

**HISTORICAL VERSION  
FOR REFERENCE PURPOSES ONLY**

**LOS ANGELES ADMINISTRATIVE CODE**

**DIVISION 4, CHAPTER 10  
RETIREMENT BENEFITS AND CONDITIONS OF ENTITLEMENT  
(ADOPTED UNDER THE AUTHORIZATION OF CHARTER SECTION 1168)**

Effective July 25, 2013, this Chapter was replaced, in its entirety, by Ord. No. 182,629.



## CHAPTER 10

### RETIREMENT BENEFITS AND CONDITIONS OF ENTITLEMENT (ADOPTED UNDER THE AUTHORIZATION OF CHARTER SECTION 1168)

(Title Amended by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.)

Section		4.1047	Rule-Making Powers of the Board of Administration.
4.1000	Statement of Purpose.		
4.1001	Definition of Terms.	4.1048	Operative Date of Sections 4.1042 Through 4.1047.
4.1002	Members of the System.		
4.1002.1	Establishment of Tier 2.	4.1050	Construction of the Provisions of this Chapter.
4.1003	Board of Administration Determinations.	4.1051	Back Contributions for past Periods of City Service and Redeposit of Formerly Withdrawn Accumulated Contributions.
4.1004	Unclaimed Benefits Revert to the Retirement Fund.		
4.1010	Final Compensation.	4.1051.1	Rights of Former Members.
4.1015	Waiver of Benefits.	4.1052	Past Service Credit Toward Entitlements under Family Death Benefit Insurance Plan.
4.1019	Operative Dates of Certain Sections of this Chapter.	4.1052.1	Buy Back of Periods of Uncompensated Leave from City Service.
4.1020	Service Retirement Allowance		
4.1021	Entitlement to Receive Beta Formula Service Credit.	4.1052.2	Government Service Buy Back Program.
4.1022	Beta Formula for the Calculation of Service Retirement Allowances.	4.1053	Optional Retirement Allowance.
4.1024	Service Credit for Accrued Vacation Time in Case of Death; Service Credit to Relate Back to the Date a Member Entered City Service.	4.1053.1	Election of Annuity with No Payment Due on Death of Last Survivor.
4.1031.1	Prior Defrayment of Certain Members' Contributions.	4.1054	Duty Related and Non-duty Related Deaths Creating Entitlement to Survivorship Benefits.
4.1031.2	Contribution Rate for Members.	4.1055	Disability Retirement.
4.1031.3	Larger Annuity Program.	4.1055.1	Loan Program for Applicants for Disability Retirement.
4.1033	Early Retirement Incentive Program.	4.1055.2	Back Contributions for Periods of City Employment While Disability Pension Applications Were Pending and No Entitlement Existed to Receive Credit for City Service – Six Months' Limitation.
4.1040	Cost of Living Adjustment.		
4.1040.1	Discretionary Cost of Living Adjustments.	4.1056.2	Computation of Allowance in Case of Early Retirement; Full Formula Retirement after 30 Years of Service and Attainment of Age 55.
4.1040.3	Ad Hoc Cost of Living Adjustment for Retirees Who Retired Prior to June 30, 1984.	4.1057	Survivor's Right to Designate the Beneficiary of Unused Accumulated Contributions and Accrued but Unpaid Allowances.
4.1041	Definitions.	4.1058	Medical Examinations of Disability Retirement Applicants.
4.1044	Continuance to Surviving Spouse.		
4.1044.3	Surviving Spouse's Election to Receive the Continuance to Surviving Spouse Benefit Where Member Failed to Make the Election.	4.1058.1	Requirements Concerning Proof of Disability in Case a Member Dies Subsequent to His or Her Application but Before Reports from Three Physicians Can Be Obtained.
4.1044.4	Survivorship Benefits Available to Domestic Partners.		
4.1044.5	Continuance to Designated Beneficiary.	4.1059	Accumulated Contributions May Be Refunded to Certain Employees.
4.1045	Application to Change Optional Retirement Allowance.		
4.1046	Cost of Living Increases.		

- 4.1060 Benefits for Employees upon Their Change of Membership from the Water and Power Employees’ Retirement Plan to Membership in the Los Angeles City Employees’ Retirement System and for Members Who Change Membership from the Los Angeles City Employees’ Retirement System to the Water and Power Employees’ Retirement Plan.
- 4.1061 Compliance with Certain Internal Revenue Code Provisions.
- 4.1062 Payments upon Death.
- 4.1063 Family Death Benefit Insurance Plan.
- 4.1064 Direct Rollovers.
- 4.1064.1 Trustee-to-Trustee Transfers to LACERS.
- 4.1065 Reciprocal Benefits with the Public Employees’ Retirement System.
- 4.1066 Separate Account Option under Court Orders Dividing Community Property If Legal Separation or Dissolution Occurs Prior to the Member’s Retirement.
  - 4.1066.1 Definitions.
  - 4.1066.2 Benefits Available to Nonmember Awarded a Separate Account.
  - 4.1066.3 Calculation of Member’s Service Retirement Allowance.
  - 4.1066.4 Calculation of Member’s Disability Retirement Allowance.
  - 4.1066.5 Buy Back of Funds Allocated to Nonmember.
  - 4.1066.6 Duties and Responsibilities of the Board of Administration.
- 4.1067 Former Spouse Option to Receive an Annuity for Life.

approved by the City Council, require by their terms presentation to the City Council of ordinances changing retirement benefits or conditions of entitlement thereto.

SECTION HISTORY

Added by Ord. No. 147,686, Eff. 1-2-75.  
 Amended by: First and Second Paras., Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1001. Definition of Terms.**

All words or terms used in this chapter and Chapter 11 not specifically and expressly otherwise defined in any section thereof, shall be defined in accordance with the definitions contained in Section 1152 of the City Charter, Section 4.801 of the Los Angeles Administrative Code and Section 3501 of the California Government Code, or shall have the following meaning, if not elsewhere defined:

“**Accumulated Contributions**”: Shall mean the total of the amounts paid into the Retirement Fund by the member and any interest credited to the member’s account.

“**Annuity**”: Shall mean payments for life derived from the accumulated contributions of a member as provided in this chapter.

“**Beta Formula**”: Shall mean the service retirement formula established in Section 4.1022 of this chapter.

“**Beta Formula Service**”: Shall mean those periods of City service to which the Beta Formula shall be applicable pursuant to Section 4.1021 of this chapter.

“**City Service**” or “**Service**”: Shall mean only those periods during which a member received compensation from the City as an employee or during which the employee not only received Workmen’s Compensation benefits (Div. IV, Labor Code) for temporary disability on account of any injury or illness arising out of and in the course of employment with the City but for which the employee also made contributions to the fund as provided in Charter Section 1162.

“**City Service Credit**” or “**Service Credit**”: Shall mean the time component of the formula used by Los Angeles City Employees’ Retirement System for

**Sec. 4.1000. Statement of Purpose.**

It is the purpose of this chapter to establish retirement benefits for members of the Los Angeles City Employees’ Retirement System and for other beneficiaries as defined in Section 1152 of the City Charter and Section 4.1002 of this chapter, to modify such benefits and to change conditions of entitlement thereto by ordinance as authorized in Section 1168 of the City Charter.

It is also the purpose of this chapter to demonstrate the intent of the City of Los Angeles, through its governing bodies, to promote the improvement of personnel management and employer-employee relations by enacting from time to time, such ordinances as may legally be adopted under the authority of Section 1168 of the City Charter whenever Memorandums of Understanding and other agreements, duly executed by all parties thereto and

purposes of calculating benefits pursuant to applicable Los Angeles Administrative Code and Board Rule provisions.

**“Compensation Earnable”**: Shall mean the full salary, wage or compensation established for any position or office in the City service for the particular period involved in any calculation required.

**“Continuous Service”**: Shall mean uninterrupted City service except that discontinuance of such service of a member for any cause whatever, followed by re-entrance into the City service within three years from the date of such discontinuance, shall not be considered as a break in the continuity of service.

**“Dependent Parent”**: Shall mean only a person whom the Board of Administration, upon investigation and after a hearing in the matter, shall find is the parent of a member to or for whom the member, during the last year of his service, contributed at least one-half (1/2) the necessary living expenses.

**“Employee”**: Shall mean every person in the employ or service of the City of Los Angeles in any capacity or rank whatever at a regular salary, wage or compensation, and regardless of whether the position held by any such person is classified as an office or employment.

**“Larger Annuity”**: Shall mean the annuity funded entirely by the member as provided in Section 4.1031.3 of this Chapter.

**“Member”**: Shall mean an employee of the City of Los Angeles who meets the membership requirements contained in Section 4.1002 of this Chapter. Notwithstanding the foregoing, a person who qualifies for reciprocity under Section 4.1065 and is no longer employed by the City may be considered to be a member, but only to the limited extent necessary to comply with the reciprocity provisions contained in Section 4.1065 of this Chapter. A retired member who is receiving a monthly benefit from the Retirement System shall not be considered a member for purposes of this Chapter and, if re-employed as authorized in Charter Section 1164, shall continue to be a retired member.

**“Regular Interest”**: Shall mean interest credited to the individual account of each member as provided in Charter Section 1162(b).

**“Reserve Basis”**: A system which provides for the accumulation and maintenance of a fund which will at all times be equal to the difference between the present value of the obligations assumed and the present value of the money to be received for paying such obligations, where such present values are estimated in accordance with accepted actuarial methods and on the basis of an assumed rate of interest and the mathematical probabilities of the occurrence of such contingencies as affect both the payment of the assumed obligations and the receipt of money with which they are to be paid.

#### SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.

Amended by: In Entirety, Ord. No. 165,622, Eff. 4-22-90; Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00; Ord. No. 174,365, Eff. 12-14-01; Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1002. Members of the System.

(a) Every employee shall become a member of the Retirement System on the first day of employment in a position with the City in which he or she is not excluded from membership pursuant to the provisions of Subsection (b) of this Section. A City employee shall cease to be a member upon termination of employment. A City employee shall also cease to be a member if a change in his or her employment results in an exclusion from membership pursuant to the provisions of Subsection (b) of this Section or if his or her membership has been terminated pursuant to the provisions of Section 4.1059 of this Chapter. A former member who re-enters City employment or whose City employment changes, shall again become a member of the Retirement System on the first day of City service in a position with the City in which he or she is not excluded from membership pursuant to the provisions of Subsection (b) of this Section or Charter Section 1164.

(b) The following employees shall not be members of said Retirement System:

(1) Persons employed by the Board of Education or School District.

(2) Persons serving on any Board of Commissioners whose compensation consists of attendance fees per meeting attended.

(3) Members of the Fire and Police Pension Plans and members of the Water and Power Employees' Retirement Plan, provided, however, that

this exclusion shall not operate during any period of City service in which any such person is employed in any capacity which renders that person ineligible for current membership in said Plans. Nothing in this chapter shall be construed to prevent any person entitled to the payment of any benefit on account of service as a member of the Plans herein mentioned, from receiving payment on account of any benefit to which such person is entitled as a member of this Retirement System; provided, nevertheless, that no payment shall be made under provisions of this chapter, for or on account of any period of service for which such person is entitled to receive or is receiving any benefit, under the Fire and Police Pension Plans or the Water and Power Employees' Retirement Plan.

(4) Inmates of City institutions who are allowed compensation for such services as they are able to perform.

(5) Persons in City institutions principally for the purpose of receiving training but who receive compensation.

(6) Persons employed under contract for a definite period or for the performance of a particular special service.

(7) Persons employed only on call or for seasonal work.

(8) Any person employed on an intermittent, temporary, or part-time basis, unless the person is a member at the time he or she commences to serve on such a basis; or unless the appointing authority certifies to the Board of Administration that the person's employment is regular and continuous and will probably extend for at least one year and require service for at least one-half the time required of employees in the same group or class of service on a full-time basis.

(9) Any officer of the City elected for a fixed term who files a written declaration of his or her desire not to become a member of the System within 90 days next following the last day of the calendar month during which the first deduction on account of member contributions to the Retirement Fund is taken. When the declaration is filed, any contributions already taken attributable to the fixed term to which he or she was just elected, including interest thereon, shall be transferred to the officer's account with the Limited Term Retirement Plan and said officer shall have no

right to benefits from the System for any periods for which such contributions were taken. Provided that any officer who has filed such declaration may revoke it in writing and, upon filing the revocation with the Board of Administration, shall become a member of the System. In addition to persons elected for a fixed term as an officer of the City, any person appointed to fill a vacancy in an elected office for a fixed term, whether for the full remainder of such term or any portion thereof, may choose not to become a member of the System as provided in this paragraph and shall be considered an elected official of the City for purposes of participation in the Limited Term Retirement Plan.

Notwithstanding the foregoing, whenever any retired member of the System is elected as an officer of the City, he or she shall not re-enter membership in the System, but shall instead become a participant in the Limited Term Retirement Plan, during which time he or she shall continue to receive benefits as a retired member of the System.

(10) Any person undergoing training who will become a member of the Fire and Police Pension Plan upon completion of training.

(c) Notwithstanding the provisions of Subsections (a) and (b) of this Section, certain employees shall remain members of the Retirement System pursuant to the provisions of this Subsection.

The Department of General Services is an Outside Agency as defined in Charter Section 1202(h). Members employed by the Department of General Services as sworn peace officer personnel, whose positions may be transferred to the Los Angeles Police Department (LAPD) pursuant to a merger of police services authorized by the City Council shall, at the time of the transfer, become Transferring Employees as defined in Charter Section 1202(i) and for purposes of this Subsection. The purpose of this Subsection is to provide these Transferring Employees with the benefits provided by the Retirement System, in lieu of the benefits provided by the Fire and Police Pension Plan, pursuant to the authority provided in Charter Section 1216(b)(1).

Transferring Employees shall remain members of the Retirement System for so long as they continue in employment with the LAPD in any sworn position, except as otherwise provided in the following paragraph. In addition to continuing to be members during any period(s) of academy training required in connection with positions held at the time of the transfer, Transferring Employees

shall continue to be members of the Retirement System during any period(s) of academy training required to qualify for employment in any other sworn position with the LAPD, provided that they have not opted out of membership as provided in the following paragraph.

In the event that a Transferring Employee decides to transfer to a position with the LAPD that is not a sworn position transferred from the Department of General Services, such Transferring Employee may elect to opt out of membership in the Retirement System. In order to opt out of membership in the Retirement System, a member shall file a written opt out election form with the Retirement System, which election shall become effective on the date the Transferring Employee changes classifications and becomes eligible for membership in the Fire and Police Pension Plan or the Pension Savings Plan established in Chapter 16, Division 4 of this Code, as applicable. The Retirement System shall establish the period during which an opt out election form must be filed, which period shall be at least seven days in length and shall end not later than the day before the date the member is scheduled to change classifications; failure to file an opt out election form within the period established by the Retirement System shall constitute an irrevocable election not to opt out of membership in the Retirement System. A member shall have seven days from the date an opt out election form is filed to revoke his or her election, after which the election shall be irrevocable. Once an election has become irrevocable, it shall not be revoked for any reason by anyone, including the Board, except in the following circumstance: If a Transferring Employee who has opted out and changed classifications should for any reason subsequently revert to a position that was transferred from the Department of General Services, he or she shall be reinstated to membership in the Retirement System. The provisions of this paragraph allowing a member, under specified conditions, to opt out of membership shall expire two years from the effective date of this Subsection, although a member who timely files an opt out form prior to expiration of the two-year period shall be allowed to opt out even if his or her classification changes after expiration of the two-year period. The Board shall not have any authority to waive or extend any time limitation set forth in this paragraph.

Transferring Employees shall not become members of the Fire and Police Pension Plan except as provided in the preceding paragraph. In the event that a Transferring Employee should terminate employment and thus cease to be a member of the Retirement System, his or her status as a Transferring Employee shall terminate and shall not be reinstated in the event he or she should again enter City employment.

