the Public Employees' Retirement System.
- 1A.280 2.6 A justice or judge may not become a member of the System pursuant to NRS 1A.280(1) if he has previously been elected or appointed on or after November 5, 2002, and taken office on or after January 1, 2003, while he

was a member of the Public Employees' Retirement System and he did not give notice of his intention to withdraw from the Public Employees' Retirement System and to become a member of the System.

- 1A.280 2.7 If the Board does not receive written notice that a justice or judge intends to withdraw from the Public Employees' Retirement System pursuant to NRS 1A.280, he will remain a member of the Public Employees' Retirement System.
- 1A.285 2.8 A justice of the peace or municipal judge may participate in the Plan if the board of county commissioners elects to allow the justices of the peace of the county or the city council elects to allow the municipal judges of the city to participate in the Plan and the justice of the peace or the municipal judge elects to participate in the Plan.
- 1A.285 2.9 If the board of county commissioners rescinds its election to allow the justices of the peace of the county or the city council rescinds its election to allow the municipal judges of the city to participate in the Plan, any justice of the peace or municipal judge who elected to participate in the Plan before the effective date of the rescission is entitled to continue to participate in the Plan.
- 1A.285 2.10 a. A justice of the peace or municipal judge who is a member of the Public Employees' Retirement System established pursuant to NRS chapter 286 on the date that he elects to participate in the Plan must give written notice to the Board of his intention to withdraw from the Public Employees' Retirement System and to become a member of the Plan. Such notice must be given to the Board within the time set forth in subsection b herein and, except as otherwise provided in subsection c herein, must be given the first time that the justice of the peace or municipal judge is elected or appointed while he is a member of the Public Employees' Retirement System.
- b. Except as otherwise provided in subsection c herein, written notice must be received by the Board, (1) if the justice of the peace or municipal judge is elected, by March 31 of the year immediately following the year in which he was elected, or, (2) if the justice of the peace or municipal judge is appointed, within 90 days after his appointment.
- c. A justice of the peace or municipal judge who is a member of the Public Employees' Retirement System on the date that the board of county commissioners or city council elects to allow justices of the peace or municipal judges to participate in the Plan has 90 days following such date to submit written notice to the Board of his intention to withdraw from the Public Employees' Retirement System and become a member of

the Plan.

- 1A.290 2.11 Membership of a justice of the Supreme Court or a district judge in the System terminates upon:
- a. The death of the member;
 - b. Receipt of retirement allowances by the member of the Plan or retirement benefits pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to 3.090 to 3.099, inclusive; or
 - c. Receipt of disability allowances by the member of the Plan or disability benefits pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to 3.090 to 3.099, inclusive.
- 1A.290 2.12 Membership of a justice of the peace or a municipal judge in the System terminates upon:
- a. The death of the member;
 - b. Receipt of retirement allowances;
 - c. Receipt of disability allowances.
- 1A.290 2.13 A retired justice or judge is not entitled to any right conferred by NRS chapter 1A upon a member of the System unless the provision conferring that right expressly states that it is conferred upon a retired justice or judge.
- 1A.100 2.14 The Membership Enrollment Form must be completed by the employee and certified by the public employer. If the employee is a member of the Public Employees' Retirement System and he has an option to withdraw from the Public Employees' Retirement System and to become a member of the Plan, the employee's notice of withdrawal pursuant to Official Policy 2.4 or 2.10 must be submitted at the same time as the Membership Enrollment Form.

CONTRIBUTIONS

- 1A.030 3.1 Contributions shall be made on the following:
- a. Base pay, even if fully eligible to retire.
 - b. Longevity pay.
 - c. Compensation includes extra-duty assignments if it is the standard practice of the public employer to include such pay in the employment contract or official job description for the calendar year in which it is paid and such pay is specifically included in the member's employment contract or official job description.
 - (1) Extra duty assignments are those duties assigned to a member which are in addition to and beyond the normal and customary duties assigned to or associated with the position occupied by the member and which are distinctly different from the normal and customary duties assigned to or associated with the position occupied by the member.
 - (2) Extra-duty assignments do not include performing additional shifts or portions of shifts, including, without limitation, additional shifts or portions of shifts worked to cover duties of absent employees or vacant positions regardless of whether the additional shift or portions of shifts is for the same, or a different, position as the position occupied by the members.
- 1A.030 3.2 Contributions shall not be made on any form of compensation not specifically set forth in Official Policy 3.1 or NRS 1A.030.
- 1A.180 3.3 The Court Administrator shall submit to the System for deposit in the Fund on behalf of each justice of the Supreme Court or district judge who is a member of the System the percentage of compensation of the member this is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to NRS 1A.160(5) and the administrative expenses of the System that are attributable to such members.
- 1A.180 3.4 The State of Nevada shall pay to the System for deposit in the Fund an amount as the contribution of the State of Nevada as the employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the Supreme Court and district judges for which the System will be liable.
- 1A.180 3.5 Upon participation of a justice of the peace or municipal judge in the Plan, the county or city shall submit to the System for deposit in the Fund on behalf of each justice of the peace or municipal judge who is a member of the System the percentage of compensation of the member

that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to NRS 1A.160(5) and the administrative expenses of the System that are attributable to such members, except as otherwise provided in Official Policy 3.7.

- 1A.180 3.6 Upon participation of a justice of the peace or municipal judge in the Plan, the county or city shall pay to the System for deposit in the Fund an amount as the contribution of the county or city as the employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the peace and municipal judges for which the System will be liable.
- 1A.100 3.7 When a board of county commissioners elects to allow its justices of the
1A.180 peace or a city council elects to allow its municipal judges in the Plan, the contribution rate for that county or city shall be the percentage of compensation being paid by the Court Administrator pursuant to Official Policy 3.3 until the contribution rate for that public employer is determined by the System's actuary. The contribution rate for that public employer will commence to be paid in accordance with Official Policy 3.5 with the first full reporting period after the public employer is given notice of the contribution rate as determined by the System's actuary.

MONTHLY RETIREMENT REPORTS

- 1A.180 4.1 Monthly Retirement Reports certifying employment, compensation, and contributions for eligible members must be filed with the System by the 15th day of the following month.
- 1A.180 4.2 Monthly Retirement Reports are to include accurate information. Credit adjustments will not be accepted on payroll reports. Requests for credit adjustments must be submitted in writing.
- 1A.180 4.3 Monthly Retirement Reports must be submitted ~~on magnetic tape, diskettes, or other media~~ in a format compatible with the System's computer system ~~if the employer has the appropriate equipment to do so. Employers who cannot provide the information using the methods mentioned above, may provide it on computer printouts, or on forms provided by the System.~~
- 1A.180 4.4 New members shall not be added to the Monthly Retirement Report unless a completed Member Enrollment form is attached.
- 1A.100 4.5 Contributions shall be deposited to any branch of the System's bank to the credit of the Judicial Retirement System.
- 1A.180 4.6 Contributions may be deposited to the System's account on actual payroll dates but no later than the 15th of the following month.
- 1A.100 4.7 If a public employer is delinquent by more than 90 days in submitting a report or paying an amount due pursuant to NRS 1A.180, the System shall submit a written complaint to the Department of Taxation asking it to take such actions as are necessary to correct a condition of financial difficulty in accordance with NRS 354.650 through 354.720.
- 1A.100 4.8 Improperly completed monthly retirement reports that contain more than 5% identified errors and all erroneous entries will be returned to the public employer for correction and resubmittal within 30 days.
- 1A.100 4.9 Retroactive adjustments must be submitted for the month in which the compensation is applicable.
- 1A.100 4.10 If a member is owed or receives a lump-sum payment of compensation which encompasses a period of greater than one month, the employer must report that compensation for each month in which the compensation is applicable, even if the payment has not yet been made to the member.

- 1A.180 4.11 In addition to the Monthly Retirement Report, the public employer must complete and submit the Monthly Retirement Report Summary to certify totals reported on the Monthly Retirement Report.
- 1A.170 4.12 Retirement Reports that are not filed or the amounts due are not remitted
1A.180 within the time provided, a penalty on the unpaid balance due must be assessed at the rate of 4% more than the prime rate of interest as published in the Wall Street Journal (Western Edition) for the first date the payment or report becomes delinquent, prorated for the period delinquent on the unpaid balance due, and assessed at the time of receipt of payment or report. For the purposes of calculating the penalty on the unpaid balance due, the unpaid balance due must be calculated based on the most recent payroll report submitted to the System by the public employer.
- 1A.170 4.13 Retirement Staff may waive any penalty in an amount of less than \$100 based on late submittal of a Monthly Retirement Report. Penalties in amounts greater than \$100 and less than \$500 may be deferred until such time as fiscal year cumulative penalties amount to more than \$500 for any one agency.
- 1A.170 4.14 Retirement Staff may waive any penalty in an amount of less than \$100 based on late deposit of Monthly Retirement Report contributions.
- 1A.170 4.15 A notice of penalty assessment shall be sent by certified mail to the chief administrator of the public employer with a copy to the liaison officer.
- 1A.170 4.16 An additional penalty of 1% of assessment per month shall be imposed if the penalty is not paid within 90 days of notice.
- 1A.170 4.17 The Board may accept, if received in the System’s office within 30 days after the penalty assessment is received, an appeal for waiver of a penalty assessment due to extenuating circumstances and make any adjustments it deems necessary.
- 1A.180 4.18 Retirement staff will provide assistance and training to any public employer regarding preparation of Monthly Retirement Reports.

