

PROPOSED AMENDMENTS TO ADMINISTRATIVE RULES – 2024

Rule 1.4(2)(b) of the System's Administrative Rules shall be deleted in its entirety and the subsequent sub-paragraphs of Rule 1.4(2) shall be renumbered accordingly.

~~The Board is responsible for effecting the transition from the individual city systems to the statewide system. To accomplish this transaction, the Board shall adopt a transition plan and other appropriate transition documents it deems necessary. The transition plan, or other transition documents, shall include provisions to facilitate continuity in the transition, and a recommendation for equitable process for determining earnable compensation changes.~~

Rule 1.5(4)-(6) of the System's Administrative Rules shall be amended as follows:

1.5(4) Posting of agenda. The tentative agenda for each meeting will be posted ~~on~~ at the System's ~~office~~ website, normally at least seven (7) days prior to the meeting. The agenda will be posted at least twenty-four (24) hours prior to the meeting, unless for good cause such notice is impossible or impracticable, in which case as much notice as is reasonably possible is given. When it is determined that an emergency meeting is required, the nature of the emergency shall be stated in the minutes.

1.5(5) Distribution of agenda. The agenda will be emailed to anyone who files a request with the Director. The request should state whether the agenda is for a particular meeting or all meetings of the Board.

1.5(6) Amendment to agenda. Any amendment to the agenda after posting and distribution under subrules 1.5(4) and 1.5(5) will be posted, but will not be emailed. The amended agenda will be posted at least 24 hours prior to the meeting, unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible will be given. The Board may adopt amendments to the agenda at the meeting only if good cause exists requiring expeditious discussion or action on such matters. The reason and circumstances necessitating such agenda amendments, or those given less than 24 hours' notice by posting, shall be stated in the minutes of the meeting.

Rule 1.12 of the System's Administrative Rules shall be deleted and reserved for future use as follows:

1.12 ~~Gender Balance~~Reserved.

~~The Board as a whole shall maintain gender balance in a manner consistent with Iowa Code section 69.16A.~~

Rule 1.13 of the System's Administrative Rules shall be amended as follows:

1.13 Forms and Information. Persons wishing to obtain forms or information about benefits under the System shall address requests to:

Executive Director
Municipal Fire & Police Retirement System of Iowa
7155 Lake Drive, Suite 201
West Des Moines, Iowa 50266
pensions@mfprsi.org

Rule 2.1(3) of the System's Administrative Rules shall be amended as follows:

2.1(3) *Record* in these rules means the whole or a part of a "public record" as defined in Iowa Code section 22.1, that is owned by or in the physical possession of the system. The following records are not "public records":

- (a) Records containing social security numbers;
- (b) Records specifying amounts accumulated in members' accounts and supplemental accounts;
- (c) Records containing names or addresses of members or their beneficiaries;
- (d) Records containing amounts of payments to members or their beneficiaries;
- (e) Records containing financial or commercial information that relates to the investment of retirement system funds if the disclosure of such information could result in a loss to the retirement system or to the provider of the information.

Rule 2.1(4) of the System's Administrative Rules shall be deleted in its entirety and the subsequent sub-paragraphs of Rule 2.1 shall be renumbered accordingly.

~~*Personal information* means information pertaining to or about an individual in a record which identifies the individual and which is contained in a record system. The name and city affiliation of a member are not "personal information" for purposes of this chapter.~~

Rule 2.2(3) of the System's Administrative Rules shall be amended as follows:

2.2(3) Request for access. Requests for access to open records may be made in writing, in person, ~~or~~ by telephone, or by email. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. ~~Mail or telephone~~ Requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

Rule 2.3 of the System's Administrative Rules shall be deleted and reserved for future use as follows:

2.3 ~~Confidentiality of Records~~Reserved.

~~2.3(1) *Personal information.*— Records established and maintained by the system containing personal information are not public records under Iowa Code chapter 22. Only the name and city affiliation of the individual who is the subject of these records can be disclosed.~~

~~2.3(2) *Investment information.*— Records containing financial or commercial information that relates to the investment of system funds are not public records under Iowa Code chapter 22 if disclosure of such information could result in a loss to the system or to the provider of the information.~~

Rule 2.5 of the System's Administrative Rules shall be amended as follows:

2.5 Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record or other information or document not constituting a public record may have a copy of the portion of that record, information, or document concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and shall identify the particular record(s), information, or document(s) ~~or records~~ that may be disclosed, and the particular person or class of persons to whom the record may be disclosed. The person who is the subject of the record, information, or document and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identify. Appearance of counsel before the system on behalf of a person ~~who is the subject of a confidential record~~ is deemed to constitute consent for the system to disclose records, information, or documents about that person to the person's attorney.