## SECTION HISTORY

Added by Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00.  
Amended by: Subsecs. (a) and (b)(9), Ord. No. 174,820, Eff. 9-25-02; Last Sentence of Second Para. of Subsec. (a) amended and Subsec. (b)(10) added, Ord. No. 177,214, Eff. 1-4-06; Subsecs. (a), (b)(8), (b)(9) and (b)(10), Ord. No. 182,196, Eff. 8-8-12; Subsec. (c) Added, Ord. No. 182,336, Eff. 12-13-12.

**Sec. 4.1002.1. Establishment of Tier 2.**

All employees who become members of the Retirement System on or after July 1, 2013, shall become members of Tier 2, except as provided otherwise in Subsection (a) below. The benefits and conditions of entitlement for members belonging to Tier 2 shall differ, as provided in this Section and in Chapter 11 of Division 4, from the benefits and conditions of entitlement for employees whose membership in LACERS began prior to July 1, 2013 (who shall be referred to as members of Tier 1 for purposes of this Chapter and Chapter 11 of Division 4 of this Code). There shall be no exception to Tier 2 membership based upon Section 4.1065, and Tier 2 members entitled to reciprocity under Section 4.1065 shall contribute at the rate provided in Tier 2, which is not related to age at entry. All citations herein are to provisions in this Chapter unless noted otherwise.

**(a) Exceptions to Tier 2 Membership.**

**(1) Former Members with Contributions on Deposit.** A former member who returns to membership in the Retirement System on or after July 1, 2013, shall return to membership in Tier 1 if he or she has pre-July 1, 2013, contributions that remain on deposit with the Retirement Fund on the date he or she re-enters City service. All former members who return to membership on or after July 1, 2013, without having pre-July 1, 2013, contributions on deposit shall become Tier 2 members. In the event a former member's pre-July 1, 2013, contributions have been forfeited to the Retirement Fund, he or she shall return to membership in Tier 1 provided that he or she is relieved from such forfeiture and said funds are returned to his or her individual account. Former members may not qualify for the exception provided in this paragraph by making back contributions or re-deposits of contributions after re-entry into City service.

**(2) Tier 1 Disability Retirees Returned to Employment.** A Tier 1 disability retiree who is returned to City employment on or after July 1, 2013,

as provided in Subsections 4.1055(b) or (d), shall return to membership in Tier 1.

(3) **Reciprocal Retirement Benefit Arrangement.** If an employee of the City’s Department of Water and Power (DWP) participates in the reciprocal retirement benefit arrangement established in Section 4.1060, he or she shall become a member of Tier 1 upon becoming a member of the Retirement System, rather than Tier 2, provided that his or her employment with the DWP commenced prior to July 1, 2013, and there is no break in service of more than seven calendar days, as provided in Section 4.1060(2). This exception shall not apply if the member elects not to participate in the reciprocal retirement benefits arrangement, as provided in Subsection 4.1060(5).

(4) **Limited Term Retirement Plan.** An elected official who was a member of the Limited Term Retirement Plan (LTRP) on June 30, 2013, and subsequently becomes a member of the Retirement System shall become a member of Tier 1, rather than Tier 2, provided that his or her service as an elected official was continuous from June 30, 2013, until the date he or she became a member of the Retirement System and all of the funds in his or her individual account with the LTRP are transferred to his or her member account with the Retirement System pursuant to the provisions of Section 4.1051(a)(3)(1).

(b) **Back Contributions and Re-Deposits of Contributions.** Tier 2 members may make back contributions as provided in Section 4.1051(a). If back contributions are paid for a period of employment prior to July 1, 2013, the contribution rate used in the payment calculation shall be the rate that the person would have paid if he or she had been a member of Tier 1 at that time. Tier 2 members may re-deposit previously withdrawn accumulated contributions as provided in Section 4.1051(b). Neither making back contributions nor re-depositing previously withdrawn contributions shall allow a member to establish an earlier membership date for purposes of excluding him or her from membership in Tier 2.

(c) **Tier 2 Contributions.** A member who belongs to Tier 2 shall contribute by salary deduction to the Retirement Fund at an actuarially determined rate sufficient to fund 75% of normal costs and 50% of any unfunded liability for Tier 2. The member contribution is paid solely for the purpose of providing benefits for the member and, unlike Tier 1, does not include a survivor contribution.

The initial contribution rate for the first four years of Tier 2 shall be 10% of the compensation earnable for each member. The Board shall establish the Tier 2 member contribution rate every three years thereafter, with the first such determination to be effective July 1, 2017, for the following three years. The Board shall establish the member contribution rate as a percentage of compensation earnable for each member and the rate established shall be actuarially determined to be sufficient to fund 75% of normal costs and 50% of any unfunded liability for Tier 2. The City contribution shall be determined annually by the Board in a percentage that, when combined with the member contribution, is sufficient to fully meet the actuarial funding requirements.

For purposes of this Section:

- member contributions shall be credited to each member’s individual account and no portion of a member’s contribution shall be paid into the 401(h) account;
- member contributions are subject to the provisions of Charter Section 1162, including the right to be credited with interest;
- compensation earnable shall consist of base salary and shall not include any bonuses or premium pay;
- normal costs and unfunded liability shall include costs associated with funding the Retirement Fund’s 401(h) account for purposes of establishing the member contribution rate except that, if for any reason the determination of the member contribution rate at the time of an adjustment results in a member contribution rate that exceeds the amount necessary to fund 100% of normal costs and unfunded liability excluding all costs associated with funding the 401(h) account, then the member’s contribution rate shall be reduced accordingly to assure that no part of a member contribution is used to fund the 401(h) account since, if member contributions were paid into the 401(h) account, these contributions would become non-refundable and could not be paid on a pre-tax basis pursuant to Chapter 15 of this Code;
- the unfunded liability used to determine rate adjustments shall be based upon the average of the last three years’ amortization payments



toward the unfunded liability for Tier 2 as determined by the Board's actuary;

- the normal costs used to determine rate adjustments shall be based upon the average of the last three years' normal costs for Tier 2 as determined by the Board's actuary.

The provisions of Section 4.1031.2 shall not apply to members of Tier 2 unless a member is making back contributions for a period of City employment prior to July 1, 2013.

Notwithstanding the provisions of this section, the City Council shall have the discretionary right to adopt an ordinance to temporarily reduce the member contribution rate for a period not to exceed three years. Members of Tier 2 shall not obtain any vested right to a lower contribution rate on account of any such reduction. Further, the Council explicitly retains the right to amend this Code by ordinance to delete this provision. Any ordinance adopted pursuant to this paragraph shall be adopted in the same manner as provided in Charter Section 1168.

(d) **Final Compensation.** The provisions regarding final compensation contained in Section 4.1010 shall apply to Tier 2 members except that:

(1) Compensation which is to be included in final compensation for all Tier 2 purposes shall be limited to base salary and shall not include any bonuses or premium pay.

(2) Final compensation for all Tier 2 purposes shall be calculated as an average of the monthly compensation paid during the member's last 36 months of service or any other 36 consecutive months of service which the member shall designate. Any references in this Chapter to a 12-month period related to final compensation shall be deemed to refer to 36 months for Tier 2 members. Since employees are paid on a bi-weekly basis, rather than a monthly basis, the Board shall adopt appropriate rules to convert a member's bi-weekly compensation into an amount that represents the member's equivalent compensation for the 36 month period that is to be used to determine final compensation pursuant to this provision. If for any reason final compensation must be computed for any member who has completed less than 36 months of continuous service, the salary for the missing months shall be at the rate for the first month of service to arrive at the compensation earnable; this exception shall not apply if a member has any period of

continuous service of 36 months or more for which he or she will receive service credit.

(e) **Service Retirement for Employees.**

(1) **Normal Retirement.** A Tier 2 member with ten or more years of continuous City service shall be eligible to retire after reaching age 65 with a retirement factor of 2%. A Tier 2 member shall be eligible to retire at age 70 or older, regardless of length of City service, with a retirement factor of 2%.

(2) **Early Retirement.** A Tier 2 member with ten or more years of continuous City service shall be eligible to retire after reaching age 55 with the following retirement factor based upon his or her age:

Age	Retirement Factor
55.00	0.7700%
55.25	0.7880%
55.50	0.8050%
55.75	0.8230%
56.00	0.8400%
56.25	0.8600%
56.50	0.8800%
56.75	0.9000%
57.00	0.9200%
57.25	0.9430%
57.50	0.9650%
57.75	0.9880%
58.00	1.0100%
58.25	1.0350%
58.50	1.0600%
58.75	1.0850%
59.00	1.1100%
59.25	1.1380%
59.50	1.1650%
59.75	1.1930%
60.00	1.2200%
60.25	1.2500%
60.50	1.2800%
60.75	1.3100%
61.00	1.3400%
61.25	1.3750%
61.50	1.4100%
61.75	1.4450%
62.00	1.4800%
62.25	1.5180%
62.50	1.5550%
62.75	1.5930%
63.00	1.6300%
63.25	1.6750%

Age	Retirement Factor
63.50	1.7200%
63.75	1.7650%
64.00	1.8100%
64.25	1.8580%
64.50	1.9050%
64.75	1.9530%

(3) A Tier 2 member who is eligible for normal or early retirement may file a service retirement application with the Board of Administration specifying a retirement date. The application shall be filed not less than thirty or more than sixty days prior to the requested retirement date.

In the event a member has been notified by the City that he or she will be laid off, the application may be filed less than thirty days in advance and shall be accepted provided it is filed with the Board while the member is still employed, specifies a retirement date prior to the member’s termination, and shall not be effective earlier than the date on which it is filed.

The thirty day advance filing requirement shall not apply if the City has adopted a Resolution of Fiscal Emergency that is in effect and the Mayor has notified the System in writing that the City’s fiscal condition warrants a waiver of the advance filing requirement for a 90 day period from the date of such notification, provided that the application shall not be effective earlier than the date on which it is filed. So long as the Resolution of Fiscal Emergency remains in effect, the Mayor may extend a waiver of the advance filing requirement in successive periods of 90 days each by written notification from the Mayor to the System.

**(f) Service Retirement for Terminated Employees (Deferred Retirement).** A Tier 2 member who terminates City employment other than by retirement may leave his or her contributions in the Retirement Fund. Such former member’s individual account shall be credited with regular interest in the same manner as applies to a member’s individual account. In order to become eligible for a deferred service retirement from Tier 2, a former member whose contributions remain in the Retirement Fund must have:

(1) Five years of continuous City service, be age 55 or older, and ten years must have elapsed since he or she first became a member; or

(2) Five years of continuous City service and be age 70 or older; or

(3) Been a part-time employee, be age 55 or older, and ten years must have elapsed since he or she first became a member; or

(4) Been a part-time employee and be age 70 or older.

A former member of Tier 2 who is eligible for a deferred service retirement must notify the Retirement System in writing when he or she wants to retire and shall then be retired with the retirement factor attributable to his or her age as provided in Subsection (e)(2)(A)-(J), if age 55 through 64, or with a retirement factor of 2% if age 65 or older, provided that the date of his or her retirement may not be earlier than the date that the written notification is received by the System.

**(g) Service Retirement Allowance.** Members of Tier 2 shall not qualify for a Beta Formula retirement, but shall receive a Tier 2 Formula retirement when retired on a service retirement allowance. The service retirement allowance for a person who is eligible to retire under either Subsection (e) or (f) herein shall be determined pursuant to the following Tier 2 Formula: retirement factor (multiplied by) City service credit (multiplied by) final compensation (equals) service retirement allowance.

Each service retirement allowance shall be allocated between the following two components:

(1) An annuity which shall be the actuarial equivalent of the retiree’s accumulated contributions at the time of retirement (excluding any additional contributions paid to provide a larger annuity at the time of retirement), calculated in accordance with approved actuarial methods as of the date of retirement; and

(2) A pension, in the amount of the remaining balance, payable to the retiree on account of his or her service.

However, if the Tier 2 member who is retiring had previously been on disability retirement, his or her retirement allowance shall be reduced by an amount equal to the annuity which the total of the disability annuity payments made to him or her would have provided had they still been part of his or her accumulated contributions at the time of his or her service retirement unless, upon returning to service from disability retirement, a member elected, as provided by Board rule, to make additional contributions in order to restore part or all of his or her annuity.

In no event shall any Tier 2 retirement allowance exceed 75% of final compensation, except where the allowance is based solely upon the annuity component funded by the retiree's accumulated contributions and thus does not include a pension component. Further, all Internal Revenue Code limitations set forth in Section 4.1010 shall be applicable to benefits payable under Tier 2. In addition, Tier 2 members shall not be entitled to the payment of benefits to the extent such benefits are reduced by the limitations on benefits imposed by Section 415 of the Internal Revenue Code. Notwithstanding the provisions of Section 4.1800 of this Code, Tier 2 members shall not be eligible to participate in the Excess Benefit Plan established in Section 4.1800.

The 75% of final compensation limitation upon the retirement allowance set forth above, which is subject to one exception as noted, shall apply to the member's retirement allowance prior to any adjustments that may be required as a result of the purchase of an additional annuity, the provision for a continuance to a survivor, or any other election authorized in this Chapter.

(h) **Disability Retirement.** A Tier 2 member shall be eligible for disability retirement benefits as provided in Section 4.1055. A Tier 2 member who is retired due to disability and is subsequently returned to city employment, as provided in Subsection (b) or (c) of Section 4.1055, shall return to membership in Tier 2.

(i) **Cost of Living Adjustments.** A Tier 2 member who is retired for disability or service shall be eligible for annual cost of living adjustments after his or her retirement date. A survivor of a Tier 2 retiree shall be eligible for annual cost of living adjustments after the date of the retiree's death if he or she is receiving a monthly benefit from the System. A survivor of a Tier 2 member who died prior to retirement shall be eligible for annual cost of living adjustments after the date of the member's death if he or she is receiving a monthly benefit from the System other than those provided in Section 4.1062(a)(2) or Section 4.1063. Cost of living adjustments for Tier 2 benefits shall be determined in the same manner as provided in Section 4.1040 except that annual adjustments shall not exceed 2% and cost of living adjustments in excess of 2% shall not be carried over to another year.

The Board shall adopt rules to allow a member of Tier 2 to purchase additional COLA coverage, not to exceed an additional 1% per year, provided that the member shall pay the full actuarial cost for this additional benefit. If a retiree has purchased an additional annuity, the additional COLA coverage shall not apply to the additional annuity unless the member has paid the full actuarial cost to extend the

additional COLA coverage to include the additional annuity benefit.

(j) **Death Benefits.** Members of Tier 2 do not pay a survivor contribution for the purpose of providing benefits to a surviving spouse or domestic partner. The provisions in Chapter 10 providing for the payment of benefits upon the death of a member, former member, or retiree shall not apply to Tier 2 except as provided otherwise in this section.

The only benefits payable from the Retirement Fund upon the death of a Tier 2 retiree shall be the benefits provided in Subsections (b) and (c) of Section 4.1062 unless the retiree elected at the time of retirement to take a reduced allowance in order to provide for a continuance pursuant to the provisions of either Section 4.1044.5 or Section 4.1053. With regard to the benefit provided in Section 4.1062(c), since the purpose of this benefit is to provide a funeral allowance for the deceased retiree, the payment of this benefit from Tier 2 shall be made to only one person whom the retiree may designate to receive this payment for its intended purposes, provided that the Retirement System shall have no responsibility to assure that this payment is used for that purpose. If the decedent has no beneficiary designated to receive the funeral allowance, the funeral allowance for a Tier 2 retiree shall be paid to the surviving spouse of such decedent or, if none, to the executor or administrator of the estate of the decedent or to any other person or legal entity legally authorized to receive money due said decedent.

The only benefits payable from the Retirement Fund upon the death of a Tier 2 member prior to retirement shall be the benefits provided in Subsection (a) of Section 4.1062 unless the Tier 2 member was a participant in the Family Death Benefit Insurance Plan (FDBIP) at the time of his or her death. FDBIP benefits shall be paid as authorized in Section 4.1063 in addition to any benefits that are payable pursuant to Section 4.1062(a)(1) and (2), but if any person elects to receive an optional retirement allowance as provided in Section 4.1062(a)(3), then no FDBIP benefits shall be paid.