SERVICE CREDIT

- 1A.100 5.1 Members shall receive service credit for eligible service provided all required contributions have been received by the System.
- 1A.320 5.2 Service Credit for a member of the Plan begins on the day his term of office begins and terminates on the day his term of office expires, unless sooner terminated on the day of his death, resignation, or removal from office.
- 1A.100 5.3 The public employer shall provide to the System all employment and termination documents that affect service credit.
- 1A.280 5.4 If the Board receives notice pursuant to NRS 1A.280 and Official Policy 2.4 that a justice or judge intends to withdraw from the Public Employees' Retirement System, it shall transfer from the Public Employees' Retirement Fund to the Plan the accrued actuarial liability and credit for service earned by the justice or judge while a member of the Public Employees' Retirement System as determined by an actuary of the System. The service so transferred must be accredited under the Plan as if performed in the Public Employees' Retirement System.
- 1A.285 5.5 If the Board receives notice pursuant to NRS 1A.285 and Official Policy 2.10 that a justice of the peace or municipal judge intends to withdraw from the Public Employees' Retirement System, it shall transfer from the Public Employees' Retirement Fund to the Plan the accrued actuarial liability and credit for service earned by the justice or judge while a member of the Public Employees' Retirement System as determined by an actuary of the System. The service so transferred must be accredited under the Plan as if performed in the Public Employees' Retirement System.
- 1A.285 5.6 A justice, judge, justice of the peace, or municipal judge who exercises an option to withdraw from the Public Employees' Retirement System to become a member of the Plan may not reestablish the service for which liabilities were transferred.
- 1A.280
- 1A.100 5.7 If a public employer submits retirement reports indicating compensation for the periods during which a member is on leave-without-pay status and discharging his Reserve/National Guard obligations, along with appropriate contributions, the System will grant service credit for that period provided that the service credit is entitled to the benefits of the provisions of 38 U.S.C. Sections 2021 to 2026, inclusive.

PURCHASE OF SERVICE

- 1A.310 6.1 Any member who has five years of creditable service may purchase up to five years of service, except as provided in Official Policies 6.2 and 6.3.
- 1A.310 6.2 A member may purchase creditable service only if, at the time of the purchase, he is employed in a position eligible for membership in the Plan.
- 1A.280 6.3 In the case of a member who withdrew from the Public Employees’ Retirement System to become a member of the Plan and had service credit transferred from the Public Employees’ Retirement System to the Plan pursuant to NRS 1A.280 or 1A.285, the maximum of five years in NRS 1A.310 and Official Policy 6.1 includes any creditable service purchased pursuant to the provisions of NRS chapter 286 and transferred to the Fund on behalf of that member.
- 1A.285
- 1A.310
- 1A.310 6.4 Members must pay the full actuarial cost of service as determined by an actuary of the System. The cost to purchase service is calculated using the purchase percentage corresponding to the age and average compensation of the member at time of purchase. The actuarially developed purchase percentages for regular members are as follows:

Age	Factor	Age	Factor
30	0.11443	50	0.28037
31	0.11971	51	0.29333
32	0.12521	52	0.30619
33	0.13096	53	0.31843
34	0.13695	54	0.32959
35	0.14321	55	0.34019
36	0.14975	56	0.35055
37	0.15658	57	0.33355
38	0.16373	58	0.32930
39	0.17120	59	0.33201
40	0.17902	60	0.33851
41	0.18720	61	0.34306
42	0.19576	62	0.34739
43	0.20472	63	0.35068
44	0.21409	64	0.35287
45	0.22390	65	0.35387
46	0.23417	66	0.34415
47	0.24493	67	0.33618
48	0.25619	68	0.33191
49	0.26800	69	0.32166
		70	0.31584

These percentages apply even if service is purchased at time of retirement.

- 1A.100 6.5 A member may purchase any portion of his purchasable service without jeopardizing his right to purchase the remaining portion at a later date.
- 1A.100 6.6 Purchased service can be used for the same purposes as any other service.
- 1A.100 6.7 A member who:
- a. Enters into a lump-sum purchase-of-service agreement prior to retirement; and
 - b. will begin receiving a retirement benefit immediately after termination of employment;
 - c. shall have 30 days from the date of termination of employment to pay, in full, his purchase-of-service agreement.
- 1A.310 6.8 A member may make a lump-sum payment or enter into an agreement with the System to purchase service through regular monthly payments. Interest paid on a purchase agreement shall not be credited to the individual member's account.
- 1A.310 6.9 If a member fails to complete payments on a purchase agreement, the agreement will be terminated with the following options available to the member:
- a. Pay the remaining balance in a lump sum.
 - b. Receive service credit in the proportion that the principal paid bears to the principal due under the agreement.
- 1A.100 6.10 Monthly installment payments that are payroll deducted by the employer must be submitted to the System within five days of the employee's check date. These deductions must be submitted directly to the System and not included with the Monthly Retirement Report.
- 1A.100 6.11 If a member who has entered into a monthly installment purchase of service agreement dies before completion of the contract, a proration of service credit on the account must be made. No other person or employer will be allowed to complete the contract on behalf of the deceased member.

- 1A.310 6.12 Any member of the System may use:
- a. All or any portion of the balance of the member's interest in a section 401(a) qualified trust, 401(k), 403(b), 457, or Individual Retirement Account (IRA) under the Internal Revenue Code to the extent provided in the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and subject to the limitations of these policies.
 - b. For purposes of direct transfer for purchase, the System will allow lump sum agreements only.
- 1A.100 6.13 Any member who wishes to enter into a purchase-of-service agreement that will be paid through the direct transfer of all or any portion of the member's interest in a section 401(a) qualified trust, 401(k), 403(b), 457, or Individual Retirement Account (IRA) under EGTRRA must submit a request at least 60 days prior to the anticipated date of payment.

DISABILITY RETIREMENT

ELIGIBILITY

- 1A.480 7.1 A member with at least five years of service who becomes totally unable to perform his current or any comparable job for which he is qualified by his training and experience because of injury or mental or physical illness of a permanent nature is eligible to apply for a disability retirement allowance if:
- a. His employment as a justice of the Supreme Court, district judge, justice of the peace, or municipal judge will be terminated because of such disability;
 - b. He is employed as a justice of the Supreme Court, district judge, justice of the peace, or municipal judge at the time of application for disability retirement;
 - c. The member provides information that his disability renders him unable to perform the duties of his present position or of any other position he has held within the past year; and
 - d. The member files a notarized application for disability retirement with the System which indicates a selection of option and to which is attached a personal statement by the member describing the disability, the duties which he can and cannot perform, and any benefits he is entitled to receive for disability from any other public source.
- 1A.480 7.2 A member may apply for disability retirement even if the member is eligible for service retirement.

PROCEDURE

- 1A.480 7.3 The disability retirement application form shall include all of the following:
1A.490
- a. Selection of retirement option and designation of beneficiary, which shall include the member's notarized signature ~~and~~, if married, the spouse's consent and notarized signature, *and if in a registered domestic partnership, the registered domestic partner's consent and notarized signature.*
 - b. Member's authorization to release all medical data and employment documents to the System.
 - c. A personal statement by the member describing the disability, the duties which can and cannot be performed, and any benefits he is entitled to receive for disability from any other public employer.
 - d. A statement by the applicant's personal physician fully describing the applicant's health status and nature and extent of applicant's

- disability and whether or not the physician believes to a reasonable medical certainty the member is disabled.
- e. An official statement from the member's public employer certifying the member's employment record, work evaluations, record of disability, and absences that have occurred because of the disability.
- 1A.100 7.4 If the disability applicant is physically or mentally incapable of completing and submitting the application, the liaison officer, spouse, *registered domestic partner*, or legal guardian may complete the application on the applicant's behalf with the Executive Officer's approval.
- 1A.100 7.5 Unless otherwise approved by the Executive Officer for good cause shown, a ~~A~~ disability applicant shall have 45 days after receipt by the System of any portion of the application to submit the remaining portions. Failure to comply with this requirement shall invalidate the application and cause the System to return all portions which have been filed. Further processing will only be done if and when the completed application is submitted in its entirety.
- 1A.490 7.6 The Board shall designate a Medical Advisor who shall have the responsibility to:
- a. Review all medical evidence submitted.
 - b. Request further examination if, in his medical judgment, the evidence provided is inconclusive.
 - c. Make recommendations as to whether or not the applicant is totally unable to perform his current job, or any comparable job for which he is qualified by his training and experience, because of injury or mental or physical illness of a permanent nature.
 - d. Consult with the Board.
- 1A.490 7.7 The Board may designate medical consultants in various areas of the state in those fields deemed necessary.
- 1A.490 7.8 Travel expenses which are incurred by the member in conjunction with an examination requested by the Medical Advisor, Board, or Staff shall be reimbursed to the member in accordance with regulations for travel for state employees as outlined in the State Administrative Manual.
- 1A.490 7.9 The application for disability retirement, all supporting documents, a Staff recommendation, and the Medical Advisor's recommendation shall be submitted to the Board for a final decision.
- 1A.490 7.10 A member may apply to the Board within 45 days for one reconsideration of a decision concerning the application for a disability

retirement allowance or the discontinuance of such an allowance if the member can present new evidence which was not available or the existence of which was not known or could not reasonably have been known to him at the time the matter was originally presented. Additional medical examinations and related expenses not requested by the Board shall be performed at the expense of the applicant. ~~If a reconsideration is denied, the matter is subject only to the judicial review as provided in the Nevada Administrative Procedures Act.~~

- 1A.490 7.11 The member is responsible for proving to the Board that his disability renders him unable to perform the duties of his present position, a comparable position for which he is qualified by his training and experience, or any other position he has held within the past year.

DISABILITY BENEFIT

- 1A.490 7.12 Disability retirement, if approved, becomes effective on the day immediately following the applicant's last day of employment or the day immediately following the applicant's last day of service, whichever is later.
- 1A.490 7.13 The beneficiary of a disability applicant shall be entitled to benefits per the option selected by the applicant effective the day immediately following the applicant's death if death intervenes between the filing of the application and approval of disability retirement.
- 1A.480 7.14 If a member who has applied for disability retirement dies before the disability application has been approved by the Board, the Board may consider the application posthumously.
- 1A.480 7.15 A member whose application for disability retirement has been approved by the Board must terminate and commence drawing benefits within 60 days after the date of approval by the Board unless he remains on sick leave for the entire period of continued employment or his service credit extends beyond that date.
- 1A.480 7.16 The member's beneficiary is entitled to receive an allowance upon the expiration of service credit under the option selected rather than the benefit otherwise provided for a survivor if:
- a. The member dies before employment is terminated but within 60 days after his application for disability retirement was approved by the Board; or
 - b. The application was mailed before the member's death as indicated by the postmark on the envelope in which the application was received.