Rule 3.1(4) of the System's Administrative Rules (fund) shall be renumbered 3.1(5), and Rule 3.1(5) (earnable compensation or compensation earnable) shall be renumbered 3.1(4).

Rule 4.1 of the System's Administrative Rules shall be amended as follows:

4.1 Commencing rulemaking. The System shall give notice of its intention to adopt, amend or repeal a rule by publishing the text of the proposed change, or a summary of the issues and subject matter to be considered and the time, place and manner in which interested persons may comment upon the proposal, in an mailing-email to all interested persons and organizations on its mailing list. In the event the text is too voluminous for publication, the notification shall state the subject matter of the proposed rule, a summary of changes from the existing rule, if any, and the location and telephone number where interested persons may obtain the actual text. The notice shall also include the name and address of a person to whom interested persons may present written views and arguments, and the deadline by which these submissions may be submitted. This person shall be responsible for the review and summarization of all submissions.

Rule 6.4(1) of the System's Administrative Rules shall be amended as follows:

6.4(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the proceeding. Notice shall be given at least thirty (30) days prior to the scheduled hearing. Delivery may be by:

- a. Personal service as provided in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. First class mail; or;
- d. Private carrier or delivery service; or
- e. Email.

Rule 6.23 of the System's Administrative Rules shall be amended as follows:

6.23 Review of Decisions. Review of adverse hearing decisions is by the filing of a certiorari action in the District Court [sitting in Polk County, Iowa](#). The Court's review is limited to questions of law.

Rule 8.1(4) of the System's Administrative Rules shall be amended as follows:

8.1(4) *Required Information--Employer.* The employing city or department shall certify the member's date of hire, last day on the job and last day on the payroll by completing the employer's section of the Retirement Application prior to filing said application with the System. If the member has not yet left employment at the time of application, the employer shall complete the required information to the extent it is available at that time. A supplemental report shall then be filed with the System by the employer following the member's termination of employment, if requested by the System. The employing city or department shall also furnish any other relevant information requested by the System.

Rule 9.1(4) of the System's Administrative Rules shall be amended as follows:

9.1(4) *Required Information-Employer.* The employing department shall furnish all available records that relate to the member's disability, including medical records, accident reports, temporary disability file (if any) and any other relevant information. Notwithstanding the prior sentence, an employing department's failure to include any record later determined to relate to the member's disability will have no impact on the member's eligibility for benefits. The employing department shall also certify whether or not the member is in good standing, as that term is defined in section 411.1. If the department certifies that the member is not in good standing, the department shall furnish all available records that relate to that status.

Rule 9.2(2) of the System's Administrative Rules shall be amended to add a new subsection (k) as follows:

k. For purposes of this Chapter 9, the term "member" includes an ordinary disability beneficiary, as defined in Iowa Code section 411.1, paragraph 15A.

Rule 9.6(3) of the System's Administrative Rules shall be amended as follows:

9.6(3) Copies of all medical records obtained or prepared in the course of ~~employment physicals~~physical and mental entrance examinations of members whose membership commences on or after July 1, 1992, shall be filed with the System by the examining physician or facility. This requirement shall be incorporated into the medical protocols for such examinations.

Rule 9.8(3) of the System's Administrative Rules shall be amended as follows:

9.8(3) Member in good standing.

a. A member otherwise eligible to receive a disability retirement benefit will be ineligible if the System determines that the member in good standing requirement of section 411.6 is not met, unless the requirement is waived by the Board for good cause as permitted by that section.