The only benefits payable from the Retirement Fund upon the death of a former member of Tier 2 whose contributions remain on deposit in the Fund at the time of his or her death shall be a refund of his or her accumulated contributions. The accumulated contributions shall be paid in the manner specified in Section 4.1062(a)(1). For purposes of this section, former member shall be defined as provided in Section 4.1051.1(c). A former member who has established reciprocity with another retirement system shall be limited to the rights provided in this paragraph if he or she dies prior to retirement.

(k) **Purchase of Service.** Members of Tier 2 may buy back credit for periods of uncompensated leave from City service under Section 4.1052.1.

Members of Tier 2 may purchase service credit under Section 4.1052.2 with the following limitations and modifications:

(1) Purchase of service credit shall be limited to a total of four years.

(2) The cost to purchase service credit shall not be determined under the provisions set forth in Section 4.1052.2, but shall be determined as follows:

The member's contribution rate shall be combined with the "City Contribution Rate" (as defined below) to establish the total percent of the member's compensation, at the time of purchase, that is to be paid for the total length of the period of service credit (not to exceed four years) that the member agrees to purchase. Compensation as used in this Subsection shall refer to the member's compensation earnable, as defined in Subsection (c) herein, at the time of purchase.

As an example, assuming the member's compensation at the time of purchase is \$100,000 per year, the member's contribution rate is 10%, the City Contribution Rate is 20%, and the period of service credit to be purchased is two years, the cost would be determined as follows:

The 10% member contribution rate plus the 20% City Contribution Rate results in a total contribution rate of 30%. Thus, to purchase two years of service credit would cost the member a total of \$60,000 (30% of the member's \$100,000 compensation for each year of service purchased).

The "City Contribution Rate" shall be the average annual percent of payroll contributed by the City to the Retirement Fund (excluding contributions allocated to fund the 401(h) account) for Tier 2 based upon the City's payments for the seven years prior to the time of purchase. For the first seven years commencing January 1, 2013, this rate shall be computed upon the City's average annual percentage of payroll contributions to Tier 2, with the rate for any

missing year(s) based upon the average of the annual rate(s) for the prior year(s).

(3) A written purchase agreement shall be entered into with the member. Payment may be made either as a lump sum or by payroll deduction on a post-tax basis. Should the member elect to purchase service credit through payroll deduction, annual interest at a rate determined by the Board and set at the commencement of the agreement shall be charged. The Board may establish a minimum biweekly payroll deduction and rules regarding the rollover of funds to pay for purchases.

(4) Purchased service credit shall only count for purposes of calculating the member's service retirement allowance. Purchased service credit shall not count toward establishing the minimum ten years of continuous service required to qualify for retirement under Subsection (e), the minimum five years of continuous service required to qualify for retirement under Subsection (f), or the minimum ten years of continuous service required to qualify for disability retirement. Further, purchased service credit shall not count as service or service credit for purpose of qualifying for any benefits provided in Chapter 11 of Division 4 of this Code.

(5) In the event that the member dies prior to retirement, the funds paid for this purchase shall be considered to be a part of the member's accumulated contributions and shall be refunded accordingly, with interest thereon computed at the rate applicable to regular member contributions.

(6) Because purchased service credit does not count towards disability benefits, at the time of his or her disability retirement the member may elect either to receive a refund of the funds paid for this purchase, including interest thereon, or to apply these funds to purchase a larger annuity.

(7) In the event part or all of the purchased service credit at the time of retirement would cause the member's service retirement allowance to exceed 75% of final compensation, the purchase cost attributable to any excess service credit that may not be used in the retirement formula, including interest thereon, shall be refunded or may be applied by the member to purchase a larger annuity if doing so does not cause the retirement allowance to exceed any federal limitations that may apply.

(8) The Board shall have the full authority granted in Subsection 4.1052.2(j) to administer the provisions of Section 4.1052.2 as amended herein.

SECTION HISTORY

Added by Ord. No. 182,296, Eff. 11-12-12.

**Sec. 4.1003. Board of Administration Determinations.**

If it shall be impracticable for the Board to determine from the records the length of service, the compensation, either final or earnable, or the age of any member, the said Board may estimate, for all purposes of this chapter, such length of service, compensation, or age. It shall determine and fix the amount of service rendered which shall be the equivalent of a year of service, provided that not more than one year of service shall be credited for all services rendered during any one year. In all cases where compensation of any member consists, in part, of payment for the use of equipment owned and operated by such member personally, the Board of Administration shall fix and determine, for all purposes of this chapter, a compensation for the personal service of such member, which shall be in keeping with the salary or wage paid by said City for comparable service, and the compensation so



fixed by the Board shall be the basis, and the only basis, for the calculation of the contributions of such member and any and all benefits provided for in this chapter. Each member shall file with said Board such information affecting his or her status as a member of said Retirement System, as said Board may require, and the administrative head of each department of the City government shall furnish to said Board such information relative to any member, and the member's status, as it may request.

#### SECTION HISTORY

Added by Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00.

#### **Sec. 4.1004. Unclaimed Benefits Revert to the Retirement Fund.**

Any benefit payable from the Retirement System that is not claimed shall revert to the Retirement Fund. Unless there is a different claim period specified elsewhere in this Chapter, benefits payable from the Retirement System must be claimed within one year. If the person entitled to a benefit is a minor, the period in which to claim the benefit shall be tolled until he or she attains age 18.

In the event that a beneficiary is entitled to a benefit from the Retirement System but payment cannot be made for any reason, such as the beneficiary's failure to cooperate, where the beneficiary's whereabouts is unknown or where a beneficiary has failed to cash an outstanding check within such reasonable time period as established by Board rule, and the Retirement System has followed Internal Revenue Service procedures to locate the beneficiary, the funds due to the beneficiary shall be forfeited to the Retirement Fund provided that a beneficiary shall be relieved from such forfeiture upon receipt of a request from him or her, or anyone authorized to act on his or her behalf.

#### SECTION HISTORY

Added by Ord. No. 182,196, Eff. 8-8-12.

#### **Sec. 4.1010. Final Compensation.**

Wherever the phrase "**Final Compensation**" is used in this chapter, it shall, unless a different meaning is clearly indicated by the context, have the following meaning:

The final compensation of every member, on or after the operative date of this section, shall be calculated upon an annual compensation earnable of the member during his or her last twelve (12) months

of service or during any other twelve (12) consecutive months of service which he or she shall designate.

Compensation which is to be included in Final Compensation shall be limited to base salary and regularly assigned bonuses or premium pay. Payments of money to be included in the calculation of Final Compensation are limited, prior to July 1, 2000, to payments designated as salary by an ordinance of the City or, effective July 1, 2000, to payments designated as salary by an ordinance of the City or a memorandum of understanding; all other payments of money not so designated shall not be included in the calculation of Final Compensation. Compensation which shall not be included in the calculation of Final Compensation shall include, but not be limited to, overtime, daily and other non-regularly assigned bonuses, reimbursements, car allowances, uniform allowances, payments in lieu of benefits or cash-out of benefits and other forms of compensation.

With respect to an employee who begins membership in the Los Angeles City Employees' Retirement System after June 30, 1996, compensation taken into account in any Plan year may not exceed the annual compensation limits established under Internal Revenue Code Section 401(a)(17), as adjusted for increases in the cost of living in accordance with Internal Revenue Code Section 401(a)(17)(B).

#### SECTION HISTORY

Added by Ord. No. 144,470, Eff. 3-28-73.

Amended by: Third Para. added by Ord. No. 171,145, Eff. 8-1-96; In Entirety, Ord. No. 172,808, Eff. 9-20-99; First, Second and Fourth Paras., Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Fourth Para., Ord. No. 174,820, Eff. 9-25-02; Second Para., Ord. No. 182,196, Eff. 8-8-12.

#### **Sec. 4.1015. Waiver of Benefits.**

Each beneficiary, as defined in Charter Section 1152, shall have the right, at any time, to waive payment of the whole or any portion of any benefit whatsoever or of any increase in the amount of any benefit which is or shall become payable to him or her pursuant to any provision of this chapter and may waive payment thereof forever or for a definite or indefinite period of time. Any such waiver shall be in writing, shall be filed with the Board of Administration and shall be effective as of the first day of the month following the month in which it shall be filed. Each beneficiary who shall make and file such a waiver shall have the right, at any time, to cancel the same. Any such cancellation shall be in writing, shall be filed with the Board

of Administration and shall be effective as of the first day of the month following the month in which it shall be filed. Any such waiver shall constitute a complete release, discharge and acquittance of the City of Los Angeles and the Board of Administration from any and all liability to pay any amount or amounts of any benefits which shall be waived by any such beneficiary.

#### SECTION HISTORY

Added by Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00.

### Sec. 4.1019. Operative Dates of Certain Sections of This Chapter.

Sections 4.1021, 4.1022, 4.1023, 4.1031, 4.1031.1 and 4.1056.1 of this chapter shall become operative on the first day of the payroll period during which the ordinance adopting said sections becomes effective.

#### SECTION HISTORY

Added by Ord. No. 147,686. Eff. 9-12-75.

### Sec. 4.1019.1. Members of the System.

#### SECTION HISTORY

Added by Ord. No. 166,930, Eff. 6-10-91.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

### Sec. 4.1020. Service Retirement Allowance

(a) A member who has reached the age of seventy (70) years or more, regardless of length of City service, shall be retired upon filing with the Board of Administration his or her written application therefor designating therein the date upon which such retirement shall be effective, which date shall be not less than thirty (30) nor more than sixty (60) days from and after the filing of such application. Any member who shall have completed ten (10) or more years of continuous service shall be retired at any time after attaining age sixty (60), upon said member filing with the Board of Administration a written application therefor designating therein the date upon which such retirement shall be effective, which date shall be not less than thirty (30) nor more than sixty (60) days from and after the filing of such application; provided, that any member who has completed the minimum number of years of service entitling him or her to retire, as herein set forth, and who has attained age fifty-five (55) or has completed thirty (30) or more years of

service regardless of age, may elect to retire and be paid a retirement allowance which shall be equal to the amount which shall remain after the full retirement allowance which would be payable to the member if he or she had then attained age sixty (60) shall have been reduced by reference to the sections in this chapter providing for the Computation of Allowances in Case of Early Retirement. Application for such earlier retirement shall be made in the same manner as that hereinabove provided for regular service retirement.

Any person whose membership has heretofore been terminated or any member whose membership may hereafter be terminated prior to completing five years of continuous service may have his or her accumulated contributions refunded as provided in Section 4.1051.1 of this chapter.

Any person whose membership has heretofore been terminated or any member whose membership may hereafter be terminated, for any reason, after the member has completed five or more years of continuous service, may have his or her accumulated contributions refunded as provided in Section 4.1051.1 or may leave his or her accumulated contributions in the Retirement Fund and thereafter be paid a retirement allowance, based upon his or her accumulated contributions and his or her service as of the date his or her membership was terminated, upon notifying the Retirement System in writing that he or she wants to retire, provided that the date of retirement may not be earlier than the date the written notification is received by the Retirement System and that he or she qualifies for retirement under one of the deferred retirement provisions set forth below:

(1) **Full retirement.** He or she may apply to retire with a retirement allowance calculated in accordance with the provisions of Subsection (b) of this section either at any time after attaining age 60, provided at least ten years have elapsed since he or she first became a member, or at any time after attaining age 70.

(2) **Early retirement.** At any time after attaining age 55, he or she may retire with a retirement allowance equal to the amount which shall remain after the full retirement allowance which would be payable to the person if he or she then had attained age 60 shall have been reduced as provided in Section 4.1056.2 of this Chapter, provided either that at least ten years have elapsed since he or she first became a member or that he or she has at least ten years of continuous service.



However, any person who has been a member while employed for any period of time as a part-time employee, whose membership terminates for any reason on or after October 18, 1992 and who has less than five years of continuous service, may leave his or her accumulated contributions in the Retirement Fund and elect to retire by notifying the Retirement System, as provided above, and qualifying for retirement under one of the aforesaid deferred retirement provisions provided at least ten years must have elapsed since he or she first became a member.

The foregoing provisions shall not operate so as to increase or decrease the retirement allowance of any person retired prior to December 5, 1996.

**(b) Computation of service retirement allowances.**

Anyone retired on account of service pursuant to this Section shall receive a retirement allowance calculated as provided in Section 4.1022 of this Chapter.

(c) A member who is eligible to retire pursuant to the first paragraph of subsection (a) herein, may file for retirement less than thirty days in advance, provided that the application shall not be effective earlier than the date on which it is filed, in either of the following situations:

(1) Whenever a member has received a layoff notice; or

(2) For a period of 90 days following the effective date of this Subsection. The right of members to file to retire as provided in this subsection (c) paragraph (2) may be extended in successive periods of 90 days each by written notification from the Mayor to LACERS, so long as the Resolution of Fiscal Emergency adopted by the City Council on May 18, 2009 (Council File No. 09-0600-S8) and currently in effect continues in effect, as amended or revised from time to time, and the Mayor determines that the City's fiscal condition so warrants.

The provisions of this subsection shall not apply to anyone who is retiring under Section 4.1033, the Early Retirement Incentive Program.

SECTION HISTORY

Added by Ord. No. 144,470, Eff. 3-28-73;  
Amended by: Ord. No. 148,239, Eff. 4-19-76; Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00; Subsec. (c) Added, Ord. No. 181,130, Eff. 3-29-10; Subsecs. (a) and (b), Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1020.1. Service Retirement; Modification of Provisions Governing Members 70 Years of Age or Older.**

SECTION HISTORY

Added by Ord. No. 162,346, Eff. 6-6-87.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1021. Entitlement to Receive Beta Formula Service Credit.**

Members of the Los Angeles City Employees' Retirement System shall be entitled to Beta Formula Service Credit for all City service.

SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.  
Amended by: Ord. No. 148,778, Eff. 9-14-76, Ord. No. 169,049, Eff. 10-18-93; Subsecs. (a), (b), (c) and (d), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Title and Section In Entirety, Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1022. Beta Formula for the Calculation of Service Retirement Allowances.**

(a) Any person or member who retires pursuant to the provisions of Section 4.1020 and is entitled to Beta Formula Service shall receive a retirement allowance calculated pursuant to the following Beta Formula: 2.16 percent (.0216) of his or her Final Compensation, calculated as of the date of retirement, multiplied by the number of years and parts thereof of his or her Beta Formula Service Credit, subject to applicable adjustments as provided below. Each retirement allowance as so calculated shall be allocated between the following two components: an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of retirement (excluding any additional contributions paid to provide a larger annuity at the time of retirement), calculated in accordance with approved actuarial methods as of the date of retirement; and a pension, in the amount of the remaining balance, payable to the retiree on account of his or her service.

The retirement allowance as so calculated shall be subject to the following adjustments, if applicable:

(1) For early retirement, the adjustment provided in Section 4.1056.2 of this Chapter.

(2) If he or she had been on disability retirement, the retiree's service retirement allowance

shall be reduced by an amount equal to the annuity which the total of the disability annuity payments made to him or her would have provided had they still been part of his or her accumulated contributions at the time of retirement.

(3) If he or she received any minimum distribution required by the Internal Revenue Code, the retiree's service retirement allowance shall be subject to adjustment as provided in rules to be adopted by the Board of Administration.