- 1A.480 7.17 A disability retirement benefit shall be computed in the same manner as service retirement without any reduction for age.
- 1A.480 7.18 The disability benefit shall be reduced by the amount of any other benefit received from any source on account of the same disability if such benefit is provided or was purchased by the expenditure of money by a Nevada public employer and to the extent that the total of the unmodified benefit and the other benefit would otherwise exceed average compensation. The procedures enumerated below will apply with respect to these benefits.
- a. If the public employee is not required to terminate his or her public employment as a condition precedent to receipt of the supplemental benefit and the benefit meets the definition of contributable compensation as defined in Official Policy 3.1, service credit will accrue, and the public employee is ineligible to receive the allowance provided in NRS 1A.480.
 - b. If the public employee is required to terminate his or her public employment as a condition precedent to receipt of the supplemental benefit, no additional service credit will accrue as a result of the benefit's payment, no contributions will be payable, and the System will apply the offset codified in NRS 1A.480. Payment of any supplemental benefit, whether in a lump sum or installments, will be offset pursuant to NRS 1A.480, taking into consideration the public employee's average compensation prior to the disabling injury, the terms under which the supplemental benefit is paid, and the provisions of Chapter 1A of NRS.
 - c. This policy does not supersede or nullify any provision in Chapter 1A of NRS or in these policies.
- 1A.480 7.19 Each child of a deceased disabled retired justice or judge is entitled to receive the benefits provided by NRS 1A.580 only if, at the time of demise, the decedent had not reached the age and completed the service required to be eligible for an unreduced service retirement allowance, except that these benefits must not be paid to anyone who is named as a beneficiary under one of the options to an unmodified allowance.
- 1A.500 7.20 A member whose application for disability retirement is denied or canceled may:
- a. Elect service retirement if otherwise eligible. If the disability retirement application is denied and such election is made, the effective date of the service retirement will be the date the disability retirement would have gone into effect if it had been approved.
 - b. Elect service retirement reduced for age.
 - c. Delay his monthly retirement benefit until fully eligible for service

retirement.

- 1A.100 7.21 If the disability retirement is canceled, the effective date of the regular retirement shall be the day of receipt of the request for service retirement.
- 1A.240 7.22 Disabled retired justices or judges shall receive post-retirement increases in the same manner as provided to regular retired justices or judges.
- 1A.480 7.23 A disability allowance shall be terminated or converted to a beneficiary allowance, depending on the option selected, as of the first day of the month following the death of a disabled retired justice or judge.

RESTRICTIONS ON DISABILITY RETIREMENT

- 1A.490 7.24 Annually, a disabled retired justice or judge must file a copy of his income tax return and any W2 statements for the preceding calendar year by May 1 of the succeeding year, or a statement of employment and earnings on a form prescribed by the Board, or the benefit will be suspended.
- 1A.490 7.25 The Board may adopt regulations to require medical examinations at the expense of the System.
- 1A.490 7.26 The requirement for an annual physical examination may be waived upon proper certification from the Board's medical advisor that the member will remain permanently and totally unable to perform the assigned or a comparable job.
- 1A.490 7.27 The monthly disability retirement benefit shall be suspended if a disabled retired justice or judge who has been notified to submit a medical examination report fails to submit such a report to the System prior to the recertification date established by the Board.
- 1A.490 7.28 Annual medical examinations in excess of \$1,000 must be certified to the System in advance by the disabled retired justice or judge and physician and approved by the Executive Officer prior to examination, or they may be performed at the expense of the disabled retired justice or judge.
- 1A.490 7.29 The System shall not be obligated to pay for medical examination or expense which does not identify or relate to the area of disability or which involves medical treatment.
- 1A.100 7.30 A disabled retired justice or judge shall continue to be considered a disabled retired justice or judge by the System after attainment of the equivalent of service retirement eligibility.

REEMPLOYMENT OF A DISABILITY RETIREE

- 1A.510 7.31 A disabled retired justice or judge must apply for and receive Board approval before returning to any type of employment, either public or private, or the benefit shall be suspended. The application must include:
- a. A full description of the proposed employment; and
 - b. A statement written by the member declaring the reason why the proposed employment should not be found to conflict with his disability.
- 1A.510 7.32 Whenever a disabled retired justice or judge returns to employment as a justice of the Supreme Court, district judge, justice of the peace, or municipal judge, the allowance must be discontinued and his service credit at the time of disability retirement must be restored. The member shall retire under the same retirement plan previously selected for retirement on account of disability if he returns to disability retirement or elects service retirement within 1 year after his return to employment.
- 1A.100 7.33 A disabled retired justice or judge, if otherwise eligible, may elect to change from a disability retirement to a service retirement effective upon the date the written request is received in the System's office.

SURVIVOR BENEFITS

ELIGIBILITY

- 1A.570 8.1 Eligibility for survivor benefits is established if:
- a. The deceased member had two years of service in the two and one-half years immediately preceding the member's death.
 - b. The deceased member had ten or more years of accredited, contributing service.
 - c. The death of the member was caused by an occupational disease or an accident arising out of and in the course of his employment regardless of service credit.
 - d. The death of the member occurs within 18 months after termination of employment or commencement of leave without pay where a mental or physical condition required the termination or leave without pay.
 - e. The death of member occurs while on leave of absence for training and the member met requirements of (a), (b), (c), or (d) at time such leave began.
 - f. In the case of survivor benefits for an unmarried member, the deceased member had properly completed, signed, dated, and filed the approved form with the System designating a survivor beneficiary for receipt of the benefit before his or her death. Such filing must be evidenced by the System's records related to the member's account. The System will accept an approved form if it has been mailed before the member's death, as evidenced by the date of the postmark dated by the post office on the envelope in which it is mailed. Benefits will not be paid unless eligibility is established in accordance with this provision.

BENEFITS

- 1A.590 8.2 The spouse, registered domestic partner, or survivor beneficiary of an
1A.630 unmarried member of a deceased member with less than ten years of
accredited, contributing service is entitled to a cumulative monthly
benefit of \$450. This benefit shall be paid until the end of the month in
which the spouse, registered domestic partner, or survivor beneficiary of
an unmarried member dies. If the member has designated one or more
payees in addition to the survivor beneficiary, the monthly allowance to
which a survivor beneficiary is entitled must be divided between the
survivor beneficiary and any additional payee in the proportion
designated by the member. If an additional payee predeceases the
survivor beneficiary, the payment made to that additional payee must be
equally distributed to the survivor beneficiary and any other additional
payees beginning the first of the month following the additional payee's

death.

- 1A.600
1A.640
- 8.3 The spouse, registered domestic partner, or survivor beneficiary of an unmarried member of a deceased member with ten or more years of accredited, contributing service may elect one of the following:
- a. A cumulative monthly benefit of \$450. This benefit shall be paid until the end of the month in which the spouse, registered domestic partner, or survivor beneficiary of an unmarried member dies.
 - b. The benefit provided by Retirement Option 3 for a beneficiary, if the deceased member had less than 15 years of service credit at the time of his death. The benefit shall be calculated as if the deceased member retired on the day of death and named the spouse, registered domestic partner, or survivor beneficiary of an unmarried member as beneficiary with no reduction for the deceased member's age. This benefit shall be paid until the end of the month in which the spouse, registered domestic partner, or survivor beneficiary of an unmarried member dies.
 - c. The benefit provided by Retirement Option 2 for a beneficiary, if the deceased member had 15 years of service at the time of his death. The benefit shall be calculated as if the deceased member retired on the day of his death and named the spouse, registered domestic partner, or survivor beneficiary of an unmarried member as beneficiary with no reduction for the deceased member's age. This benefit shall be paid until the end of the month in which the spouse, registered domestic partner, or survivor beneficiary of an unmarried member dies.
 - d. The benefit provided by Retirement Option 2 for a beneficiary of a deceased member who was fully eligible to retire both as to service and age at the time of death. The benefit shall be calculated as if the deceased member retired on the day of death and named the spouse, registered domestic partner, or survivor beneficiary of an unmarried member as beneficiary. This benefit shall be paid until the end of the month in which the spouse, registered domestic partner, or survivor beneficiary of an unmarried member dies.
 - e. If the member has designated one or more payees in addition to the survivor beneficiary, the monthly allowance to which a survivor beneficiary is entitled must be divided between the survivor beneficiary and any additional payee in the proportion designated by the member. If an additional payee predeceases the survivor beneficiary, the payment made to that additional payee must be evenly distributed to the survivor beneficiary and any other additional payees beginning the first of the month following the additional payee's death.