b. ~~The disability application of a member denied for failure to meet the member in good standing requirement shall be reopened in the event the member prevails in a personnel matter and thereby becomes a member in good standing at the relevant time. If a member is determined to be ineligible for a disability retirement benefit because the member does not meet the member in good standing requirement, and the member has started to receive benefits, the member's entitlement to benefits will terminate, and any disability retirement benefits received previously must be returned to the system. Additionally, the member will owe interest on the returned benefits for the period running from the date of original payment through the date of repayment calculated using the system's targeted rate of return in effect from time-to-time.~~

c. For purposes of the member in good standing requirement of section 411.6, an individual will be deemed a "member in service" during any period of time when the individual remains employed by the city but is on a guaranteed or legally protected leave from service, such as paid leave/sick leave, FMLA, or a similar guaranteed leave pursuant to a collective bargaining agreement.

d. The member in good standing requirement does not apply to any ordinary disability beneficiary, as defined in Iowa Code section 411.1, paragraph 15A.

Rule 10.3(1)(d)(1) of the System's Administrative Rules shall be amended as follows:

(1) Life expectancy rule. Unless the beneficiary is the surviving spouse, monthly pension benefits shall commence no later than the last day of the calendar year ~~of the year~~ following the calendar year of the member's death. If the beneficiary is the surviving spouse, such benefits shall commence no later than last day of the calendar year in which the member would have attained ~~age 70½~~ the Applicable Age, as set forth in Section 401(a)(9) of the Internal Revenue Code.

Rule 10.4(3)(b) of the System's Administrative Rules shall be amended as follows:

(b) Proof of age, as described in Rule 8.1(3), is required for entitlement to a child's benefit. Proof of the member's age is required if entitlement is to be effective on the date the member would have attained age 55 (e.g. ordinary death benefit payable to a spouse or dependent parent). ~~Proof of age shall be in the form of a birth certificate or church record recorded before age five. If neither of these records exists, the applicant shall submit one or more other documents or records acceptable to the System which verify the date of birth. Records that may be acceptable for this purpose include the following:~~

- ~~_____ (1) census record;~~
- ~~_____ (2) military record;~~
- ~~_____ (3) naturalization record;~~
- ~~_____ (4) marriage record;~~
- ~~_____ (5) life insurance policy;~~
- ~~_____ (6) school record;~~
- ~~_____ (7) family Bible record;~~
- ~~_____ (8) delayed birth certificate;~~
- ~~_____ (9) passport.~~

Rule 12.10 of the System's Administrative Rules shall be amended as follows:

12.10 Marital Property Orders. The System is not subject to the Qualified Domestic Relations Order (QDRO) provisions of the Internal Revenue Code, but will recognize a valid domestic relations order relating to the division of marital property (including the member's accrued [retirement](#) benefit under the chapter) in a dissolution action. Such orders shall hereinafter be referred to as "Marital Property Orders." The System shall review all Marital Property Orders presented and shall inform both the member and the alternate payee (or their representatives) within a reasonable time whether or not such order is valid. Valid orders shall be effectuated by the System. A Marital Property Order must comply with the following requirements in order to be valid and enforceable:

12.10(1) *Facts required in order:*

(a) The name and last known mailing address (if any) of the member and the name and mailing address of the alternate payee;

(b) The dollar amount or percentage of the member's benefits to be paid by the system to the alternate payee. In the alternative, the order may specify a formula, such as the following: one-half of the amount determined by a formula, the numerator of which is the number of years the member contributed to the plan during the marriage, and the denominator of which is the total number of years the member contributed to the plan prior to drawing benefits; and

(c) The number of payments or period to which such order applies. The period may not exceed the lifetime of the member;

(d) Extent (if any) to which former spouse is to be treated as the surviving spouse upon the death of the member. See subrule 12.10(3), below.

(e) Effect in the event of an application by the member to withdraw the member's contributions pursuant to Iowa Code § 411.23.

12.10(2) *Order may not alter benefit*

(a) May not require the system to provide any type or form of benefit or any option not otherwise provided by the system;

(b) May not require the system to provide increased benefits over what would otherwise be payable on the member's record, as determined on the basis of actuarial value;

(c) May not require the system to provide benefits at a time otherwise not permitted under the chapter;

(d) May not require the payment of benefits to an alternate payee to the extent that they are already required to be paid to another alternate payee under a previous [marital](#)

~~property order~~ Marital Property Order;

(e) May not permit the alternate payee to designate a beneficiary. In the event the alternate payee predeceases the member, the alternate payee's portion of the monthly benefit will revert to the member; and

(f) May not permit payment to the alternate payee following the death of the member, except as provided in 12.10(3)~~C~~ below.