(4) He or she may be entitled to a minimum pension of 50% of the amount determined pursuant to the aforesaid Beta Formula. (The annuity portion of the retirement allowance shall not be changed as a result of the testing required in this provision.) This testing uses the retiree's Beta Formula entitlement and the pension and annuity entitlement amounts, as calculated above, provided that such shall be adjusted, if applicable, to: (i) exclude Beta Formula Service Credit purchased under Sections 4.1052.1 and 4.1052.2 and the annuity calculation shall likewise exclude accumulated contributions attributable to these purchases; and (ii) the annuity calculation, for members who made back contributions under either Section 4.1051(a)(2) or Section 4.1051(a)(3), shall exclude accumulated contributions in the person's account which are attributable to matching contributions paid by the City in the prior plan. The purpose of this testing is to determine if, absent such purchases or matching City contributions, the pension would have required an increase to provide a minimum pension of 50% of the amount of the retiree's Beta Formula entitlement. If such test determines that an adjustment is in order, the pension portion of his or her retirement allowance shall be increased by the same amount as the increase that the test determined would be necessary to provide a minimum pension of 50% and the total retirement allowance payable shall be increased accordingly (with the annuity portion remaining unchanged).

(b) Service retirement allowances granted pursuant to Subsection (a) of this section may never exceed a member's "Final Compensation."

#### SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.  
Amended by: Subsec. (a), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (b) repealed, Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (b) added, Ord. No. 175,767, Eff. 2-9-04; Subsec. (a), Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1023. Computation of Allowances Based on Service Credit Under Section 4.1020 and Section 4.1022 of This Chapter.

#### SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.  
Amended by: Para. (2), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.  
Repealed by Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1024. Service Credit for Accrued Vacation Time in Case of Death; Service Credit to Relate Back to the Date a Member Entered City Service.

(a) **Service Credit for Accrued Vacation Time in Case of Death.** Whenever a member of the Los Angeles City Employees' Retirement System shall die while in City service, leaving a survivor who would be eligible to receive the benefits provided in Section 4.1062(a)(3) of this chapter if the deceased member had been eligible, at the time of his or her death, to retire on a service pension if such member's vacation time accrued immediately preceding the day of death pursuant to Article 1, Chapter 6, Division 4 of the Los Angeles Administrative Code or any applicable memorandum of understanding would have been added to his or her years of service, the accrued vacation time of the deceased member or any necessary portion thereof shall be added to such member's total years of service. The benefit herein created shall be available at the option of the eligible survivor of the deceased member.

Accrued vacation time of a deceased former member may only be utilized for purposes of establishing eligibility to the survivorship benefits to which this subsection refers and may not be used to create or affect other retirement rights provided in the City Charter or the Los Angeles Administrative Code.

(b) **Members Service Credit to Relate Back to the Date a Member Entered City Service.** A member of the Los Angeles City Employees' Retirement System shall be entitled, at the time of death or retirement, to receive credit for his or her years of service from the dates such member entered employment by the City of Los Angeles in a capacity that would entitle him or her to membership in the Los Angeles City Employees' Retirement System.

#### SECTION HISTORY

Added by Ord. No. 156,392, Eff. 4-2-82.  
Amended by: Subsecs. (a) and (b), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1029. Elimination of the Requirement That Members of the City Employees' Retirement System Contribute an Amount Sufficient to Provide a Specific Annuity.**

SECTION HISTORY

Added by Ord. No. 153,827, Eff. 6-16-80.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1030. Rate of Contribution of the City Employees' Retirement System to the Retirement Fund.**

SECTION HISTORY

Added by Ord. No. 144,470, Eff. 3-28-73.  
Amended by: Ord. No. 153,827, Eff. 6-16-80; Subsecs. (a) and (b), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.  
Repealed by Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1031. Rate of Contribution of Members of the Los Angeles City Employees' Retirement System Entitled to the Beta Formula Provided in Subsection (a) of Section 4.1022.**

SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.  
Amended by: Ord. No. 153,827, Eff. 6-16-80; Subsec. (a), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (b) repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (b) added, Ord. No. 174,820, Eff. 9-25-02.  
Repealed by Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1031.1. Prior Defrayal of Certain Members' Contributions.**

(a) Prior to the adoption of Section 4.1033, the former terms of this Section allowed certain members to have their age-based contributions to the Retirement System reduced by a defrayal in which the City or the member's employing department paid contributions sufficient to equal the amount by which the employee contributions were reduced, subject to certain discounts.

(b) The defrayal of contributions that was previously authorized under this Section required the City Council and the boards of commissioners of those departments controlling their own funds to provide necessary funding therefor.

(c) When a member's contributions have been reduced by defrayal under the former terms of this Section, the following conditions shall continue to apply:

(1) Funds paid or otherwise made available to the Retirement Fund pursuant to the former provisions of this Section shall not be credited to the members' individual accounts nor shall such funds be refundable to any member, former member or beneficiary of a former member; and such funds shall not be included in the calculation of any annuity representing the actuarial equivalent of accumulated contributions wherever the provisions of this Code require such calculation.

(2) Amounts defrayed by the City and paid or otherwise made available to the Retirement Fund shall not be returned to any funds of the City from which they were appropriated except to adjust for incorrect payments.

(3) Defrayal of employee contributions by the City shall not apply to or affect the amount of a member's liability for back contributions, Family Death Benefit Insurance Plan contributions, additional contributions towards a Larger Annuity, or redeposits of formerly withdrawn contributions, provided however, that redeposits of a member's contributions, withdrawn during or after any period of City service for which the City of Los Angeles defrayed any portion of the member's contributions, shall not include the amounts so defrayed. If a member's liability for back contributions involves any period in which the member would have been obligated, under former Section 4.1030 or 4.1031, to make age-based contributions, the member's liability for back contributions shall be computed based upon the applicable provisions of former Sections 4.1030 or 4.1031.

(4) Any amounts of employees' contributions defrayed by the City shall not be includable in the determination of "Compensation Earnable" or "Final Compensation".

(d) Pursuant to the provisions of Section 4.1033 (a)(9)(ii), the defrayal of contributions for members that was previously authorized in this Section terminated on November 7, 2009, and all members whose contributions were previously being defrayed under this Section, beginning November 8, 2009, shall contribute by salary

deduction to the Retirement Fund at the appropriate rate as provided in Section 4.1031.2 of this Chapter.

#### SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.

Amended by: Subsec. (a), Subsec. (c) Paras. (1), (2) and (5), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Title and Section In Entirety, Ord. No. 182,196, Eff. 8-8-12.

### Sec. 4.1031.2. Contribution Rate for Members.

(a) Beginning November 8, 2009, all members of the Los Angeles City Employees' Retirement System (Retirement System) shall contribute by salary deduction to the Retirement Fund at the rate of 6% of the member's compensation earnable, of which 0.5% shall be the survivor contribution portion.

(b) Pursuant to the provisions of Section 4.1033(a)(9) of this Code, commencing on July 1, 2011, and ending on June 30, 2026 or when the ERIP Cost Obligation is fully paid, whichever comes first, in lieu of contributing as provided in Subsection (a) above, all members of the Retirement System shall contribute by salary deduction to the Retirement Fund at the rate of 7% of the amount of the member's compensation earnable, of which 0.5% shall be the survivor contribution portion.

(c) In addition to the contributions required pursuant to Subsection (a) or (b) herein, as applicable, certain members shall make additional contributions to the Retirement Fund as provided herein. In consideration for such additional contributions, these members shall receive the benefit set forth in Section 4.1103.4 of this Code. The City Administrative Officer shall notify the Retirement System and the Controller of the specific Memoranda of Understanding (MOUs) which require members to contribute as provided herein and shall also provide the Retirement System and Controller with the names of all members who are non-represented employees, including elected officials. Because the benefit conferred by Section 4.1103.4 of this Code is a vested benefit, a member who is employed in a position requiring the payment of additional contributions to the Retirement Fund as provided in this Subsection shall continue to make additional contributions to the Retirement Fund for so long as he or she is a member, notwithstanding that he or she may subsequently transfer to a position that does not require the payment of the additional contributions.

1. Members subject to specific MOUs shall contribute by salary deduction to the Retirement Fund

an additional two percent (2%) of the member's compensation earnable retroactive to April 24, 2011, and ongoing; further, such members shall contribute by salary deduction to the Retirement Fund an additional two percent (2%) of the member's compensation earnable commencing on July 1, 2011, and ongoing, for a total additional contribution of four percent (4%) effective July 1, 2011, and ongoing.

2. Members subject to other specific MOUs shall contribute by salary deduction to the Retirement Fund an additional four percent (4%) of the member's compensation earnable retroactive to July 1, 2011, and ongoing.

3. Members who are subject to other specific MOUs and members who are non-represented employees, including elected officials, shall contribute by salary deduction to the Retirement Fund an additional two percent (2%) of the member's compensation earnable retroactive to July 1, 2011, and ongoing; further such members shall contribute by salary deduction to the Retirement Fund an additional two percent (2%) of the member's compensation earnable commencing on January 1, 2013, and ongoing, for a total additional contribution of four percent (4%) effective January 1, 2013, and ongoing.

(d) All contributions paid pursuant to this Section shall be deposited in each member's individual account as provided in Charter Section 1162. The City shall pick up all employee contributions payable by salary deduction pursuant to this Section as provided in Sections 4.1500 through 4.1504 of this Code.

#### SECTION HISTORY

Added by Ord. No. 157,226, Eff. 12-10-82, Oper. 1-1-83.

Amended by: Subsec (a) First and Second Paras., Subsecs. (b) and (c), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Title and Section in Entirety, Ord. No. 181,734, Eff. 6-8-11; Subsec. (c), Ord. No. 181,892, Eff. 10-11-11.

### Sec. 4.1031.3 Larger Annuity Program.

The Board of Administration shall, by rule, provide for the making of additional contributions to provide a larger annuity benefit at the time of retirement. A member shall not be permitted to make such additional contributions, however, if doing so would cause his or her benefits to exceed the Internal Revenue Code limitations referenced in Section 4.1061 of this Chapter. All larger annuity benefits funded by the making of additional contributions, as

authorized in this Section, shall be determined by the actuary to be cost-neutral.

Solely for the purpose of making additional contributions to provide a larger annuity benefit at the time of retirement, the Board of Administration may accept, subject to any limitations imposed by federal law, a direct rollover distribution of funds from the City of Los Angeles 457 Deferred Compensation Plan after the date of the member's retirement provided that: the member's application to purchase a larger annuity benefit is received prior to the effective date of the member's retirement, the member prior to his or her retirement shall have provided the Deferred Compensation Plan with the written authorization that is required for funds to be transferred to LACERS immediately after his or her retirement, the rollover is completed as soon as administratively feasible, and the larger annuity benefit is not payable to the member until after the funds have been received. The Board of Administration shall have the authority to adopt all rules necessary to administer the larger annuity program within the constraints established in this Subsection, including the authority to establish a deadline for the receipt of the rollover funds, after which the member's application shall be deemed denied.

#### SECTION HISTORY

Added by Ord. No. 174,820, Eff. 9-25-02.  
Amended by: In Entirety, Ord. No. 175,092, Eff. 2-20-03; Title and Section In Entirety, Ord. No. 182,196, Eff. 8-8-12.

### **Sec. 4.1032. Crediting of Interest on Members' Contributions in the Retirement Fund.**

#### SECTION HISTORY

Added by Ord. No. 151,860, Eff. 2-23-79, Oper. 3-1-79.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

### **Sec. 4.1032.1. Monthly Crediting of Interest on Members' Contributions in the Retirement Fund.**

#### SECTION HISTORY

Added by Ord. No. 171,410, Eff. 12-23-96.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

### **Sec. 4.1033. Early Retirement Incentive Program.**

(a) Wherever "ERIP" is used in this chapter, it shall refer to the Early Retirement Incentive Program. Subject to the provisions and limitations set forth herein, an active City employee who is a member of the Los Angeles City Employees' Retirement System (LACERS) may be retired from the service of the City with the ERIP benefits set forth herein, provided that the LACERS member meets all of the requirements set forth herein to be eligible for retiring under the ERIP, and provided that his or her completed ERIP Election Form is received in the City Administrative Officer (CAO)'s office within the 45-day ERIP window period defined herein (ERIP Eligible Filers). Also subject to the provisions and limitations set forth herein, a City retiree who was an active LACERS member may receive the ERIP benefits set forth herein, provided that he or she retired on or after June 26, 2009, but prior to the ERIP Beginning Date defined herein, and he or she meets all of the requirements set forth herein to be eligible to receive the ERIP benefits as contemplated in the June 26, 2009, Council motion (Council File 09-1320) ("Grandfathered Participant", further defined below in Section 4.1033(a)(4)(i)). The 45-day ERIP window period shall begin on this ordinance's effective date (ERIP Beginning Date) and end on the 45th day thereafter unless that 45th day falls on a weekend or a City holiday, in which case it shall end on the next day that is not a weekend or a City holiday (ERIP Ending Date). The ERIP Ending Date shall be included in the ERIP window period, so that the CAO's office shall continue to receive completed ERIP Election Forms until close of business on the ERIP Ending Date. The CAO's office shall establish the rules and procedures for receiving a completed ERIP Election Form, including what constitutes a completed ERIP Election Form and what constitutes the date and time the form was received by the CAO's office. In order for the ERIP to meet its goal of assisting with the City's financial situation while minimizing the impact on City services, the following provisions and limitations shall apply to the ERIP:

(1) Only LACERS members currently in an employed status with the City on the ERIP Beginning Date shall be eligible to submit an ERIP Election Form. LACERS members in a terminated status shall not be eligible to submit an ERIP Election Form. Former City employees, including but not limited to deferred vested former City employees, shall not be eligible to submit an ERIP Election Form. In addition, only persons belonging to at least one of the five ERIP "Groups" listed below in Sections 4.1033(b)(1) - (5) as of the ERIP Beginning Date shall be eligible to submit an ERIP Election Form. A person belonging to one of the ERIP Groups as of the ERIP Beginning Date may

possibly change ERIP Groups prior to his or her effective date of retirement. However, a person who does not belong to any ERIP Group as of the ERIP Beginning Date shall not be eligible to submit an ERIP Election Form. Grandfathered Participants may be eligible to receive the ERIP benefits, but they need not submit an ERIP Election Form and their retirements are not considered retirements under the ERIP.

(2) A LACERS member eligible under Los Angeles Administrative Code Section 4.1052.2 (Government Service Buyback or GSB) to purchase time due to service in another government agency shall be allowed to include the purchased time in the determination of ERIP eligibility. For the purchased time to be included in the determination of ERIP eligibility, the LACERS member must follow the existing GSB purchasing policies, and the member must have completed the GSB purchase by the end of the City pay period that includes the ERIP Beginning Date. For reciprocal service under Los Angeles Administrative Code Section 4.1065 to be included in the determination of ERIP eligibility, the reciprocal time must be certified by the reciprocating system and the certification must be received by LACERS prior to the ERIP Beginning Date. Once so established, the LACERS member shall be entitled to use this reciprocal service in order to qualify for ERIP even if reciprocity is subsequently broken, such as by the member's inability to retire concurrently from the reciprocating system. When a person elects to submit an ERIP Election Form and retire under the ERIP, the person shall assume all risks that result from this election, including but not limited to the loss of the right to use his or her final compensation as determined by LACERS for purposes of computing final compensation earnable with the reciprocal system in the event that he or she is not able to retire concurrently under both systems. Time purchased under Los Angeles Administrative Code Section 4.1052.1 (Public Service Buyback or PSB) shall not be included in the determination of ERIP eligibility.

(3) Certain City employee classifications are excluded from the ERIP (Excluded Classifications). Certain other City employee classifications have an ERIP limitation number, meaning that the total number of a classification's ERIP Eligible Filers actually retiring under the ERIP, plus the number of that classification's Grandfathered Participants actually receiving the ERIP benefits, shall be limited in number (Limited Classification). The CAO shall make known these Excluded Classifications, Limited Classifications,

and the Limited Classifications' ERIP limitation numbers.

(i) In the event that a Limited Classification's number of ERIP Eligible Filers and Grandfathered Participants exceeds the limitation number, the earliest initial date of LACERS membership (Initial LACERS Membership Date) shall be used to determine which ERIP Eligible Filers shall be allowed to retire under the ERIP and which Grandfathered Participants shall receive the ERIP benefits. The person with the earliest Initial LACERS Membership Date shall receive priority. If there is a tie in the earliest Initial LACERS Membership Date between two or more persons of the same Limited Classification, then the one with the longer time of employment in the Limited Classification at issue shall prevail. If there is also a tie in the time of employment in the Limited Classification at issue, then the one whose completed ERIP Election Form was first received by the CAO's office prevails. A Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS.