CHILD

- 1A.580 8.4 Each child of an eligible deceased member is entitled to receive a cumulative monthly benefit of \$400 per month.
- 1A.580 8.5 Survivor benefits paid to a child pursuant to NRS 1A.580 shall be canceled as of the end of the month in which any one of the following occurs:
- a. The child is adopted.
 - b. The child dies.
 - c. The child marries.
 - d. Except as otherwise provided in Official Policy 8.6, 8.10 or 8.11, the child attains the age of 18 years.
- 1A.580 8.6 Except as otherwise provided in Official Policy 8.8, survivor benefits may be paid until the last day of the month of his 23rd birthday if, at the time that he attains 18 years, he is, and continues thereafter to be, a full-time student in any accredited high school, vocational or technical school, college, or university. Certification must be received that indicates that he was a full-time student as of:
- a. His 18th birthday; or
 - b. The last day of the previous semester if his birthday falls during the summer and he certifies that he intends to return to school full-time for the fall semester.
- 1A.580 8.7 A school certification shall be required at least two times each year, and a letter signed by the student declaring his intent to return to school as of the next regular enrollment period shall be required once each year to ensure that the child has been and will continue to be a full-time student. Failure to comply with this requirement, or failure to remain a full-time student for the period of certification, shall cause the benefit to be suspended as of the end of the month in which full-time enrollment was last certified and completed.
- 1A.580 8.8 The determination of what constitutes full-time student status shall be according to the policy of the particular school.
- 1A.580 8.9 A child who provides certification of his intent to enroll the following semester and then fails to enroll must reimburse the System for benefits paid retroactively to the end of the month in which he turned 18 or in which he ceased to be a full-time student.
- 1A.580 8.10 If the payment of benefits are ceased to a child of a deceased member who received benefits pursuant to Official Policy 8.6 because the child

ceased being a full-time student, payments may be resumed until the last day of the month of the child's 23rd birthday if the child returns to full-time status at an accredited high school, vocational or technical school, college, or university.

- 1A.580 8.11 Survivor benefits paid to a child may be commenced or extended indefinitely beyond the child's 18th birthday if, and as long as, the child is determined by the Board to be:
- a. Financially dependent; and
 - b. Physically or mentally incompetent.

DEPENDENT PARENT

- 1A.660 8.12 If there are no other eligible survivors at the time of the member's death, each dependent parent is entitled to receive \$400 per month.
- 1A.660 8.13 Survivor benefits paid to a dependent parent shall be canceled at the end of the month in which that dependent parent dies.
- 1A.660 8.14 Cancellation of benefits to any one survivor will not affect benefits to other eligible survivors.

GENERAL

- 1A.670 8.15 The total amount of the base allowance of survivor benefits, including any other survivor benefits received from any other source purchased by the expenditure of money of a public employer in this state, except for lump-sum payments under a group insurance or similar program, shall not exceed average compensation. Benefit payments made to eligible survivors that are capped by average compensation must be adjusted based on the benefits provided by statute should any other recipient become ineligible for benefits.
- 1A.240 8.16 Survivor benefit recipients shall receive post-retirement increases in the same manner as provided to retired justices or judges.

PROCEDURES

- 1A.100 8.17 An application for survivor benefits form must be completed and submitted by the eligible survivor or guardian, together with required documents, *including but not limited to, as applicable, marriage certificate, registration of domestic partnership, and birth certificate(s)*. If a member had designated one or more payees in addition to the survivor beneficiary, required forms and documents must be received from the survivor beneficiary prior to payment to any additional payee.

- 1A.630 8.18 Monthly survivor benefit payments shall begin on the first day of the
1A.640 month following the death of the member, except for Option 2 or Option
 3 payments, which begin on the day after the member's death.
- 1A.580 8.19 The payment of survivor benefits to a minor child shall be paid on behalf
 of the minor child to the surviving parent or legally appointed guardian.
*If the payment of survivor benefits to a child is extended beyond the date
the child attains age 18 in accordance with NRS 286.673(3) or resumed
after the date the child attains age 18 in accordance with NRS
286.673(4), the payment of survivor benefits may be made directly to the
child.*

SERVICE RETIREMENT

ELIGIBILITY

- 1A.270 9.1 Each justice of the Supreme Court or a district judge who is elected or appointed as a justice of the Supreme Court or a district judge on or after November 5, 2002, who takes office on or after January 1, 2003, and who previously has not served as either a justice of the Supreme Court or a district judge must receive benefits for retirement, benefits for disability, and survivor benefits under the Plan, unless he is a member of the Public Employees' Retirement System. If he is a member of the Public Employees' Retirement System, he will remain a member unless he withdraws pursuant to NRS 1A.280, if eligible to do so.
- 1A.270 9.2 Each justice of the Supreme Court or a district judge who is elected or appointed as a justice of the Supreme Court or a district judge on or after November 5, 2002, and who previously has served as either a justice of the Supreme Court or a district judge and each justice of the Supreme Court or district judge who is serving as a justice of the Supreme Court or district judge on November 5, 2002, must receive benefits for retirement, disability retirement, and survivor benefits pursuant to either:
- a. NRS 2.060 to 2.083, inclusive, or 3.090 to 3.099, inclusive, as those sections existed on November 5, 2002, if eligible to receive such benefits under such provisions; or
 - b. The Plan, if eligible to receive such benefits under the Plan.
- 1A.270 9.3 The option for benefits pursuant to Official Policy 9.2 must be determined, based on which is most beneficial to the justice or judge or his survivor, by the justice or judge at the time of his retirement or the time at which he becomes disabled, or as determined by his survivor at the time of his death, unless he is a member of the Public Employees' Retirement System. If he is a member of the Public Employees' Retirement System, he will remain a member unless he withdraws pursuant to NRS 1A.280, if eligible to do so.
- 1A.270 9.4 A survivor may not change a determination that affects the survivor and which was made by a justice or judge pursuant to NRS 1A.270 and Official Policy 9.2 while the justice or judge was alive.
- 1A.285 9.5 All justices of the peace and municipal judges who are members of the System must receive benefits for retirement, benefits for disability, and survivor benefits under the Plan.

- 1A.350 9.6 All members of the Plan are eligible to retire with 5 or more years of service at age 65, 10 or more years of service at age 60, or with 30 or more years of service at any age.
- 1A.350 9.7 Any member who has the years of creditable service necessary to retire but has not attained the required age may retire at any age with a benefit actuarially reduced by 4% of the unmodified benefit for each full year and 0.33% for each additional month that the member is under the appropriate retirement age.

BENEFIT CALCULATION

- 1A.280 9.8 A monthly service retirement allowance under the Plan shall be
1A.285 determined by multiplying a member's average compensation by
1A.440 3.4091% for each year of service, or fraction thereof for partial years, earned while a member of the Plan, by 2.67% for each year of service, or fraction thereof, transferred from the Public Employees' Retirement System if earned on or after July 1, 2001, and by 2.5% for each year of service, or fraction thereof, transferred from the Public Employees' Retirement System if earned on or before June 30, 2001, up to a maximum of 75% of average compensation.
- 1A.440 9.9 All members of the Plan shall have their average compensation based on the average of the 36 consecutive months of highest compensation as reported by the public employer. In the event that this calculation is challenged by the member, then the public employer will provide certification of the earned compensation, and the benefit will be based upon a recalculation of the earned average compensation as determined by Staff.

PROCEDURE

- 1A.100 9.10 A fully completed Application for Retirement form must be received in the System's office to be considered officially filed.
- 1A.100 9.11 The application, to be properly completed, must include:
- a. The member's selection of a retirement option;
 - b. The member's designation of beneficiary;
 - c. A certification as to marital status;
 - d. The member's notarized signature; and
 - e. If the member is married, the notarized signature of the spouse indicating ~~eoneurrence with~~ *consent to* the plan selected.
 - f. If the member is a registered domestic partner, the notarized signature of the member's registered domestic partner indicating consent to the plan selected.*

- 1A.430 9.12 If the spouse *or registered domestic partner* of the member of the Plan does not consent to the retirement option chosen by the member before the date on which the retirement becomes effective the System shall:
- a. Notify the spouse *or registered domestic partner* that he has 90 days to consent or have the member change his selection; and
 - b. Pay the retirement benefit at the amount calculated for Option 2 provided in Official Policy 9.17(b) until the spouse *or registered domestic partner* consents or for 90 days, whichever is less.
 - c. For purposes of this payment procedure, the beneficiary under Option 2 will be the member's spouse *or registered domestic partner*.
 - d. If the retired justice or judge dies during the 90-day period specified in paragraph (a) above, without having obtained the consent of the spouse *or registered domestic partner*, the benefit will continue to be paid to the deceased retired justice's or judge's spouse *or registered domestic partner* under Option 2 in accordance with the conditions applicable to the Option 2 benefit payment.

- 1A.430 9.13 Upon consent of the spouse, *registered domestic partner*, or at the end of the 90 days, except as provided under Official Policy 9.12(d), the retirement benefit must be recalculated and paid under the terms of the option originally selected by the member retroactively to the date on which the retirement became effective.

- 1A.100 9.14 Proof of birth date and continuity of name change documents are required for a member and the member's beneficiary within 90 days after the retirement effective date. If this documentation is not received within 90 days after retirement, the benefit shall be suspended until the requirement is met.

- 1A.100 9.15 Proof of birth date and continuity of name change may be established by any one of the documents listed in Group 1 or any two of the documents listed in Group 2 below:

GROUP 1

- a. Certified copy of birth certificate.
- b. Infant baptism certificate or certified copy.
- c. Delayed certificate of birth.

GROUP 2

- a. School age record or certified copy.
- b. Military service record or certified copy.

- c. Marriage record, if date of birth is shown, or certified copy.
- d. Naturalization certificate of individual, or of parents, providing participant's age is stated.
- e. Transcript of record from U.S. Bureau of Census.
- f. Certified copy of the family record in the family Bible stating:
 - (1) Name of person who entered date of birth in Bible.
 - (2) When date of birth was entered.
 - (3) Explanation of any corrections.
 - (4) Date of printing of Bible.
- g. Passport.
- h. Notarized statement of knowledge by a person who was an adult at time of member's birth.
- i. Motor vehicle records.
- j. Hospital record of birth.
- k. Social Security records.
- l. Voter registration records.
- m. Any other document over ten years old which lists the person's date of birth.

- 1A.100 9.16 Retirement becomes effective on whichever of the following is the later, unless otherwise approved by the Executive Officer:
- a. The day immediately following the applicant's last day of employment;
 - b. The day the completed application is filed with the System;
 - c. The day immediately following the applicant's last day of creditable service; or
 - d. The retirement effective date requested on the application.