12.10(3) *Treatment of former spouse as surviving spouse*

(a) A former spouse shall be treated as a surviving spouse only if specifically designated as such pursuant to section 411.1.

(b) If the former spouse is designated as a surviving spouse, the ~~dissolution of marriage decree~~ Marital Property Order shall state the dollar amount or percentage of the total surviving spouse benefit to be paid by the system to the former spouse. The benefit payable to a surviving spouse shall not be recomputed upon the death of any other surviving spouse.

(c) The designation of a former spouse as the surviving spouse prior to the member's retirement precludes the election of an optional retirement benefit under section 411.6A by the member upon retirement.

(d) The designation of a former spouse as the surviving spouse prior to the member's retirement precludes a change in the member's beneficiary designation pursuant to section 411.6(14) to the extent that such change would be inconsistent with the terms of an existing Marital Property Order.

12.10(4) *Deferred Retirement Option Plan ("DROP") Benefits*

(a) DROP benefits paid pursuant to 14.6 after the entry of a Marital Property Order ("MPO") shall be paid to the alternate payee to the extent provided in the MPO.

(b) If the MPO does not address DROP, the DROP distribution, if any, shall be paid to the alternate payee in the same proportion provided in the MPO relating to the member's retirement benefits.

This subrule is intended to implement Iowa Code sections 411.6C and 422.13. This rule is intended to implement the decisions of the Iowa Supreme Court in Branstetter v. Branstetter, 508 N.W.2d 638 (Iowa 1993) and In re Marriage of Miller, 966 N.W.2d 630 (Iowa 2021), and the provisions of Iowa Code section 411.13, as amended by 1996 Acts of the General Assembly.

Rules 13.1-13.3 of the System's Administrative Rules shall be amended as follows:

13.1 Medical Protocols. The Board shall promulgate medical protocols, which shall govern the physical and mental examination of applicants for the positions of police officer or firefighter in all cities that are subject to chapter 400 of the Iowa Code. Said protocols may be revised from time to time, at the discretion of the Board.

13.2 Physical and Mental Examinations. The physical examination of said applicants shall be conducted by the medical board as directed by the System. Said examinations shall be conducted at sites determined by the System. The costs of the physical and mental examinations shall be paid by the cities.

13.3 Physical and Mental Examination Following Break in Service. A member who returns to service or transfers to another city or department following a break in service of more than one month duration shall be treated as an applicant for purposes of the physical and mental examination provisions of this chapter, Iowa Code section 400.8 and the System's medical protocols.

Rule 14.2(3) of the System's Administrative Rules shall be amended as follows:

14.2(3) Required Information--Applicant. The applicant shall submit proof of age, as described in Rule 8.1(3), with the application. Proof of age may also be required for the applicant's spouse or contingent beneficiary, as directed by the System. ~~Proof of age shall be in the form of a birth certificate or church record recorded before age five. If neither of these records exists, the applicant shall submit one or more other documents or records acceptable to the System that verify the date of birth. Records that may be acceptable for this purpose include the following:~~

- ~~—— (1) —— census record;~~
- ~~—— (2) —— military record;~~
- ~~—— (3) —— naturalization record;~~
- ~~—— (4) —— marriage record;~~
- ~~—— (5) —— life insurance policy;~~
- ~~—— (6) —— school record;~~
- ~~—— (7) —— family Bible record;~~
- ~~—— (8) —— delayed birth certificate;~~
- ~~—— (9) —— passport.~~

~~—— Photocopies of documents may be submitted, subject to the right of the System to require an original or certified copy.~~

Rule 17.2 of the System's Administrative Rules shall be amended as follows:

a. Pursuant to the provisions of § 411.23 and the Internal Revenue Code, the System shall refund a member's contributions if the following conditions are met: (1) the member was a member of the System for less than four years; (2) the member terminated service four or more years prior to the date of the refund; and (3) the amount to be refunded does not exceed \$57,000 (~~indexed~~).

b. ~~In the event~~Any such a-refund ~~is~~may be made in cash without the member's consent or election ~~and exceeds~~if it does not exceed \$1,000, ~~the System shall pay the distribution in the form of a direct rollover to an individual retirement plan (IRA) designated by the System.~~