(ii) If a Limited Classification's ERIP limitation number is reached, an ERIP waiting list shall be created for that Limited Classification. ERIP Eligible Filers on a Limited Classification's ERIP waiting list may be allowed to retire under the ERIP, and/or Grandfathered Participants on a Limited Classification's ERIP waiting list may be allowed to receive the ERIP benefits, if and to the extent that ERIP Eligible Filers with earlier Initial LACERS Membership Dates in the Limited Classification rescind their ERIP Election Forms, and/or the Limited Classification's ERIP limitation rate is increased. A Limited Classification's ERIP waiting list shall be ordered pursuant to the same Initial LACERS Membership Date priority and tiebreakers referenced above in Section 4.1033(a)(3)(i). A Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS. After the 45-day ERIP window

period has expired, the CAO's office shall notify any ERIP Eligible Filers on a Limited Classification's waiting list who will not be allowed to retire under the ERIP. After the 45-day ERIP window period has expired, any LACERS member may elect to retire pursuant to standard, non-ERIP LACERS procedures and provisions. After the 45-day ERIP window period has expired, the CAO's office shall notify any Grandfathered Participants on a Limited Classification's waiting list who will not be allowed to receive the ERIP benefits.

(4) The ERIP shall have a limit of 2,400 persons, meaning that the total number of ERIP Eligible Filers actually retiring under the ERIP, plus the number of Grandfathered Participants actually receiving the ERIP benefits, shall be limited to 2,400. In the event that the total number of ERIP Eligible Filers and Grandfathered Participants exceeds 2,400, a first-come-first-served basis (ordered pursuant to the date and time the ERIP Election Form was received by the CAO's office) shall be used to determine which ERIP Eligible Filers shall be allowed to retire under the ERIP and which Grandfathered Participants shall be allowed to receive the ERIP benefits. A Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS. Also in the event that the total number of ERIP Eligible Filers and Grandfathered Participants exceeds 2,400, a general ERIP waiting list shall be created. ERIP Eligible Filers on the general ERIP waiting list may be allowed to retire under the ERIP if and to the extent that earlier ERIP Eligible Filers rescind their ERIP Election Forms, and/or if City Council and the Office of the Mayor approve an increase of the 2,400 ERIP limit. (If there are any Grandfathered Participants on the general ERIP waiting list, it means that the 2,400 ERIP limit was reached within the number of Grandfathered Participants alone. A Grandfathered Participant on the general ERIP waiting list may be allowed to receive the ERIP benefits if and to the extent that City Council and the Office of the Mayor approve an increase of the 2,400 ERIP limit.) This general ERIP waiting list shall be separate from the waiting lists for the various Limited Classifications set forth above in Section 4.1033(a)(3)(ii). The CAO's office shall establish the rules and procedures for accepting ERIP Eligible Filers and Grandfathered Participants from the general ERIP waiting list and/or

a Limited Classification's waiting list, and how the waiting lists shall operate in conjunction with each other. After the 45-day ERIP window period has expired, the CAO's office shall notify any ERIP Eligible Filers on a general ERIP waiting list who will not be allowed to retire under the ERIP. After the 45-day ERIP window period has expired, any LACERS member may elect to retire pursuant to standard, non-ERIP LACERS procedures and provisions. After the 45-day ERIP window period has expired, the CAO's office shall notify any Grandfathered Participants on the general ERIP waiting list who will not be allowed to receive the ERIP benefits.

(i) A "Grandfathered Participant" is an ERIP-eligible City retiree whose effective date of retirement is on or after June 26, 2009, but before the ERIP Beginning Date. As contemplated in the June 26, 2009, Council motion (Council File 09-1320), a Grandfathered Participant determined to be allowed to receive the ERIP benefits shall receive such applicable benefits. A Grandfathered Participant need not submit an ERIP Election Form to the CAO's office within the 45-day ERIP window period. Rather, to the extent a Grandfathered Participant is determined to be allowed to receive the ERIP benefits, the Grandfathered Participant shall automatically receive the applicable ERIP benefits for his or her ERIP "Group" (see Section 4.1033(b) below). The date to be used for the purpose of determining the proper ERIP Group for a Grandfathered Participant shall be his or her last day on the City payroll. (A City retiree who retired on or after June 26, 2009, but before the ERIP Beginning Date, who did not belong to any ERIP Group as of his or her last day on the City payroll is not a Grandfathered Participant and shall not be eligible to receive the ERIP benefits.) A Grandfathered Participant shall receive priority over ERIP Eligible Filers with regards to being within the general 2,400 ERIP limit, in that a Grandfathered Participant shall be deemed to have submitted (and the CAO's office shall be deemed to have received) a completed ERIP Election Form when the retirement application resulting in his or her retirement was first filed with LACERS. A Grandfathered Participant receiving the ERIP benefits shall count towards the 2,400 ERIP limit. However, a Grandfathered Participant in a Limited Classification shall not be guaranteed

to receive the ERIP benefits. A Grandfathered Participant who, as of his or her last day on the City payroll, was in a classification determined to be a Limited Classification, shall not receive priority over ERIP Eligible Filers with regards to being within that Limited Classification's ERIP limitation number. Rather, the ERIP Eligible Filers and the Grandfathered Participants to be allowed within that Limited Classification's ERIP limitation shall be determined by the Initial LACERS Membership Date priority, tiebreakers, and waiting lists as set forth above in Section 4.1033(a)(3)(i) - (ii).

(5) An ERIP Eligible Filer may rescind his or her ERIP Election Form by delivering, to the CAO's office, a completed ERIP Rescission Form (as promulgated by the CAO's office) within seven (7) calendar days of delivery, to the ERIP Eligible Filer's address on file with LACERS, of notification that his or her ERIP Election Form has been approved. The ERIP Election Form may not be rescinded after the seven (7) calendar days have passed.

(6) To minimize the impact on City services, an ERIP Eligible Filer may not select his or her effective date of retirement under the ERIP. While Management may take the person's preferences into account, Management shall determine the effective date of retirement for a person retiring under the ERIP.

(i) The portion of Los Angeles Administrative Code Section 4.1020(a) stating that a person's effective date of retirement shall be not less than 30 nor more than 60 days from and after the filing of the person's LACERS retirement application shall not apply to persons retiring under the ERIP.

(ii) Management's decision as to a person's effective date of retirement under the ERIP shall be final and binding, regardless of whether the ERIP Eligible Filer agrees with Management's decision. The ERIP Eligible Filer may be required to retire as soon as administratively possible, or may be required to continue working for the City for an extended period of time. The CAO may promulgate rules that Management shall follow regarding the effective dates of retirement for ERIP Eligible Filers.

(7) During the 45-day ERIP window period, LACERS shall not accept a non-ERIP retirement application from a person eligible for the ERIP, defined as a person who, as of the ERIP Beginning Date, belongs to at least one of the five ERIP Groups listed below in Sections 4.1033(b)(1) - (5). After the 45-day ERIP window period has expired, any LACERS member may elect to retire pursuant to standard, non-ERIP LACERS procedures and provisions.

(i) All applications for non-ERIP LACERS retirements submitted by persons eligible for the ERIP, and still pending as of the beginning of the 45-day ERIP window period, shall be held in abeyance for the duration of the 45-day ERIP window period. Such ERIP-eligible persons may elect to submit an ERIP Election Form, or, alternatively, they may wait until after the 45-day ERIP window period has expired, at which point their non-ERIP retirement applications shall continue to be processed. Such ERIP-eligible persons who elect to submit an ERIP Election Form shall not receive priority with respect to being within the 2,400 person ERIP limit, and shall not receive priority with respect to being within a Limited Classification's ERIP limitation number.

(8) Accumulated Sick and Vacation Time is not payable to persons retiring under the ERIP, and such persons shall not be entitled to a payment of Accumulated Sick and Vacation Time upon retirement. In addition to the ERIP benefits set forth below in Section 4.1033(b), which include the Separation Payments in Sections 4.1033(b)(4)(i) and 4.1033(b)(6), persons retiring under the ERIP shall receive a severance payment in the amount of what would be the person's Accumulated Sick and Vacation Time payment if the person were retiring pursuant to standard, non-ERIP retirement policies and procedures (Severance Payment). This Severance Payment and the applicable Separation Payment as set forth below in Sections 4.1033(b)(4)(i) and 4.1033(b)(6) shall be paid over two separate calendar years, with the City selecting the payment dates. This Severance Payment and the applicable Separation Payment as set forth below in Sections 4.1033(b)(4)(i) and 4.1033(b)(6) shall constitute, and be administered as, a Bona Fide Separation Pay Plan under Internal Revenue Code Section 457(e)(11) because (A) these payments are payable only to a person who has submitted an ERIP Election Form during the 45-day ERIP window period



and who actually has a severance from employment pursuant to the ERIP; (B) the amount payable does not exceed two times the person's annual rate of pay (taking into account only pay that does not exceed the maximum amount that may be taken into account under a qualified plan pursuant to Internal Revenue Code 401(a)(17) for the year in which the person has his or her severance from employment); and (C) the payments shall be completed by the end of the second calendar year following the calendar year in which the employee separates from City service. Any tax liabilities arising from any Severance Payments and/or Separation Payments shall be the sole responsibility of the person(s) receiving the payments.

(i) A Grandfathered Participant's retirement is not considered a retirement under the ERIP, even if he or she receives the ERIP benefits. Therefore, the above provisions pertaining to Accumulated Sick and Vacation Time and the Severance Payment do not apply to Grandfathered Participants who receive the ERIP benefits. Instead, a Grandfathered Participant who receives the ERIP benefits either has already received, or shall receive, his or her Accumulated Sick and Vacation Time payment, if any, pursuant to standard, non-ERIP retirement policies and procedures. Payment of Accumulated Sick and Vacation Time to such a Grandfathered Participant is not a retirement benefit. A Grandfathered Participant who receives the ERIP benefits shall not receive the Severance Payment, but shall receive the applicable Separation Payment as set forth below in Sections 4.1033(b)(4)(i) and 4.1033(b)(6). The applicable Separation Payment shall be paid over two separate calendar years (with the City selecting the payment dates), and shall constitute, and be administered as, a Bona Fide Separation Pay Plan under Internal Revenue Code Section 457(e)(11). Any tax liabilities arising from any Accumulated Sick and Vacation Time payments and/or Separation Payments shall be the sole responsibility of the person(s) receiving the payments.

(ii) The Severance Payment shall be paid by the City, and the cost of the Severance Payment shall remain a cost of the City. The Separation Payment shall also be paid by the City. However, the cost of the Separation Payment shall be an obligation of the LACERS

members, and shall be recouped by the City through the provisions set forth below in Section 4.1033(a)(9)(i) - (iii).

(iii) Neither the Severance Payment nor the Separation Payment shall be considered a retirement benefit.

(9) The ERIP actuarial cost, as determined by the LACERS actuary, and the total cost of the Separation Payments shall, together, be known as the "ERIP Cost Obligation". The ERIP Cost Obligation shall be an obligation of the LACERS members. The LACERS actuary has determined the preliminary ERIP Cost Obligation to be \$271 million, as presented in the actuarial report dated September 25, 2009, based on a projection of 2,229 ERIP Eligible Filers actually retiring and Grandfathered Participants actually receiving the ERIP benefits.

(i) LACERS members' payment of the ERIP Cost Obligation shall commence on July 1, 2011, and end on June 30, 2026, or when the ERIP Cost Obligation is fully paid, whichever comes first. The payment shall consist of a 1% increase in the LACERS active employee retirement contribution rate of 6% (of which 0.5% is the survivor contribution portion), so that the total LACERS active employee retirement contribution rate shall be 7% for all LACERS members. After all ERIP Eligible Filers actually retiring under the ERIP have retired, the LACERS actuary shall re-calculate the ERIP Cost Obligation based on the number of ERIP Eligible Filers actually retiring and Grandfathered Participants actually receiving the ERIP benefits, using the same methodology used to determine the preliminary ERIP Cost Obligation. However, the City reserves the right to increase the LACERS active employee contribution rate for new City hires, in accordance with all applicable laws and practices.

(ii) The LACERS active employee retirement contribution rate for LACERS members hired prior to 1983 (Defrayal Group) shall be adjusted to 6% (of which 0.5% is the survivor contribution portion) upon this ordinance's effective date. Commensurate with Section 4.1033(a)(9)(i) above, employees in the Defrayal Group shall have their retirement contribution increased from 6% to 7% on July 1,

2011. All savings from the elimination of defrayal shall be credited towards the payment of the ERIP Cost Obligation.

(iii) Once the City has recouped the ERIP Cost Obligation, the LACERS active employee retirement contribution rate shall be adjusted to 6% (of which 0.5% is the survivor contribution portion) for all City employees who were LACERS members as of the ERIP Beginning Date (including those in the Defrayal Group). However, the City reserves the right to increase the LACERS active employee retirement contribution rate for new City hires, in accordance with all applicable laws and practices.

(10) In order for the ERIP to meet its goal of assisting with the City’s financial situation, the City intends to limit the backfilling of positions vacated due to retirements under the ERIP. Therefore, to the extent allowed under the City Charter, the Los Angeles Administrative Code, and any other applicable law: From July 1, 2009, to June 30, 2024, approval of both City Council and the Office of the Mayor shall be necessary prior to backfilling a position vacated due to retirements under the ERIP. The total number of City positions vacated due to retirements under the ERIP shall not be backfilled by more than 7% in the City fiscal year 2010, nor by more than 6% in each of the City fiscal years 2011 through 2024. These backfill rates may be exceeded only if the cumulative prior years’ actual backfill rate was less than the maximum cumulative rate allowed, pursuant to the Maximum Backfill Rates table below. For example, if the City backfills only 5% in fiscal year 2010, then the City’s allowed backfill rate in a future year may be increased.

**MAXIMUM BACKFILL RATES**

FISCAL YEAR	BACKFILL	
	IN ONE YEAR	CUMULATIVE
2010	7%	7%
2011	6%	13%
2012	6%	19%
2013	6%	25%
2014	6%	31%
2015	6%	37%
2016	6%	43%
2017	6%	49%
2018	6%	55%
2019	6%	61%

**MAXIMUM BACKFILL RATES**

FISCAL YEAR	BACKFILL	
	IN ONE YEAR	CUMULATIVE
2020	6%	67%
2021	6%	73%
2022	6%	79%
2023	6%	85%
2024	6%	91%

(11) The ERIP shall not affect the existing LACERS requirement that, in order for a LACERS member to leave a continuance to a spouse or domestic partner, the marriage must have occurred, or the proper domestic partnership document(s) must have been filed with LACERS or with the State of California, at least one year prior to the LACERS member’s effective date of retirement.

(12) Persons retiring under the ERIP shall be eligible to be employed by the City under the conditions set forth in City Charter Section 1164. However, persons retiring under the ERIP shall not be allowed to enter into a personal services contract with the City prior to July 1, 2011, unless the personal services contract is approved by City Council and the Office of the Mayor.

(b) Persons retiring pursuant to the ERIP shall receive benefits pursuant to the following terms. (For purposes of the ERIP, “Service” and “Service Credit” shall have the same meanings as those terms are defined in Los Angeles Administrative Code Section 4.1001.)

(1) **“Group 1” LACERS members:** This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, would be eligible for an unreduced or standard retirement with less than 33 years of Service.

(i) Each Group 1 member retiring under the ERIP shall receive 3 additional full-time years of Service and 3 additional full-time years of Service Credit.

(2) **“Group 2” LACERS members:** This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, have a minimum of 33 years of Service but have not reached 55 years of age.

(i) Each Group 2 member retiring under the ERIP shall receive the additional amount of age credit necessary to be eligible for an unreduced or standard retirement. In addition, each Group 2 member retiring under the ERIP shall receive 3 additional full-time years of Service and 3 additional full-time years of Service Credit.