- 1A.450 9.17 In order to complete a retirement application, an applicant of the Plan must elect one of the following retirement options:
- a. Unmodified retirement allowance, which pays full monthly benefit to the retired justice or judge for life but provides no protection for the beneficiary.
 - b. Option 2 - Actuarially reduced allowance for the lifetime of the retired justice or judge. After the retired justice's or judge's death, the same allowance will continue for the lifetime of the beneficiary.
 - c. Option 3 - Actuarially reduced allowance for the lifetime of the retired justice or judge. After the retired justice's or judge's death, 50% of the allowance will continue for the lifetime of the beneficiary.
 - d. Option 4 - Actuarially reduced allowance for the lifetime of the retired justice or judge. After the retired justice's or judge's death

and when the beneficiary reaches age 60, the allowance will continue for the lifetime of the beneficiary.

- e. Option 5 - Actuarially reduced allowance for the lifetime of the retired justice or judge. After the retired justice's or judge's death and when the beneficiary reaches the age of 60, 50% of the allowance will continue for the lifetime of the beneficiary.
- f. Option 6 - Actuarially reduced allowance for the lifetime of the retired justice or judge. After the retired justice's or judge's death, a specific sum per month, not to exceed the monthly allowance paid to the retired justice or judge, will continue for the lifetime of the beneficiary.
- g. Option 7 - Actuarially reduced allowance for the lifetime of the retired justice or judge. After the retired justice's or judge's death and when the beneficiary reaches age 60, a specific sum per month, not to exceed the monthly allowance paid to the retired justice or judge, will continue for the lifetime of the beneficiary.

Benefits are subject to the applicable Internal Revenue Code limitations including IRC 401(a).

1A.460 9.18 Retirement allowances must be paid until the end of the month following the death of the retired justice or judge or the beneficiary.

1A.100 9.19 A retired justice or judge may designate that his monthly benefit check be transmitted as follows:

- a. Mailed directly to any residence address or personal Post Office Box; or
- b. Through an electronic funds transfer (EFT) to his account in his financial institution.

1A.460 9.20 A retired justice or judge of the Plan may not change the selected retirement option or any beneficiary designation after effective date of retirement, except as follows:

- a. A retired justice or judge may cancel the selected option and designation of beneficiary and change to the unmodified service retirement allowance, effective upon filing of a duly acknowledged application with the System. If the retired justice or judge is married *or a registered domestic partner*, the application must include the ~~spouse's concurrence with~~ *consent of the spouse or registered domestic partner to* the cancellation of option.
- b. A retired justice's or judge's benefit is automatically changed to the unmodified allowance beginning the first day of the following month if a named beneficiary under an optional plan dies before the retired justice or judge.

- c. A retired justice or judge may relinquish the right to an allowance and apply for a refund of the remaining contributions at any time. If the beneficiary under one of the Options 2 through 7 is the spouse *or registered domestic partner*, the retired justice or judge must provide a notarized release before the cancellation will be effective.
- d. The election by a retired justice or judge to change retirement option will not in any way abrogate community property obligations.

1A.460 9.21 A member of the Plan may name any person as beneficiary under a retirement option, *unless otherwise prohibited by applicable law*.

1A.100 9.22 Upon the death of a retired justice or judge, the benefits earned but not paid will be disbursed as follows:

- a. Payment will be made to the spouse *or registered domestic partner*. If there is no surviving spouse *or registered domestic partner*, payment will be made to the estate of the retired justice or judge.
- b. If a beneficiary is designated for this purpose, payment shall be made to the named beneficiary or to the estate of the retired justice or judge if the named beneficiary is deceased.
- c. If communication is received that reasonably establishes that no probate will be established for the deceased, payment shall be paid to the heirs of the deceased.
- d. If there is no living named beneficiary, heir, devisee, or legatee capable of receiving the amount owing, the funds shall be transferred to the System.

REEMPLOYMENT

1A.360 9.23 Except as otherwise provided in Official Policy 9.24, if a retired justice or judge accepts reemployment as a justice of the Supreme Court, district judge, justice of the peace, or municipal judge *in any judicial capacity, including, without limitation, employment as a senior justice, senior judge, senior justice of the peace or senior municipal court judge*, he is disqualified from receiving any allowances under the Plan for the duration of his active service.

~~1A.370~~
1A.360 9.24 ~~Any retired justice or judge may, pursuant to rules adopted by the Supreme Court, be recalled to active service, be reemployed as a senior justice, senior judge, senior justice of the peace, or senior municipal judge of the Nevada Court System, be issued a commission as a senior justice, senior judge, senior justice of the peace, or senior municipal judge of the Nevada Court System, and be compensated for serving as a senior justice, senior judge, senior justice of the peace, or senior municipal judge of the Nevada Court System. *The provisions of Official*~~

Policy 9.23 do not apply to a retired justice or judge who accepts employment as a senior justice, senior judge, senior justice of the peace or senior municipal court judge of the Nevada Court System if he is at least 60 years of age at the time of his reemployment and he accepts the employment at least 6 months after the effective date of his retirement pursuant to NRS 1A.130(2).

- 1A.370 9.25 a. A retired justice or judge who accepts reemployment as a justice of the Supreme Court, district judge, justice of the peace, or municipal judge may reenroll in the Judicial Retirement Plan as of the effective date of that reemployment unless he is reemployed pursuant to Official Policy 9.24. As of the effective date of reemployment:
- (1) Except as otherwise provided in paragraph (b), he forfeits all retirement allowances for the duration of that employment; and
 - (2) If he accepts reemployment as a senior justice, senior judge, senior justice of the peace, or senior municipal judge of the Nevada Court System, he does not forfeit any retirement allowances for the duration of that employment.
- b. Except as otherwise required as a result of NRS 1A.400 or 1A.410, if the duration of the employment of a retired justice or judge who reenrolls in the Judicial Retirement Plan pursuant to subsection 2 is at least 6 months, he gains additional service credit for that employment and is entitled to have a separate service retirement allowance calculated based on his compensation and service, effective upon the termination of that employment. If the duration of the employment is:
- (1) Less than 5 years, the additional allowance must be added to his original allowance and must be under the same option and designate the same beneficiary as the original allowance; or
 - (2) Five years or more, the additional allowance may be under any option and designate any beneficiary in accordance with NRS 1A.430.
- c. The original service retirement allowance of such a retired justice or judge must not be recalculated based upon the additional service, nor is he entitled to any of the rights of membership that were not in effect at the time of his original retirement.

~~1A.370 9.26 Except as otherwise required as a result of NRS 1A.400 or 1A.410, upon serving as senior justice, senior judge, senior justice of the peace, or senior municipal judge for a number of working days that is equivalent to 1 year of service, as determined by the Board, such a retired justice or judge earns an additional year of service credit.~~

1A.440 9.27 A ~~senior~~ *retired* justice or judge may not be reenrolled in the System if he has attained a maximum benefit of 75% of average compensation.

MISCELLANEOUS

1A.240 9.28 The CPI-U (all items/all cities) shall be the index used by the Board for determining average percentage increases in the CPI.

1A.240 9.29 The allowance or benefit of a retired justice or judge must be increased by the percentages set forth in NRS 286.5756 if the allowance or benefit of a retired justice or judge has not increased at a rate greater than or equal to the average of the CPI-U for the period between the date of his retirement and the end of the month prior to the effective date of the increase.

1A.240 9.30 The moving average for the three preceding years shall be determined by averaging the annual percentage increases of the CPI-U.

1A.240 9.31 *a. For members with an effective date of membership before January 1, 2010, if* ~~If~~ If the allowance of a benefit recipient has not kept pace with the CPI-U, a post-retirement increase will be based on the following: 2% in years 4 through 6; 3% in years 7 through 9; 3.5% in years 10 through 12; 4% in years 13 and 14; and 5% in the 15th year and thereafter.

b. For members with an effective date of membership on or after January 1, 2010, if the allowance of a benefit recipient has not kept pace with the CPI-U, a post-retirement increase will be based on the following: 2% in years 4 through 6; 3% in years 7 through 9; 3.5% in years 10 through 12; and 4% in the 13th year and thereafter.

1A.240 9.32 If the allowance of a benefit recipient increased faster than the CPI-U, the post-retirement increase shall be capped by the moving average of the CPI-U at June 30th for the preceding three years. Any adjustment due under this policy shall remain in effect for one year.

1A.100 9.33 A retired justice or judge must receive a net benefit of at least \$10.00. If deductions are authorized by a retired justice or judge, the retired justice's or judge's benefit must be at least \$10.00 plus the total of the deductions or the retired justice or judge must make arrangements to pay the vendor or employer direct.

GENERAL

- 1A.100 10.1 All policies previously adopted are hereby rescinded.
- 1A.100 10.2 Policies 1.1 through 13.11 reflect staff procedures, Board policy, Attorney General Opinions, Board interpretation of Chapter 1A of NRS, and the procedures necessary to implement the intent of the Nevada Revised Statutes.
- 1A.100 10.3 The Executive Officer is responsible for the administration of the System in accordance with the Nevada Revised Statutes, Retirement System Policies, and directives approved by the Board.
- 1A.100 10.4 Any member, retired justice or judge, benefit recipient, respective spouse *or registered domestic partner*, or any person having a claim against the System who has had the request denied by Staff, may request an appeal of the Staff decision to the Board. Requests for appeal shall be processed as follows:
- a. Appeals regarding the constitutionality or legality of any provisions of NRS chapter 1A cannot be granted by the Board and, therefore, will be denied by Staff. The Board will be provided with a copy of the denial and the issue will be included with requests for legislative change to be considered by the Board prior to the next legislative session. If a Board member disagrees with Staff interpretation of the Judicial Retirement Act, that Board member may request that the matter be presented for Board consideration at a future meeting.
 - b. Appeals that dispute Staff’s interpretation of the Judicial Retirement Act, including the challenge of a Board Policy not specific in the Judicial Retirement Act, shall be submitted to the Board for their consideration.
 - c. Claims of “error or inequity” shall be submitted to the Board if there is a compelling reason that an “error or inequity” exists. “Error or inequity” means the existence of extenuating circumstances including, but not limited to, a member’s reasonable and detrimental reliance on representations made by the System or by the public employer which prove to be erroneous, or the mental incapacity of the member. In the event Staff determines there is not a compelling reason that an error or inequity as defined above exists, the Board will be provided a copy of the denial and, if a Board member disagrees with Staff determination, that Board member can request that the matter be presented for Board consideration at a future meeting.

- 1A.100 10.5 Any person whose appeal was denied by Staff or the Board shall have the right to one reconsideration of the appeal if he can present new evidence which was not available or the existence of which was not known to him at the time the matter was originally presented.
- 1A.100 10.6 The presentation of an appeal before the Board shall be conducted as follows:
- a. The Chairman shall instruct all parties involved in the presentation of an appeal to confine their remarks to the subject at hand, be concise, and acknowledge rather than repeat previous testimony. The Chairman has the prerogative to interrupt a speaker if, in the Chairman's mind, the speaker has deviated from the instructions.
 - b. Staff will provide a brief objective summary of the problem and the reasons for Staff decisions. Also, Staff must submit a written statement for the record listing the legal basis for their determination, the chronological development of events, the situation as indicated by the records and documents submitted, and any legal references which may be relevant to the decision making process.
 - c. The appellant, or his representative, will give a brief presentation advising the Board of the basis for the appeal and the legal or equity reason for requesting relief, together with the specific relief being requested from the Board.
 - d. The Deputy Attorney General shall provide a legal interpretation and state whether or not he feels the board has the authority to act in the matter.
 - e. Individual Board members may then ask questions of Staff, appellant, and/or the Deputy Attorney General.
 - f. The Board Chairman will then request whether or not Staff, appellant, or the Deputy Attorney General has any additional statements to make.
 - g. The Board Chairman will then state that the matter will be taken under advisement by the Board and that a decision will probably be made before adjournment of the meeting, with the decision to be provided to the appellant in writing, by Staff, in the form of findings and opinions.
- 1A.220 10.7 The Board may:
- (3&4)
- a. Adjust the service or correct the records of any member, retired justice or judge, or beneficiary after an error or inequity has been determined and require payment of any money determined to have been paid by the System in error within six years before demand for its payment. As used in this paragraph, "error or inequity" means the existence of extenuating circumstances, including, but not

limited to, a member's reasonable and detrimental reliance on representations made by the System or by the public employer pursuant to NRS 286.288, which prove to be erroneous, or the mental incapacity of the member.

- b. Consider appeals and grant relief to the claimant provided it is not in violation of the Nevada Revised Statutes.
 - c. Require an annual notarized statement from a retired justice or judge or beneficiary that he is in fact receiving an allowance or benefits and withhold the payment if he fails to provide the statement.
- 1A.140 10.8 Any person convicted of the murder or voluntary manslaughter of a member of the System is ineligible to receive any benefit conferred by any provision of NRS chapter 1A by reason of the death of that member. The System may withhold the payment of any benefit otherwise payable under NRS chapter 1A by reason of the death of any member from any person charged with the murder or voluntary manslaughter of that member, pending final determination of those charges, the resolution of any and all appeals, and/or the time to file an appeal or any type of request for reconsideration or rehearing has expired.
- 1A.100 10.9 The System will not make payment of a member's contributions or benefits to any community property claimant until and unless the member applies for a retirement benefit or dies.
- 1A.100 10.10 The System will not provide estimates of the present or future value of an individual's retirement benefits.
- 1A.150 10.11 Any person who knowingly makes a false statement, certifies to an incorrect document, or withholds information for the purpose of receiving or assisting another person in receiving benefits under NRS chapter 1A to which the person is not entitled is guilty of a misdemeanor.
- 1A.110 10.12 All records maintained for a member, retired justice or judge, justice of the Supreme Court, or a district judge who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or his beneficiary may be reviewed and copied only by the System, the member, the Court Administrator, the board of county commissioners if the records concern a justice of the peace or retired justice of the peace whom the board of county commissioners allowed to participate in the Plan, the city council if the records concern a municipal judge or retired municipal judge whom the city council allowed to participate in the Plan, the spouse or registered domestic partner of the member, or the retired justice or judge or his spouse or registered domestic partner, pursuant to a court order, or by a beneficiary after the death of the justice or judge on whose account benefits are received.

- 1A.110 10.13 Any member, retired justice or judge, justice of the Supreme Court, or a district judge, who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or beneficiary may submit a written waiver to the System authorizing his representative to review or copy his records. An attorney who has provided written notice of representation of a member, retired justice or judge, justice of the Supreme Court, or a district judge, who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or beneficiary may review and copy the records of the client without further written authorization from the client.
- 1A.100 10.14 After the System has received an official written notice from the member, retired justice or judge, justice of the Supreme Court, or a district judge, who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or beneficiary or the legal representative, the System will provide future consultation and correspondence directly with the legal representative until the matter in question has been resolved or until a written cancellation of legal representation is received from the member, retired justice or judge, justice of the Supreme Court, or a district judge, who retired pursuant to NRS 2.060 to 2.083, inclusive, or pursuant to NRS 3.090 to 3.099, inclusive, or beneficiary.
- 1A.100 10.15 The official correspondence and records, minutes, and books of the System, except for the files of individual members and retired justices and judges, are public records and are available for public inspection.
- 1A.190 10.16 Any check for benefits not paid within 5 years after being transferred to unclaimed benefits will be transferred to the Judicial Retirement Fund. Under conditions outlined in NRS 1A.190, petitions may be filed with the Carson City District Court to claim money so transferred.
- 1A.120 10.17 The member's rights, employee contributions, and benefits are:
- a. Exempt from all State, county, and municipal taxes.
 - b. Not subject to execution, garnishment, attachment, or any other process.
 - c. Not subject to the operation of any bankruptcy or insolvency law.
 - d. Not assignable by power of attorney or otherwise.
 - e. Subject to withholding for support of a child pursuant to NRS 31A.150.
- 1A.120 10.18 The System may withhold money from a benefit when the person applying for or receiving that benefit owes money to the System.

PUBLIC EMPLOYERS

- 1A.100 10.19 The respective participating public employers are not liable for any obligation of the System.
- 1A.100 10.20 On an approved form, the Court Administrator or the Chief Administrator of a public employer ~~may~~ *shall* select an employee to serve as Retirement Liaison Officer to certify retirement records, receive information, and coordinate matters pertaining to retirement between the System and members or the public employer.
- a. The Liaison Officer may designate on an approved form up to three employees as Deputy Liaison Officers to serve in the same capacity as a Liaison Officer.
 - b. The Liaison Officer may designate on an approved form additional employees who will have signature authority for the agency. These employees may only access information provided from their public employer to the System, such as enrollment, termination and wage and contribution information.
 - c. The Liaison Officer is ultimately responsible for all actions taken by any designated Deputy Liaison Officer, and any employee with signature authority, on all matters pertaining to retirement between the System and members or the public employer.

COORDINATION OF RETIREMENT MATTERS

- 1A.100 10.21 The public employer shall timely and accurately complete and submit all forms necessary to enroll a new hire in the System. Prior to submission of an enrollment form, the public employer must determine whether the employee is a member of the Public Employees' Retirement System. If the employee is a member of the Public Employees' Retirement System, the public employer must ensure that notice to withdraw from the Public Employees' Retirement System is submitted in conjunction with the enrollment form.
- 1A.100 10.22 A public employer must develop and maintain procedures to ensure compliance with Policy 9.23 et. seq. prior to the employment of, or independent contract with, a retired justice or judge.
- 1A.100 10.23 A public employer must develop and maintain procedures to ensure all wage and contribution reports are timely, contain accurate information, and are in compliance with Policy 4.1 et. seq.

- 1A.100 10.24 The public employer shall distribute communications from the System to the members employed by that agency, including, but not limited to, member newsletters, member statements, notification of informational programs, informational bulletins, and forms to be executed by the member. All such communications must be distributed within 15 days of receipt by the public employer.
- 1A.100 10.25 The public employer shall post all notices from the System regarding proposed rules or policies of the System immediately upon receipt on a bulletin board or in a conspicuous place in or near its headquarters. The public employer shall post all other notices from the System in a similar manner.
- 1A.100 10.26 The public employer shall timely and accurately complete and submit all forms necessary to change the status of a member.
- 1A.100 10.27 The public employer shall ensure that each employee designated as a liaison officer, or whose duties include completing and submitting wage and contribution reports, providing information or forms to the System, or providing information from the System to members has appropriate training within six months of designation or assumption of such duties. Appropriate training may include attendance at employer conferences sponsored by the System or training by System employees.

REVIEW OF EMPLOYER BY SYSTEM

- 1A.100 10.28 Each public employer is subject to review by the System with or without prior notice on all matters pertaining to the Judicial Retirement Act and these Official Policies.
- 1A.100 10.29 The public employer shall comply with all written requests for information pertaining to the Judicial Retirement Act and these Official Policies, including, but not limited to, personnel forms and payroll records, within 15 days of request.
- 1A.100 10.30 The public employer shall provide auditors employed or retained by the System with full and immediate access to all information pertaining to the Judicial Retirement Act and these Official Policies while such auditors are conducting field reviews at the public employer's location.
- 1A.100 10.31 The public employer shall make all adjustments to wage and contribution reporting within 90 days of notice by the System to the public employer of the necessary adjustments, except all adjustments pertaining to retired justices or judges must be made within 45 days of such notice.

- 1A.100 10.32 Time periods contained in Policies 10.29 and 10.31 may be extended by System staff upon good cause being demonstrated by the public employer.