(3) **“Group 3” LACERS members:** This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, have less than 33 years of Service and who are within 5 years of the age credit and/or Service necessary to be eligible for an unreduced or standard retirement. To be a member of Group 3, the amount of time that a LACERS member is lacking in age credit to be eligible for an unreduced or standard retirement, plus the amount of time that the member is lacking in Service to be eligible for an unreduced or standard retirement, must, in sum, not exceed 5 full-time years.

(i) Each Group 3 member retiring under the ERIP shall receive between a minimum of 3 full-time years and a maximum of 5 full-time years of additional age credit and/or both Service and Service Credit in order to be eligible for an unreduced or standard retirement. Between 3 full-time years and 5 full-time years, fractional years shall be calculated and prorated in determining the amount of additional age credit and/or both Service and Service Credit to be received.

(ii) Each Group 3 member retiring and receiving credit under the ERIP shall be provided with a written breakdown of the amount of age credit, and both Service and Service Credit.

(4) **“Group 4” LACERS members:** This group consists of all full-time and part-time LACERS members who, as of the ERIP Beginning Date, have a minimum of 33 years of Service and have reached a minimum of 55 years of age.

(i) Each Group 4 member retiring under the ERIP shall receive a Separation Payment of \$1,000.00 for each year of Service. The Separation Payment for a fractional year shall be prorated. This Separation Payment shall not be considered a retirement benefit. This Separation Payment shall be paid by the City, which shall recoup the cost of the Separation Payment from

the LACERS members as set forth above in Sections 4.1033(a)(9)(i) - (iii).

(ii) Any time purchased under Los Angeles Administrative Code Section 4.1052.2 (GSB) shall not be included in the calculation of the Separation Payment for Group 4 members. Any reciprocal time under Los Angeles Administrative Code Section 4.1065 shall not be included in the calculation of the Separation Payment for Group 4 members. Any time purchased under Los Angeles Administrative Code Section 4.1052.1 (PSB) shall not be included in the calculation of the Separation Payment for Group 4 members.

(5) **“Group 5” LACERS members:** This group consists of all full-time and part-time LACERS members whose first day of City employment was on or before December 31, 1982; whose retirement contribution rate is less than 6%; and who, as of the ERIP Beginning Date, are not within 5 years of the age and/or Service necessary to be eligible for an unreduced or standard retirement.

(i) Each Group 5 member retiring under the ERIP shall receive 5 additional full-time years of Service and 5 additional full-time years of Service Credit towards an early or reduced retirement.

(ii) The ERIP does not affect the retirement benefit reduction factors that apply to early or reduced retirements.

(6) Members of Groups 1, 2, 3, and 5 retiring under the ERIP shall each receive a Separation Payment of \$15,000.00. This Separation Payment shall not be considered a retirement benefit. This Separation Payment shall be paid by the City, which shall recoup the cost of the Separation Payment from the LACERS members as set forth above in Sections 4.1033(a)(9)(i) - (iii).

(c) The following provisions and limitations shall apply to the ERIP benefits set forth above in Section 4.1033(b):

(1) Any additional age credit provided under the ERIP shall be applied towards the 55-year minimum age requirement for LACERS retiree health subsidies. Any applicable additional Service and/or Service Credit provided under the ERIP shall count toward the

retiree health subsidy formula. ERIP Group 5 members are not guaranteed eligibility for any LACERS retiree health subsidies.

(2) A person retiring under the ERIP whose applicable ERIP Group changes between the ERIP Beginning Date and the person's effective date of retirement shall select the Group to which the person wishes to belong (that is, either the person's applicable Group as of the ERIP Beginning Date, or the person's applicable Group as of his or her effective date of retirement).

(3) A person retiring under the ERIP who belongs to a certain ERIP Group due to the purchase of GSB time may attempt to change his or her Group by requesting a refund of the GSB time purchased, provided that the request for refund is consistent with existing GSB program policies. To change Groups in this manner, the request for refund must be approved by LACERS prior to the person's effective date of retirement.

(4) A person's ERIP service retirement allowance may never exceed his or her Final Compensation as defined in Los Angeles Administrative Code Section 4.1010. This provision is intended to comport with Los Angeles Administrative Code Section 4.1022(b).

(5) A person eligible under the GSB program to purchase time due to service in another government agency shall be allowed to apply the purchased time towards additional Service Credit under an ERIP retirement. For the purchased GSB time to be applied towards additional Service Credit, the person must follow the existing GSB purchasing policies, and must have completed the GSB purchase prior to his or her effective date of retirement. This section is not meant to supersede or otherwise affect Section 4.1033(b)(4)(ii) above, which provides that any time purchased under the GSB program shall not be included in the calculation of the Separation Payment for Group 4 members.

(6) The ERIP does not extend any deadlines for purchasing Service Credit under any Service Credit purchase programs, including GSB, PSB, Back Contributions, and Re-deposits. All such purchases must be paid off prior to the LACERS member's effective date of retirement.

(7) If person is approved by the CAO's office for retirement under the ERIP, but the person dies prior to his or her effective date of retirement, the person's eligible spouse, as defined in Los Angeles Administrative Code Section 4.1044(a), or qualified domestic partner, as defined in Los Angeles Administrative Code Section 4.1044.4, if any, shall be entitled to survivorship benefits as if the person retired under the ERIP with a 100% continuance to his or her survivor.

(8) Any benefit payable pursuant to the ERIP is subject to the requirements and limitations applicable to benefits payable from a qualified governmental pension plan under Internal Revenue Code (Code) Sections 401(a) and 414(d), and the regulations and guidance issued under those Code Sections. Therefore, any ERIP benefits may be adjusted, as necessary, to maintain the tax qualified status of LACERS.

(9) To work toward the ERIP being cost-neutral to the City, an "ERIP 1% Reduction" shall apply to all ERIP Eligible Filers actually retiring under the ERIP and all Grandfathered Participants actually receiving the ERIP benefits (with the exception of ERIP Group 4 members, as noted below). The ERIP 1% Reduction means that, for each ERIP Eligible Filer actually retiring under the ERIP and each Grandfathered Participant actually receiving the ERIP benefits, his or her entire retirement allowance, including the ERIP benefits, shall be reduced by 1%. The formula for calculating such a person's actual retirement allowance shall be: The person's full retirement allowance, including ERIP benefits (that is, the person's full retirement allowance, including the ERIP benefits, before the ERIP 1% Reduction) multiplied by 0.99. For example, for Groups 1, 2, and 3, the person's actual retirement allowance shall be:

$$[\text{Final Compensation} \times \text{Service Credit} \times \text{Retirement Factor of } 0.0216] \times 0.99$$

For Group 5, the person's actual retirement allowance shall be:

$$[\text{Final Compensation} \times \text{Service Credit} \times \text{Retirement Factor of } 0.0216] \times [\text{Reduction Factor}] \times 0.99.$$

The Reduction Factor is the standard LACERS Early Retirement Reduction Factor.

The ERIP 1% Reduction shall not apply to members of ERIP Group 4.

(d) Unless otherwise specified, the provisions in the City Charter and the Los Angeles Administrative Code pertaining to LACERS shall not be affected by the ERIP.

(e) It is the intent of the City and the LACERS Unions that the ERIP be envisioned as cost-neutral to the City. The increase in the employee retirement contribution rate and the elimination of defrayal (Sections 4.1033(a)(9)(i) - (ii) above), along with the ERIP 1% Reduction (Section 4.1033(c)(9) above), are mechanisms designed for working toward cost-neutrality.

(f) If the government of the United States or a final court of competent jurisdiction determines that one or more provisions of this chapter pertaining to the ERIP are unlawful or invalid, the remaining provisions shall remain in full force and effect.

#### SECTION HISTORY

Added by Ord. No. 180,926, Eff. 11-2-09.

#### Sec. 4.1040. Cost of Living Adjustment.

(a) The provisions of this section shall not be applicable to any benefit payable pursuant to the provisions of Section 4.1063 or 4.1062(a)(2) of this chapter. The provisions of this section, however, shall be applicable to each other benefit payable in monthly installments pursuant to any other provisions of this chapter, but the application thereof to any such benefit shall not reduce the amount to be paid on or subsequent to July 1st of any year to an amount less than that payable immediately prior to July 1st of said year.

(b) The Board of Administration, not later than the 1st day of May of each year, shall determine with respect to the Federal Bureau of Labor Statistics Consumer Price Index for the Los Angeles area (“**the C.P.I.**”) the percentage of increase or decrease, if any, in the C.P.I. for the whole of the first next preceding calendar year from the C.P.I. for the whole of the second next preceding calendar year and shall round any such percentage increase or decrease to the nearest one-tenth (1/10) of one percent (1%).

(c) The Board, whenever it shall have determined that there had been an increase or decrease in the C.P.I., shall increase or decrease the amount of each such benefit as hereunder provided, subject, however, to the limitations contained in Subsection (a) of this section:

(1) Effective the 1st day of July of each year, beginning with the year 1974, the Board of Administration, with respect to each eligible benefit which became payable prior to the applicable 1st day of July, shall increase or decrease the amount thereof payable immediately prior to the applicable 1st day of July by one twelfth (1/12) of the percentage of increase or decrease in the C.P.I. as determined by it pursuant to Subsection (b) of this section, for each whole month that such benefit was payable during the year commencing the 1st day of July next preceding the applicable 1st day of July and ending the 30th day of June next preceding the applicable 1st day of July, providing that any increase or decrease in the amount of any such benefit shall not exceed one-twelfth (1/12) of three percent (3%) thereof for each whole month that it was payable during the year.

(2) If the percentage of increase or decrease in the C.P.I. in any calendar year, as determined by the Board of Administration, were to exceed three percent (3%), as compared with the C.P.I. in the preceding year, the percentage of increase or decrease in the C.P.I. in excess of three percent (3%) shall be accumulated and carried over and added to or subtracted from the percentage of increase or decrease in the C.P.I. in the next succeeding calendar year, and such procedure shall be complied with from year to year, except that for those years prior to 1974 in which the cost of living adjustment was capped at 2%, the percentage of increase or decrease of the C.P.I. which was in excess of two percent (2%), rather than three percent (3%), shall be accumulated and carried over as provided herein. The foregoing provisions of this paragraph are to be complied with as to any person whose benefit was continued upon the death of a retired member if the benefit of such person and the benefit of such member, together, were paid for the whole year commencing the 1<sup>st</sup> day of July next preceding the applicable 1<sup>st</sup> day of July, and ending the 30<sup>th</sup> day of June next preceding the applicable 1<sup>st</sup> day of July, but said provisions are not to be complied with as to any person whose benefit was not paid for said whole year.

(d) The amount of any benefit which shall be continued to any survivor upon the death of a retired member subsequent to July 1, 1967, shall be in the same ratio to the amount of the benefit which such member shall have been receiving as of the date of his or her death as the amount of the benefit which originally would have been continued to such survivor shall bear to the amount of the benefit which originally was payable to such member.

(e) If it were to be impossible or impracticable for the Board to cause all necessary calculations to be made in time for it to include any increases or decreases in the amounts of benefits, as hereinabove provided, in the demands drawn in payment of such benefits for the month of July in any year, then the board shall have the power and authority, when such calculations shall have been made, to increase or decrease the amounts of the demands drawn in payment of such benefits for any month subsequent to the month of July so as to include any increases or decreases in such benefits which shall have accumulated from and after the 1st day of July.

#### SECTION HISTORY

Added by Ord. No. 144,470, Eff. 3-28-73.

Amended by: Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00.

#### **Sec. 4.1040.1. Discretionary Cost of Living Adjustments.**

(a) There is hereby created and established a policy whereby the City Council shall periodically review the matter of the cost of living adjustments for certain beneficiaries who receive retirement benefits from the Los Angeles City Employees' Retirement System. The review shall be made to ascertain the impact of increases in the Consumer Price Index upon retirement benefits and the adequacy of the annual cost of living adjustments provided in Section 4.1040 of the Los Angeles Administrative Code.

Should the City Council find and determine that annual cost of living adjustments are inadequate in light of the movement of the Consumer Price Index, the City Council may grant additional but discretionary cost of living adjustments as hereinafter provided.

(b) The first of the reviews provided in Subsection (a) hereof shall be made during the fiscal year 1981 – 1982 and annually thereafter until the City Council has provided a first discretionary adjustment pursuant to this section. Thereafter, the City Council shall make periodic reviews in intervals not to exceed three (3) years from the date of the completion of the last review or from the effective date of the last discretionary cost of living adjustments whichever shall be the later.

(c) Should it be the finding of the City Council that discretionary cost of living adjustments would be in order, any such adjustments would be subject to the following limitations:

(1) The first discretionary adjustment may be granted at any time. Thereafter, discretionary adjustments may not be provided more frequently than once every three (3) years, counting from the date the last discretionary adjustments became effective.

(2) Discretionary adjustments shall not exceed one-half (1/2) of the difference between the percentage of the annual increases in the cost of living, as determined pursuant to the provisions of Section 1040(b) herein, for each of the preceding three (3) years and the annual adjustments made pursuant to Section 4.1040(c) of the Los Angeles Administrative Code. Discretionary adjustments shall be allocated to each of the three (3) years for which an adjustment is made. Should discretionary cost of living adjustments be granted during the fiscal year 1981 – 1982, the applicable annual increase in the Consumer Price Index shall be the one upon which the Board of Administration of the Los Angeles City Employees' Retirement System has based those annual cost of living adjustments which became effective July 1, 1981.

(3) Any discretionary cost of living adjustments provided pursuant to the provisions of this section shall be subject to the following further limitation: If a benefit became payable on or after July 1 immediately preceding the effective date of such adjustments, it shall not be so adjusted; and any benefit which shall become payable at a time within a three (3) year period between discretionary cost of living adjustments (but prior to the immediately preceding July 1), shall be prorated according to the annual increase on a monthly basis to the number of completed months for which the benefit was received.

(4) Discretionary cost of living adjustments may be granted only by ordinances adopted in accordance with the provisions of Section 1168 of the City Charter.

(5) All adjustments provided in this subsection are to be applied prospectively only and shall not be understood to permit retroactive adjustments of benefits.

(d) Discretionary cost of living adjustments shall only be applied to monthly benefits not otherwise excluded from cost of living adjustments under the provisions of Section 4.1040 of this chapter.

(e) It shall be the duty of the Director of the Office of Administrative and Research Services to prepare appropriate reports and recommendations to enable the City Council to make findings as to the adequacy of the annual cost of living adjustments.

## SECTION HISTORY

Added by Ord. No. 155,158, Eff. 5-31-81.  
Amended by: Subsec. (a), Subsec. (c) Paras. (2) and (4), Subsecs. (d) and (e), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1040.2. Cost of Living Adjustments – Limitations.**

## SECTION HISTORY

Added by Ord. No. 158,965, Eff. 6-30-84.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1040.3. Ad Hoc Cost of Living Adjustment For Retirees Who Retired Prior to June 30, 1984.**

(a) All persons who retired prior to June 30, 1984 or their eligible spouses who are receiving a monthly retirement benefit subject to a cost of living bank shall have added to their retirement benefit beginning February 1, 2002, an amount equal to the excess of their cost of living bank above 25.3%. The purpose of this ad hoc adjustment is to reduce all cost of living banks to no more than 25.3%.

(b) The provisions of this section shall not be applicable to benefits payable pursuant to Sections 4.1062(a)(2) and 4.1063 as those benefits are not subject to a cost of living bank.

The provisions of this section, however shall be applicable to each other benefit payable in monthly installments subject to a cost of living bank pursuant to any other provisions of this chapter.

## SECTION HISTORY

Added by Ord. No. 174,419, Eff. 2-5-02, Oper. 2-1-02.

**Sec. 4.1041. Definitions.**

For the purposes of Sections 4.1044 through 4.1048 inclusive, the following phrases shall have the meaning ascribed to them in this section.

“**Retirement Allowance**” or “**Allowance**” shall mean an allowance granted under this chapter, except for those allowances granted pursuant to Sections 4.1062(a)(2) and 4.1063 of this chapter, together with all subsequent adjustments thereto as of the day preceding the operative date of this section.