NEW PUBLIC EMPLOYER

- 1A.285 10.33 A county or city may not become a public employer unless the board of county commissioners elects to allow the justices of the peace of that county or the city council elects to allow the municipal judges of that city to participate in the Plan. The county or city must provide the System with a copy of the resolution or action by the board of county commissioners or city council before participation in the Plan may begin.

DOMESTIC RELATIONS ORDER

- 1A.100 11.1 The System will acknowledge receipt of and honor written community property claims made under NRS 123.240 against a member's contributions or benefits.
- 1A.530 11.2 A person may submit a judgment, decree, or order of a district court or the Supreme Court of the State of Nevada relating to child support, alimony, or the disposition of community property to the Executive Officer or his designee for a determination of whether the judgment, decree, or order entitles an alternate payee to receive from the System all or a portion of the allowance or benefit of a member of the Plan or a retired justice or judge.
- 1A.530 11.3 The judgment, decree, or order submitted to the Executive Officer must be signed by a District Judge or by the Justices of the Supreme Court and entered and certified by the Clerk of the District Court or the Clerk of the Supreme Court.
- 1A.530 11.4 The System shall, in accordance with rules prescribed by the Board, determine whether the judgment, decree, or order entitles the alternate payee to receive an allowance or benefit from the System.
- 1A.530 11.5 The System shall provide a written notice to the parties to the action of any determination that a judgment, decree, or order is not in compliance with retirement statutes or rules adopted by the Board.
- 1A.530 11.6 An alternate payee is entitled to receive an allowance or benefit from the System if the judgment, decree, or order:
- a. Specifies clearly the names and last known mailing address, if any, of the member of the Plan or retired justice or judge and the alternate payee;
 - b. Specifies clearly the amount, percentage, or manner of determining the amount of the allowance or benefit of the member of the Plan or retired justice or judge that must be paid by the System to each alternate payee;
 - c. Specifically directs the System to pay an allowance or benefit to the alternate payee;
 - d. Does not require the System to provide an allowance, benefit, or any option not otherwise provided in Chapter 1A of NRS; and
 - e. Does not require the payment of an allowance or benefit to an alternate payee before the retirement of a member of the Plan.
- 1A.100 11.7 The Social Security Numbers of the member or retired justice or judge and the alternate payee must be submitted to the System at the time of

submission of the judgment, decree, or order. The System will not process the judgment, decree, or order until the required Social Security Numbers are submitted.

- 1A.100 11.8 Receipt of a judgment, decree, or order which does not comply with Chapter 1A of NRS, or the System's Official Policies, will serve as a temporary notice to the System of a forthcoming order regarding distribution of a member's benefit. Any attempts to obtain a retirement allowance from such member's account will not be allowed for a period of 90 days from receipt by the System of such judgment, decree, or order.
- 1A.100 11.9 If the judgment, decree, or order awards 100% of the benefit to the alternate payee, the alternate payee shall receive 100%, less a minimum check of \$10.00 to the retired justice or judge.
- 1A.100 11.10 If a retired justice or judge submits a judgment, decree, or order awarding a portion of their benefit to an alternate payee, the benefit change will be effective with the next monthly check run following the receipt of the approved certified copy of the order.
- 1A.100 11.11 If a judgment, decree, or order indicates that arrearages are owed by the member or retired justice or judge to an alternate payee, the System will not participate in the collection of these arrearages. Arrangements for payment must be made between the two parties.
- 1A.100 11.12 If a retired justice or judge returns to work as a justice of the Supreme Court, district judge, justice of the peace, or municipal judge, in other than a senior position, and fails to notify the System, the retired justice or judge is responsible for reimbursing the System for all benefits that have been overpaid, including any benefits paid to his alternate payee.
- 1A.100 11.13 If the retired justice's or judge's account is suspended for any reason, his alternate payee's account shall also be suspended. If the retired justice's or judge's account is canceled, the alternate payee's benefit shall be stopped indefinitely unless the alternate payee is the beneficiary under one of the Options 2 through 7.
- 1A.100 11.14 If the judgment, decree, or order indicates that the System is to pay the alternate payee for a specific period of time, it is the responsibility of the retired justice or judge to apprise the System 30 days prior to the date the payments to the alternate payee are to stop or change.

BENEFIT RESTORATION PLAN AND TRUST

Adopted pursuant to NRS 1A.100(4) providing the Retirement Board with the authority to adopt policies for compliance with federal law.

ARTICLE I.
ESTABLISHMENT OF PLAN AND TRUST

- Policy 12.1 **Establishment of Plan and Trust.**
The Nevada Public Employees’ Benefit Restoration Plan and Trust is hereby established effective as of passage, September 1, 2008.
- Policy 12.2 **Purpose.**
The purpose of this Plan is solely to provide the part of a Participant’s Retirement Benefit that would otherwise have been payable by the System except for the limitations of Code Section 415(b). This Plan is intended to be a “qualified governmental excess benefit arrangement” within the meaning of Code Section 415(m)(3) and shall be interpreted and construed consistently with such intent.

ARTICLE II.
DEFINITIONS AND CONSTRUCTIONS

- Policy 12.3 **Definitions.**
- When the initial letter of a word or phrase is capitalized herein, it shall have the same meaning as defined below:
- a. **“Administrator”** means the System.
 - b. **“Benefit Recipient”** means a retired member of the System who is receiving a benefit from the System or a beneficiary of a retired member.
 - c. **“Board”** means the Retirement Board, within the meaning of NRS 286.020.
 - d. **“Code”** means the Internal Revenue Code of 1986, as amended, as applicable to a governmental plan or corresponding provisions of any subsequent federal income tax law.
 - e. **“Employer”** has the meaning ascribed to it in Official Policy 1.22.
 - f. **“Excess Benefit”** means the benefit determined in accordance with Section 12.6 of this Plan.
 - g. **“Participant”** means a benefit recipient who is entitled to benefits under this Plan.
 - h. **“Plan”** means the Nevada Judicial Retirement System Benefit Restoration Plan as adopted herein.
 - i. **“Plan Year”** for the purpose of this Plan means the year beginning January 1 and ending December 31.

- j. **“Retirement Benefit”** means the amount of retirement income payable to a benefit recipient of the System, as reduced by any limitations on such retirement income or benefit under Code Section 415.
- k. **“Retirement Fund”** means the fund created pursuant to NRS 1A.160.
- l. **“State”** means the State of Nevada.
- m. **“System”** means the Judicial Retirement System of Nevada.
- n. **“System’s Actuary”** means the actuary selected by the Judicial Retirement System of Nevada.
- o. **“Trust Fund”** means the trust fund established by the Board pursuant to Article VI of this Plan that constitutes a valid trust under the law of the State.
- p. **“Trustees”** mean the members of the Board.

Policy 12.4 **Construction.**

- a. Words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.
- b. Whenever any actuarial present value or actuarial equivalency is to be determined under the Plan to establish a benefit, it shall be based on such reasonable actuarial assumptions as may be approved in the sole discretion of the Board and shall be determined in a uniform manner for all similarly situated Participants.

ARTICLE III.
PARTICIPANTS

Policy 12.5 All benefit recipients of the System are eligible to participate in the Plan if their Retirement Benefits from the System for a Plan Year are or have been since January 1, 2002, limited by Code Section 415(b). The Board, on recommendation of the System’s Actuary, shall determine for each Plan Year which benefit recipients are eligible to participate in the Plan. Participation in the Plan will cease for any Plan Year in which the Retirement Benefit of a benefit recipient is not limited by Code Section 415(b) or if all benefit obligations under the Plan to the benefit recipient have been satisfied.

ARTICLE IV.
PAYMENT OF BENEFITS

Policy 12.6 **Benefit Amount.**

A Participant in the Plan shall receive a benefit in an amount equal to the excess, if any, of (A) the amount of retirement income that would have been payable for any month to, or with respect to, a Participant by the

System except for the application of the limitations on such retirement income under Code Section 415(b) over (B) the Retirement Benefit of the Participant. An Excess Benefit under the Plan shall be paid only if and to the extent the Participant is receiving Retirement Benefits from the System in the applicable Plan Year.

Policy 12.7 **Time for Payment; Form of Benefit.**

The Excess Benefit to which a Participant is entitled under the Plan shall be paid at the same time and in the same manner as the Retirement Benefit payable under the System. No election is provided at any time to the Participant, directly or indirectly, to defer compensation under this Plan.

ARTICLE V.
CONTRIBUTIONS AND FUNDING

Policy 12.8 **Funding.**

The Plan shall be, and remain, unfunded and the rights, if any, of any person to any benefits hereunder shall be those specified herein. The Plan constitutes a mere unfunded promise by Employers to make benefit payments in the future.

Policy 12.9 **Contributions.**

- a. The Trustees, upon the recommendation of the System's Actuary, shall determine the amount necessary to pay the Excess Benefit under the Plan for each Plan Year. The required contribution shall be the aggregate of the Excess Benefits payable to all Participants for such Plan Year and an amount determined by the Trustees to be a necessary and reasonable expense of administering the Plan. The amount determined to be necessary to pay the Excess Benefit of a Participant and administrative expenses of the Plan shall be paid by Employer deposits, pursuant to NRS 1A.180, unless otherwise determined by the Board, and the amount shall be made before the deposits are credited to the Judicial Retirement Fund. Any contributions not used to pay the Excess Benefit for a current Plan Year, together with any income accruing to the Trust Fund, shall be used to pay the administrative expenses of the Plan for the Plan Year.
- b. The amounts determined to be necessary to provide the Excess Benefit under the Plan for each Participant shall be accounted for separately; provided, however, such separate accounting shall not be deemed to set aside such amounts for the benefit of a Participant. Benefits under the Plan shall be paid from the Trust Fund.

- c. The consultants, independent auditors, attorneys, and actuaries performing services for the System may also perform services for this Plan; provided, however, any fees attributable to services performed with respect to this Plan shall be payable solely from the Trust Fund.