“**Cost of Living Amount**” shall mean that portion of a retirement allowance, as the day preceding the operative date of this section, resulting from adjustments made pursuant to Section 4.1040 of this Code.

“**Base Amount**” shall mean that portion of a retirement allowance resulting if cost of living amount is deducted therefrom.

## SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
Amended by: Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1042. Modification of Certain Service and Survivorship Retirement Benefits.**

## SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1043. Modification of Certain Disability, Retirement Allowances.**

## SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
Repealed by Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1044. Continuance to Surviving Spouse.**

(a) For purposes of this section, the following words and phrases are defined as follows:

“**Eligible Member**” shall mean present members of the System and all persons who enter or re-enter membership subsequent to the operative date of this section, provided that no credit shall be allowed under the provisions of this section for service rendered prior to July 1, 1965 unless said member shall both

(1) elect in writing and file with the Board of Administration an application to participate in the benefit established in this section and

(2) pay survivor contributions in an amount equal to all the contributions which he or she would have made had he or she elected said benefit on July 1, 1965, together with all regular interest which, had he or she so made the same, would have been credited thereon prior to the date of such payment. The mode of paying such back contributions in a lump sum or on an installment basis shall be as decided by the Board of Administration and set forth in their rules.

“**Eligible Spouse**” shall mean the surviving spouse of a retired eligible member to whom such member is married at time of retirement and has been so married for at least one-year prior thereto.

“**Unmodified Allowance**” shall mean the total monthly retirement allowance payable to the member as of the date of retirement, calculated in accordance with the provisions of sections 4.1020 of this chapter, in the case of service retirement, and 4.1055 of this chapter, in the case of disability retirement.

“**Joint and Survivor Cash Refund Annuity**” shall mean an annuity which shall be the actuarial equivalent of the eligible member’s total accumulated contributions providing for equal monthly payments during the lifetime of such member and the eligible spouse with payment of any unused contributions, as defined in Section 4.1062(b) of this chapter, upon the death of the last survivor as provided in that section, calculated in accordance with approved actuarial methods as of the date of retirement.

(b) Every eligible member shall contribute by salary deduction at the rate of contribution established elsewhere in this chapter on account of the benefit provided by this section. Said contributions shall be known and designated as “**Survivor Contributions**” and are in addition to the member’s “**Normal Contributions**” as elsewhere established in this chapter, except as otherwise provided in Section 4.1031.2 of this chapter.

(c) Upon the retirement of an eligible member having an eligible spouse, other than one selecting one of the options available under Section 4.1053 of this chapter, the annuity portion of such member’s retirement allowance shall be calculated as a joint and survivor cash refund annuity and the amount of pension payable during such member’s

lifetime shall be the excess of the member’s unmodified retirement allowance over such joint and survivor cash refund annuity.

Upon the death of such eligible member survived by such eligible spouse, there shall be continued to such spouse a retirement allowance which shall consist of

(1) the joint and survivor cash refund annuity paid during the member’s lifetime and

(2) a pension amount payable during the lifetime of such spouse which shall be the excess of one-half of the unmodified allowance over said joint and survivor cash refund annuity.

(d) Upon the retirement of an eligible member having no eligible spouse at time of retirement, the annuity portion of such member’s retirement allowance shall be calculated on the basis of his or her normal accumulated contributions as opposed to the sum of the Normal Contributions and the Survivor Contributions taken pursuant to the provisions of this section. The excess of such member’s total accumulated contributions over the normal accumulated contributions at time of retirement shall be paid to such member, or at his or her option, considered as additional contributions made to provide a larger annuity benefit.

(e) A retired former member of the System who retired prior to July 1, 1965, pursuant to the provisions of former Charter Sections 508 or 510, and who has an eligible spouse as defined herein, may elect, in writing to provide for a continuance of his or her retirement allowance to said surviving spouse, which election shall be filed with the Board of Administration. In the event such retired former member, eligible to make the election herein provided, should die subsequent to the effective date of this section, but prior to having made such election, his or her surviving eligible spouse shall have the right to so elect in his or her stead and shall thereafter receive the continuance to spouse benefit as hereinafter provided.

Upon the death of a retired member who elected to provide for a continuance to his or her surviving spouse, as provided in the preceding paragraph, there shall be continued to such spouse an allowance which shall consist of:

(1) An annuity equal to the amount of the annuity which was payable to the retired member during his or her lifetime by virtue of his or her Normal Contributions; and



(2) A pension amount payable during the lifetime of such spouse which shall be the difference between one-half (1/2) of the member's base amount excluding from said base amount any portion payable by virtue of additional contributions paid towards a larger annuity, and the amount of said annuity.

(3) A cost of living equal to one-half (1/2) the cost of living amount payable to the deceased member at the time of his or her death, after excluding therefrom any portion of said cost of living amount payable by virtue of additional contributions paid towards a larger annuity.

(f) Any former member who terminated prior to July 1, 1965 and who elected the benefit of a "vested right" pension but has not made application for such pension, may make the election described in Subsection (e) above at the time such former member files his or her application for service retirement if at such time he or she has an eligible spouse as defined in this section. Upon the death of such retired member who elected to provide for a continuance to his or her surviving spouse as provided herein, there shall be continued to such eligible spouse an allowance which shall be based upon the components set forth in Paragraphs (1), (2) and (3) of Subsection (e) of this section.

(g) Upon the death of both the retired member and his or her eligible spouse where an election has been made pursuant to either Subsection (e) or (f) of this section, any unused contributions and accrued retirement allowance shall be paid as provided in Section 4.1062(b) of this chapter.

(h) Upon the death of an eligible member before retirement leaving a spouse who is eligible for and elects to take the survivor allowance provided under the provisions of Subsection 4.1062(a)(3) of this chapter, the annuity portion of the allowance to be paid under that subsection shall be calculated on the basis of the member's normal accumulated contributions as opposed to the sum of the Normal Contributions and the Survivor Contributions taken pursuant to the provisions of this section. The excess of the deceased member's total accumulated contributions over the normal accumulated contributions at the time of death shall be paid to the surviving spouse, or at the option of such spouse, considered as additional contributions made to provide a larger annuity benefit.

#### SECTION HISTORY

Added by Ord. No. 154,804, Eff. 5-10-74  
Amended by: In Entirety, Ord. No. 154,363, Eff. 10-17-80; Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00; Subsec. (h) added, Ord. No. 175,767, Eff. 2-9-04; Subsec. (e), Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1044.3. Surviving Spouse's Election to Receive the Continuance to Surviving Spouse Benefit Where Member Failed to make the Election.

The surviving spouse of a deceased retired former member of the Los Angeles City Employees' Retirement System is hereby given the right to make an election to participate in the Continuance to Surviving Spouse benefit provided in Section 4.1044 of this chapter if such deceased retired former member did not during his or her lifetime make the election to participate in said benefit; provided, however, that such surviving spouse must qualify as an "Eligible Spouse" as said term is defined in Section 4.1044(a) of this chapter.

The surviving spouse's election shall be in writing on such forms as the Board of Administration may prescribe and must be accompanied by the amount of "Survivor Contributions", as said term is defined in Section 4.1044(d) of this chapter, which the deceased retired former member would have contributed by salary deduction during the entire period of membership in the Los Angeles City Employees' Retirement System during or for which he or she would have been eligible to participate in the benefit provided in Section 4.1044(b) of this chapter.

The benefit herein provided shall entitle a surviving spouse eligible to make an election to receive an allowance calculated as of the time immediately following the deceased retired former member's death, but such allowance shall become payable only as of the first day of the month following the exercise of the election and receipt by the Los Angeles City Employees' Retirement System of the required survivor contributions. There is to be no retroactive entitlement to benefits under the provisions of this section.

#### SECTION HISTORY

Added by Ord. No. 157,472, Eff. 3-27-83.  
Amended by: Paras. (1), (2) and (3), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.

#### Sec. 4.1044.4. Survivorship Benefits Available to Domestic Partners.

(a) A domestic partner of a member whose domestic partnership has been established as provided in Subsection (b) herein shall be entitled to the following benefits, subject to any limits imposed by federal law:

(1) the benefits available to an eligible spouse under Section 4.1044 of this chapter, provided that at the time of the member's retirement their Declaration

of Domestic Partnership has been on file with the Board for at least one year and further provided that the domestic partner is either the domestic partner or spouse of the member at the time of the member's death. A domestic partner who qualifies for benefits under this provision is entitled to the same rights that are made available to an eligible spouse under Section 4.1053 of this Chapter.

(2) the benefits available to an Eligible Survivor under Section 4.1054 of this Chapter.

(3) the benefits available to a surviving spouse under Section 4.1062(a)(2) of this Chapter.

(4) the benefits available to a surviving spouse under Section 4.1062(a)(3) of this Chapter, provided that the person otherwise qualifies to make this election.

(5) the benefits available to a widow or widower under Section 4.1063 of this Chapter, provided that where a remarriage renders a widow or widower ineligible for benefits, a marriage shall likewise render a domestic partner ineligible for benefits.

(6) the same rights given to a spouse to complete redeposits or purchases of service if the member dies before retirement.

An Affidavit of Domestic Partnership filed prior to July 1, 2000 with the Board shall be treated for all purposes of this Section as being the same as a Declaration of Domestic Partnership filed pursuant to Paragraph (b) herein.

Where a Declaration of Domestic Partnership is required to be on file with the Board for at least one year, the Board may establish an earlier filing date than the actual date of filing with the plan upon sufficient proof that the parties have an earlier established domestic partnership with the Personnel Department.

Should a member die prior to filing a Declaration of Domestic Partnership with the Board, but: 1) have a current domestic partner based upon an earlier established domestic partnership with the Personnel Department, and 2) have a beneficiary designation on file with the Board that designates that domestic partner as the beneficiary entitled to receive all of the member's contributions, then such domestic partner shall be entitled to receive the same benefits that he or she would have received had their domestic partnership been filed with the Board, as provided in Subsection (b) herein,

on the date that the parties established their domestic partnership with the Personnel Department.

(b) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring. A domestic partnership shall be established for purposes of this section when both partners file a Declaration of Domestic Partnership with the Board of Administration of the Los Angeles City Employees' Retirement System, provided all the following requirements are met:

(1) Both persons have a common residence as defined in Family Code Section 297.

(2) Both persons agree to be jointly responsible for each other's basic living expenses incurred during the domestic partnership.

(3) Neither person is married or a member of another domestic partnership.

(4) The two persons are not related by blood in a way that would prevent them from being married to each other in this State.

(5) Both persons are at least 18 years of age.

(6) Both persons may be of the same sex or the opposite sex.

(7) Both persons are capable of consenting to the domestic partnership.

(c) Once a domestic partnership is established as provided above, this domestic partnership shall be terminated when any of the following occurs:

(1) One partner gives, or sends by certified mail, to the other partner a written notice that he or she is terminating the partnership.

(2) One of the domestic partners dies.

(3) One of the domestic partners marries.

(4) The domestic partners no longer have a common residence.

This provision applies to all domestic partnerships, whether created by a Declaration of Domestic Partnership or by an Affidavit of Domestic Partnership.

(d) Upon termination of a domestic partnership, at least one of the former partners shall file a Notice of Termination of Domestic Partnership with the Board, provided that failure to file such notice shall not prevent the termination of the domestic partnership. This provision shall apply both to partnerships established on or after July 1, 2000 by the filing of a Declaration of Domestic Partnership and to partnerships established prior to July 1, 2000 by the filing of an Affidavit of Domestic Partnership.

(e) No member who has established a domestic partnership, by filing either an Affidavit of Domestic Partnership or a Declaration of Domestic Partnership with the Board, may file a new Declaration of Domestic Partnership until at least six months after the date that a Notice of Termination of Domestic Partnership was filed with the Board as provided herein. This prohibition does not apply if the previous domestic partnership ended because one of the partners died or married.

(f) Effective January 1, 2005, to the extent required by state law, domestic partners registered with the State of California or two persons of the same sex whose legal union, other than a marriage, has been validly formed in another jurisdiction and is substantially equivalent to a state registered domestic partnership shall be treated the same as spouses for purposes of all provisions of the Los Angeles City Employees' Retirement System set forth in the Charter and the Los Angeles Administrative Code, except as otherwise required by federal law. For purposes of the provisions of Chapter 10 herein, any reference to the date of a marriage shall be deemed to refer to the date of registration of a domestic partnership with the State or the date of a legal union in another jurisdiction, as applicable.

#### SECTION HISTORY

Added by Ord. No. 171,305, Eff. 10-2-96.  
Amended by: Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00;  
Subsecs. (a) and (b)(1) amended and Subsec. (f) added, Ord.  
No. 182,196, Eff. 8-8-12.

#### **Sec. 4.1044.5. Continuance to Designated Beneficiary.**

A member who does not have either an eligible spouse, as defined in Section 4.1044(a), or a domestic partner who qualifies for the benefits available to an eligible spouse under Section 4.1044.4(a)(1), may make an irrevocable election at the time of retirement, in writing, to provide for a continuance of his or her retirement allowance to one designated beneficiary. The member shall take an actuarial reduction of his or her retirement allowance to pay for the continuance to a designated beneficiary. The member shall

specify any whole percentage not to exceed 100% as the portion of the retirement allowance to be paid as an allowance to the beneficiary, subject to any limits imposed by federal law. The allowance payable to the beneficiary shall commence the day following the member's date of death and shall terminate upon the death of the beneficiary.

The beneficiary's continuance shall be subject to all cost-of-living and discretionary increases.

A beneficiary under this section shall not be entitled to any disability retirement allowance, any basic death benefit, any special death benefit, any monthly allowance for survivors of a member or retired person, any insurance benefit or subsidy, or retired member lump-sum death benefit.

The Board of Administration of the Los Angeles City Employees' Retirement System shall adopt rules to administer this continuance and shall formulate the benefits in such a way that no additional actuarial liability is incurred either by the System or by the City.

#### SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.  
Amended by: First and Forth Paras., Ord. No. 173, 237, Eff.  
6-19-00, Oper. 7-1-00; First Para., Ord. No. 182,196, Eff.  
8-8-12.

#### **Sec. 4.1045. Application to Change Optional Retirement Allowance.**

(a) Any retired former member of the Los Angeles City Employees' Retirement System who retired prior to July 1, 1965, and who selected one of the optional allowances provided in Section 4.1053 of this chapter, upon written application filed with the Board of Administrators shall be entitled to receive the allowance he or she would have been eligible to receive under the provisions of Sections 4.1020 or 4.1055 herein, had he or she not made such election pursuant to Section 4.1053. Any adjustment made pursuant to this section shall be effected by modifying the pension portion of the allowance.

Any retired former member whose service terminated prior to July 1, 1965 and who retired prior to May 4, 1975 pursuant to former Charter Section 508 B and who elected an optional allowance pursuant to former Charter Section 509 shall, upon the filing of an election with the Board of Administration, be granted the benefits hereinabove described. Such election must be made in writing to the Board of Administration within ninety days of the effective date of this subsection as amended.

Any such retired former member making application as provided in this subsection who has an eligible spouse as defined in Section 4.1044(a) shall be deemed thereby to have exercised the election provided in Section 4.1044(e) of this Code.

(b) Any surviving spouse receiving a continuance of a retired member’s allowance as provided in Section 4.1053, may elect to receive in lieu of such allowance, the continuance to spouse benefits provided by Section 4.1044 hereof.

(c) Any election or written application made pursuant to this section shall be irrevocable and not subject to the provisions of Waiver of Benefits as provided in Section 4.1015 herein.

SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
 Amended by: Subsec. (a) by Ord. No. 148,239, Eff. 4-19-76;  
 Subsec. (a) First, Second and Third Paras., Subsecs. (b) and (c), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1046. Cost of Living Increases.**

For the benefits increased pursuant to an application to change an optional allowance as provided in Section 4.1045 hereof, the ratio between the base amount and the cost of living amount shall be maintained by increasing the cost of living proportionately.