ARTICLE VI.
TRUST FUND

Policy 12.10 **Establishment of Trust Fund.**

A Benefit Restoration Trust Fund (hereinafter called the “Trust Fund”) is hereby established, which is separate from the Retirement Fund, to hold contributions of the Employers. Contributions to this Trust Fund shall be held separate and apart from the funds comprising the Retirement Fund but may be commingled for purposes of investment with the Retirement Fund, but must be accounted for separately. In addition, this Plan will use the Judicial Retirement Fund to pay Plan benefits. Detailed accounting will allocate Plan benefits and cash payments from other System benefits and cash payments.

Policy 12.11 **Trust Fund Purpose.**

The Trust Fund is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement within the meaning of Code Section 415(m).

Policy 12.12 **Trust Fund Assets.**

All assets held by such Trust Fund to assist in meeting the Employers’ obligations under the Plan, including all amounts of Employers’ contributions made pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, shall be, and remain, the general, unpledged, unrestricted assets of the Trust Fund. Title to, and beneficial ownership of, any assets so held in the Trust Fund shall remain at all times in the Trust Fund.

Policy 12.13 **Grantor Trust.**

The Trust Fund is intended to be a grantor trust, of which the Employers are the grantors, within the meaning of subpart E, part I, subchapter J, chapter 1, subtitle A of the Internal Revenue Code of 1986, as amended, and shall be construed accordingly. This provision shall not be construed to create an irrevocable trust of any kind.

Policy 12.14 **Trust Fund Income.**

Income accruing to the Trust Fund in respect of the Plan shall constitute income derived from the exercise of an essential governmental function upon which the Trust shall be exempt from tax under Code Section 115, as well as Code Section 415(m)(1).

ARTICLE VII.
ADMINISTRATION

Policy 12.15 **Administrative Authority.**

The Trustees shall have the authority to control and manage the operation and administration of the Plan. The Trustees shall have the same rights, duties, and responsibilities respecting the Plan as the Board has with respect to the System pursuant to NRS 1A.160 to 1A.250. The Trustees shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable, or convenient to enable the Trustees:

- a. to establish procedures with respect to administration of the Plan not inconsistent with the Plan and the Code, and to amend or rescind such procedures;
- b. to determine, consistent with the Plan, applicable law, rules, or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the plan;
- c. pursuant to Article IV of the Plan, to make payments from the Trust Fund to Participants;
- d. to contract with a third party to perform designated administrative services under this Plan;
- e. subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission, or reconcile any inconsistency in the Plan with respect to same;
- f. Any action by the Trustees which is not found to be an abuse of discretion shall be final, conclusive, and binding on all individuals affected thereby. The Trustees may take any such action in such manner and to such extent as the Trustees in their sole discretion may deem expedient, and the Trustees shall be the sole and final judge of such expediency.

Policy 12.16 **Advice.**
The Trustees may employ one (1) or more persons to render advice with regard to its responsibilities under the Plan.

Policy 12.17 **Payment of Benefits.**
The Trustees, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment.

ARTICLE VIII.
PLAN AMENDMENTS

Policy 12.18 The Board from time to time may amend, suspend, or terminate any or all of the provisions of this Plan as may be necessary to comply with Code Section 415(m) and to maintain the Plan's or the System's qualified status under the Code.

ARTICLE IX.
NONASSIGNABILITY AND EXEMPTION FROM TAXATION AND EXECUTION

Policy 12.19 The rights of Participants under this Plan are hereby exempt from any State, county, municipal, or local tax, and shall not be subject to execution, garnishment, attachment, or any other process whatsoever, and shall be unassignable, except as otherwise provided by NRS 1A.120.

ARTICLE X.
MISCELLANEOUS

Policy 12.20 **Federal and State Taxes.**
The Trustees, the Employers, and the Administrator, if any, do not guarantee that any particular Federal or State income, payroll, or other tax consequence will occur because of participation in this Plan.

Policy 12.21 **Investment.**
The Trustees may hold such portion of the Plan uninvested as the Trustees deem advisable for making distributions under the Plan or may invest assets of the Plan pending the Excess Benefit payments.

Policy 12.22 **Conflicts.**
In resolving any conflict between provisions of the Plan and in resolving any other uncertainty as to the meaning or intention of any provision of

the Plan, the interpretation that (i) causes the Plan to constitute a qualified governmental excess benefit plan under the provisions of Code Section 415(m) and the Trust to be exempt from tax under Code Sections 115 and 415(m), (ii) causes the Plan and the System to comply with all applicable requirements of the Code, and (iii) causes the Plan and the System to comply with all applicable Nevada statutes and rules, shall prevail over any different interpretation.

Policy 12.23 **Limitation on Rights.**

Neither the establishment or maintenance of the Plan, nor any amendment thereof nor any act or omission under the Plan (or resulting from the operation of the Plan) shall be construed:

- a. as conferring upon any Participant or any other person a right or claim against the Board, Trustees, Employers, or Administrator, if any, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;
- b. as creating any responsibility or liability of the Employers for the validity or effect of the Plan;
- c. as a contract between the Employers and the Participant or other person;
- d. as being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Employers or any Participant or other person to continue or terminate the employment relationship at any time; or
- e. as giving any Participant the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or other person at any time.

Policy 12.24 **Erroneous Payments.**

Any benefit payment that according to the terms of the Plan and the benefits provided hereunder should not have been made may be recovered as provided by NRS 1A.190(2).

Policy 12.25 **Release.**

Any payment to any Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby, and the Trustee(s) may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Trustees.

Policy

12.26 **Liability.**

The Board, Trustees, or Administrator, if any, shall not incur any liability in acting upon any notice, request, signed letter, telegram, or other paper or document or electronic transmission believed by the Board, Trustees, or Administrator to be genuine or to be executed or sent by an authorized person.

The Plan shall save harmless and indemnify the Board, the Trustees, and the Administrator, and the officers and employees thereof, from financial loss arising out of any claim, demand, suit, or judgment by reason of alleged negligence or other act by such board member, trustee, officer, or employee, provided that such board member, trustee, officer, or employee at the time of such alleged negligence or act was acting in the discharge of his or her duties and within the scope of his or her employment and that such damages did not result from the willful and wrongful act of gross negligence of such board member, trustee, officer, or employee and provided further that such board member, trustee, officer, or employee shall, within five days of the time he or she is served with any summons, complaint, process, notice, demand, or pleading, deliver the original or a copy thereof to the Administrator's legal advisor.

Policy

12.27 **Governing Laws.**

The law of the State of Nevada shall apply in determining the construction and validity of this Plan.

Policy

12.28 **Necessary Parties to Disputes.**

Necessary parties to any accounting, litigation, or other proceedings relating to the Plan shall include only the Administrator. The settlement or judgment in any such case in which the Administrator is duly served shall be binding upon all affected Participants in the Plan, their beneficiaries, estates, and upon all persons claiming by, through, or under them.

Policy

12.29 **Severability.**

If any provision of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Adopted pursuant to NRS 1A.100(4) providing the Retirement Board with the authority to adopt policies for compliance with federal law.

Preamble

These JRS Official Policies are adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). These policies, as adopted, are intended as good faith compliance with the requirements of EGTRRA and are to be construed in accordance with EGTRRA and guidance issued thereunder.

These policies are intended to supersede the provisions of the plan to the extent those provisions are inconsistent with the provisions of these policies.

GENERAL

- Policy**
[1A.100](#)
- 13.1 **Increase in limit.** Except as otherwise provided at NRS 1A.400, the annual compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed \$200,000. Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan. For purposes of determining benefit accruals in a plan year beginning after December 31, 2001, compensation for any prior determination shall be limited to the compensation limits in effect at the time.
- Policy**
[1A.100](#)
- 13.2 **Cost of living adjustments.** The \$200,000 annual compensation limit in Policy 13.1 shall be adjusted for cost of living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code (IRC). The cost of living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.
- Policy**
[1A.100](#)
- 13.3 **Benefit limits.** The defined benefit dollar limitation and maximum permissible benefit have the meaning ascribed to them in IRC 415(d) as amended by EGTRRA of 2001.

DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS

- Policy**
[1A.100](#)
- 13.4 **Effective Date.** This section shall apply to distributions made after December 31, 2001.
- Policy**
[1A.100](#)
- 13.5 **Modification of definition of eligible retirement plan.** For purposes of the direct rollover provisions in Policy 13.7, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the

Internal Revenue Code and an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Policy 11.1.

Policy
[1A.100](#)

- 13.6 **Modification of definition of eligible rollover distribution to include after-tax employee contributions.** For purposes of the direct rollover provisions in Policy 13.7, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in section 401(a) or 403(b) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

ROLLOVERS FROM OTHER PLANS

Policy
[1A.100](#)

- 13.7 The System will accept participant rollover contributions and direct rollovers of distributions made after December 31, 2001, from the types of plan specified herein, beginning on the effective date of these policies.

Policy
[1A.100](#)

13.8 **Direct Rollovers:**

The System will accept a direct rollover of an eligible rollover distribution from:

- a. A qualified plan described in section 401(a) or 403(b) of the Internal Revenue Code.
- b. An annuity contract described in 403(b) of the Internal Revenue Code.
- c. An eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state.

Policy
[1A.100](#)

13.9 Participant Rollover Contributions from Other Plans:

The System will accept a participant contribution of an eligible rollover from:

- a. A qualified plan described in section 401(a) or 403(b) of the Internal Revenue Code.
- b. An annuity contract described in section 403(b) of the Internal Revenue Code.
- c. An eligible plan under section 457 of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

Policy
[1A.100](#)

13.10 Participant Rollover Contributions from IRAs:

The system will accept a participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

Policy
[1A.100](#)

13.11 Effective Date of Direct Rollover and Participant Rollover Contribution Provisions. Policies 13.4 to 13.10 shall be effective upon passage, September 1, 2008, in compliance with the notification and filing requirements of NRS chapter 1A.