All adjustments to the cost of living amount made by this section and Section 4.1044(e) shall be subject to future adjustments as provided in Section 4.1040 hereof.

SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
 Amended by: First and Third Paras., Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1047. Rule-Making Powers of the Board of Administration.**

Except as otherwise expressly provided, wherever the provisions of this chapter call for an “election”, “**application**” or “**option**” or other act to be performed by any person receiving or entitled to receive benefits pursuant to this chapter, it shall be within the power of the Board of Administration of the Los Angeles City Employees’ Retirement System to establish all necessary rules with respect to the time, manner and operative date of such act.

SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
 Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1048. Operative Date of Sections 4.1042 Through 4.1047.\***

Notwithstanding the effective date of the provisions of Sections 4.1041 through 4.1047 of this chapter, and with the exceptions described in Paragraph (e) of Section 4.1044 of this chapter, the operative date or dates for the implementation of the provisions of said Sections 4.1041 through 4.1047 of this chapter shall be established by the Board of Administration of the Los Angeles City Employees’ Retirement System.

SECTION HISTORY

Added by Ord. No. 145,804, Eff. 5-10-74.  
 Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.  
 \*Operative dates established for the following sections by the Board of Administration, City Employees’ Retirement System, per Resolution No.178, 5-14-74:  
 Sec. 4.1042 6-1-74  
 Sec. 4.1043 6-1-74  
 Sec. 4.1044 5-14-74  
 Sec. 4.1045 7-1-74.

**Sec. 4.1050. Construction of the Provisions of this Chapter.**

The term “**Operative date**” as used in this chapter shall mean the “**effective date**”, unless a different date is specified by any ordinance adopted pursuant to the provisions of Section 1168 of the Charter.

SECTION HISTORY

Added by Ord. No. 144,470, Eff. 3-28-73.  
 Amended by: First and Second Paras., Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.

**Sec. 4.1051. Back Contributions for Past Periods of City Service and Redeposit of Formerly Withdrawn Accumulated Contributions.**

(a) (1) Every person who is a member and who was a City employee during any period or periods in which he or she was regularly employed, on a full-time basis or on a part-time basis, but was not a member, and thus not contributing to the Retirement Fund, shall have the option to designate all or any portion of such employment for which he or she may receive

retirement credit, provided, however, that the member is not receiving and is not entitled to receive for that period of City employment any benefit from any other pension or retirement system including, but not limited to, the Fire and Police Pension Plan, the Water and Power Employees' Retirement Plan, the Limited Term Retirement Plan, the Pension Savings Plan for Part-time, Seasonal and Temporary Employees, and any union plan. Such option shall be exercised in writing, filed with the Board of Administration, designating the period of City employment for which the member desires to receive retirement credit, and must be accompanied by a single payment of back contributions or by an agreement to pay such back contributions in installments.

The back contributions to be paid shall be in an amount equal to all of the contributions which he or she would have made to the Fund had he or she been a member during such period, together with all regular interest which, had he or she so made the same, would have been credited thereon prior to the date of such payment; provided, however, that in the case of such installment payment thereof, the same shall be made pursuant to the rules which shall be adopted by the Board of Administration establishing minimum amounts to be paid and the period of time within which they must be paid and, furthermore, providing the rate of interest which shall be paid upon the unpaid balance of the same. Every member who makes up back contributions, as hereinabove provided, shall be allowed credit for the period of City employment designated in the declaration filed by him or her with the Board of Administration, the same as though he or she had been a member during such period. Any such member shall be allowed at any time to make a single payment equal to the then present value of all of the unpaid installments in such manner as shall be determined by the Board. Should the member fail to make all of the payments required of him or her under the provisions of this Section, he or she shall be allowed retirement credit, counter-calendarwise, for the same portion of such designated period as the amount made up by him or her is of such full amount, and provided further, that should he or she cease to be a member by reason of his or her death, retirement credit shall be allowed for the whole period designated by him or her if his or her surviving spouse exercises the option which, under such circumstances, hereby is given to any surviving spouse to make a single payment equal to the then present value of all of the unpaid installments in such manner as may be determined by the Board. The written option

hereinabove referred to shall be filed with the Board of Administration.

For purposes of determining whether a member is not receiving and is not entitled to receive for a prior period of City employment any benefit from a non-City pension or retirement system, such as a union plan, the Board shall adopt rules regarding the proof that a member must provide to establish a right to make back contributions for such prior period of City employment since, for a non-City system, such information is not directly available to the Retirement System.

(2) Notwithstanding the provisions of Section 4.1051(a)(1), every person who is a member on the effective date of this subsection or who shall become a member subsequent thereto may receive retirement credit for any period or periods in which he or she was a participant in the Pension Savings Plan for Part-time, Seasonal and Temporary Employees provided for in Chapter 16. Such option shall be exercised in writing, filed with and subject to rules promulgated by the Board of Administration as provided for in Subsection (1) above. The amount of back contributions to be paid shall be the total of the following:

(i) an amount equal to all of the contributions which he or she would have made to the Fund had he or she been a member during such period together with all regular interest which would have been credited thereon by the Board of Administration prior to the date of such payment; and

(ii) the full amount of all contributions made to the Pension Savings Plan by the City on behalf of the member during such period or periods, plus all interest credited to those contributions by the Pension Savings Plan.

(3) Notwithstanding the provisions of Sections 4.1051(a)(1) and 4.1850(g), every person who is a member on the effective date of this subsection or who shall thereafter become a member may receive service credit for any period or periods in which he or she was a participant in the Limited Term Retirement Plan by making back contributions, which shall be paid in one of the following manners:

(i) all of the Participant's interest in his or her individual account with the Limited Term Retirement Plan, based upon contributions made both by the Participant and by the City and any

gains or losses thereon, shall be transferred from the Limited Term Retirement Fund to the LACERS Retirement Fund for credit to the member's LACERS account and, upon receipt, shall constitute full payment for the buy back, or

(ii) where the member's entire account balance in his or her former individual account with the Limited Term Retirement Plan, based upon contributions made both by the participant and by the City and any gains or losses thereon, is directly rolled-over from the Limited Term Retirement Plan to another eligible retirement plan prior to January 1, 2003, provided these funds have been segregated and not co-mingled with any other funds, the trustee-to-trustee transfer of the total balance from that eligible retirement plan to the LACERS Retirement Fund for credit to the member's LACERS account shall constitute full payment for the buy back, or

(iii) in all other cases in which the member's Limited Term Retirement Plan account balance has been distributed, the amount of back contributions to be paid shall be in the amount of the entire lump sum distribution, whether received by the member or by any other person, together with all regular interest which would have been credited thereon by the Board of Administration subsequent to the date the lump sum was distributed had he or she been a member during that period.

This option shall be exercised in writing, filed with and subject to rules to be promulgated by the Board of Administration. The service credit purchased pursuant to this subsection shall count as continuous service credit for all LACERS benefits, the same as if the person had been a member during the entire period of time for which service credit is given.

(4) The Board of Administration shall, by rule, provide for the making up of contributions that a member failed to make for any period during which the member received Workers' Compensation benefits (Div. IV, Labor Code) for temporary disability on account of any injury or illness arising out of and in the course of the member's employment with the City, together with an amount equal to the regular interest that would have been credited had the member made the contribution.

(5) Notwithstanding the provisions of Paragraphs (1), (2), and (3), a member shall not be allowed to make back contributions to purchase retirement credit under this Subsection if the period of time being purchased constitutes "unqualified service" which the member is prohibited from purchasing under federal law. The Board shall adopt such rules as are necessary to comply with federal law and may authorize payment methods that comport with federal requirements.

(b) Any person who has heretofore or member who may hereafter become separated from the service of the City and who did receive or shall hereafter receive his or her accumulated contributions and who either heretofore re-entered City service and as a result of such re-entry again became a member or should hereafter re-enter City service and as a result of such re-entry again become a member, shall have the option to re-deposit with the Los Angeles City Employees' Retirement Fund the amount previously withdrawn together with regular interest, irrespective of any time period that may have elapsed since such separation. Such option shall be filed in writing with the Board of Administration. The amount of the contributions to be re-deposited shall be the sum of the amount of accumulated contributions withdrawn plus all of the regular interest which would have been credited thereon had said accumulated contributions remained on deposit in the fund to the date the member re-deposits such contributions either by a single lump sum payment or executes an agreement to pay such re-deposit in installments. In the case of installment payments, the Board of Administration shall establish the minimum amounts to be paid, the period of time therefor, the rate of interest which shall be paid on the unpaid balance of the same and all other rules the Board may deem necessary for the carrying out of the provisions of this section. Any such member shall be allowed, at any time, to make a single payment equal to the then present value of all of the unpaid installments in such manner as shall be determined by the Board. Every member who makes a re-deposit as hereinabove provided shall be allowed retirement credit for the period of service for which the re-deposit is made, provided however, that the member is not receiving and is not entitled to receive retirement credit for such period of service from any other pension or retirement system of the City of Los Angeles. Should the member fail to complete payment of the re-deposit, credit shall be allowed counter-calendarwise from the same portion of such designated period as the amount made up by the member is of such full amount, and provided further, that should he or she cease to be a member by reason of his or her death, retirement credit shall be allowed for the whole period for which the re-deposit is being made if his or her surviving spouse exercises the option which, under such

circumstances, hereby is given to any surviving spouse to make a single payment equal to the then present value of all of the unpaid installments in such manner as shall be determined by the Board.

#### SECTION HISTORY

Added by Ord. No. 147,053, Eff. 6-4-75.

Amended by: Subsecs. (a) and (b), Ord. No. 148,289, Eff. 4-19-76; Ord. No. 150,436, Eff. 2-9-78; In entirety, Ord. No. 151,861, Eff. 2-24-79; Title and Section, Ord. No. 154,363, Eff. 10-17-80; Subsec. (a) renumbered as Subsec. (a)(1), Subsec. (a)(2) added, Ord. No. 172,808, Eff. 9-20-99; Subsecs. (a)(1) and (b), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; Subsecs. (a)(1) and (b) amended, Subsec. (a)(3) added, Ord. No. 174,820, Eff. 9-25-02; Second to Last Sentence of Subsec. (a)(1), Ord. No. 177,214, Eff. 1-4-06; Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1051.1. Rights of Former Members.

(a) A former member shall be paid his or her accumulated contributions upon written demand made to the Board of Administration. Contributions, however, shall not be refunded to a former member who is employed in any capacity by the City unless such a refund is permitted under federal law. After a former member's contributions have been refunded, he or she shall have no right to any benefits provided by the Retirement System.

(b) A former member may permit his or her accumulated contributions to remain in the fund. A former member whose contributions remain on deposit and who qualifies for deferred service retirement may apply to retire as provided in Section 4.1020 of this Chapter. If such former member fails to file a written retirement application prior to attaining age 70 1/2, the Retirement System, pursuant to rules to be adopted by the Board of Administration, shall make such mandatory minimum distributions as are required by the Internal Revenue Code.

If a former member does not have sufficient years of continuous service so as to be entitled to a deferred service retirement and fails to request a refund of contributions pursuant to Subsection (a) above within ten years from the date his or her membership terminated or from the date he or she was last employed by the City, whichever occurs later, the former member's accumulated contributions shall be forfeited to the Retirement Fund, provided that he or she: (1) shall be relieved from such forfeiture upon returning to membership in the System, at which time said funds shall be returned to his or her individual account pursuant to rules to be adopted by the Board of Administration, or (2) shall be relieved from such forfeiture upon the making of a valid claim therefore determined at the sole discretion of the

Board of Administration. If any such former member attains age 70 1/2 with contributions still on deposit in his or her account, the Retirement System, pursuant to rules to be adopted by the Board of Administration, shall make such mandatory minimum distributions as are required by the Internal Revenue Code.

If mandatory minimum distributions cannot be paid to a former member for any reason, such as the person's failure to cooperate or where the person's whereabouts is unknown and the Retirement System has followed Internal Revenue Service procedures to locate him or her, then such funds shall be forfeited to the Retirement Fund, provided that he or she shall be relieved from such forfeiture upon the making of a valid claim therefor, determined at the sole discretion of the Board of Administration.

In the event that a former member whose contributions or other benefits have been forfeited pursuant to this subsection is deceased, any person or entity who would be entitled to the payment of the former member's funds upon his or her death may make a claim for relief from forfeiture on the deceased's behalf.

(c) For purposes of this Section: former member shall include both a City employee who ceases to be a member upon separating from City service and a City employee who continues to be employed by the City, but ceases to be a member of the Retirement System; former member shall not include a retired member who is receiving any retirement allowance provided in this Chapter.

#### SECTION HISTORY

Added by Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00.

Amended by: Title and Section In Entirety, Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1052. Past Service Credit Toward Entitlements Under Family Death Benefit Insurance Plan.

(a) Every person who is a member of the Retirement System on the effective date of this section, or who shall thereafter enter or re-enter membership therein, shall be entitled to receive Death Benefit Plan Service for purposes of entitlement to benefits as provided in Section 4.1063 of this chapter for those periods subsequent to July 1, 1965 for which he or she is entitled to retirement service credit, or for which he or she is making back contributions or re-deposits as authorized for such retirement service credit, but for which he or she is not, as of the effective date of this section, entitled to Death Benefit Plan Service by complying with the following conditions:

(1) He or she shall file with the Board of Administration a written election to receive all such Death Benefit Plan Service as he or she shall be entitled to, not to exceed 120 months, and

(2) He or she shall make back contributions together with regular interest thereon in a lump sum or in installments by payroll deductions in such manner as the Board of Administration may determine, and provided that no such credits may be given for any periods of City service rendered prior to July 1, 1965.

(b) Should the member die prior to having complied with the conditions set forth in Paragraph (a) hereof, the surviving widow, widower or guardian of the member's minor child or children is hereby given the option to make a single payment equal to the then present value of all amounts due under the deceased member's election, in such manner as may be determined by the Board and thereby become entitled to the benefits in Section 4.1063 herein.

#### SECTION HISTORY

Added by Ord. No. 147,053, Eff. 5-4-75.

Amended by: Subsecs. (a) & (b) by Ord. No. 148,239, Eff. 4-19-76; Title and Section, Ord. No. 154,363, Eff. 10-17-80; Subsec. (a) First Para. and Subsec. (b), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (a)(2), Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1052.1. Buy Back of Periods of Uncompensated Leave from City Service.

(a) **Definitions.** For the purpose of this Section, the following words and phrases shall have the meaning ascribed to them in this Subsection unless a different meaning is clearly indicated by the context:

**“Leave of Absence”** shall mean an approved uncompensated leave of absence from City service, excluding any period of absence due to disciplinary suspension.

**“Buy Back”** shall mean purchase by a member of retirement credit for periods of eligible leaves of absence from City service.

**“Government Service Buy Back Program”** shall mean the method for the buy back of retirement credit set forth in Section 4.1052.2.

(b) **Eligibility.** Every person who is a member on the effective date of this section or who shall become a member subsequent thereto shall be eligible to buy back

credit for periods of uncompensated leave of absence from City service.

(c) **Application of Buy Back Credit.** A member electing to buy back periods of leave of absence from City service may apply buy back credit to increase service retirement benefit credit. Buy back credit shall not be used to meet minimum qualification for service retirement, disability retirement or vested retirement or to qualify for the Family Death Benefit Insurance Plan; or to qualify for or increase health and dental insurance premium subsidies.

(d) **Effect of Benefit Increases.** Effective with respect to members on the active payroll on or after the effective date of this section, if retirement benefits should be increased by City Council action pursuant to Section 1168 of the City Charter, such increased benefits shall be applicable to service credits purchased pursuant to this section.

(e) **Minimum Periods of Purchase.** A member electing to buy back credit for periods of uncompensated leave of absence shall file with the Board of Administration a written application identifying the time periods for which credit is to be purchased. A member may buy back credit for one or more periods of uncompensated leave, except, however, a minimum of six months of leave in the aggregate shall be purchased. Total buy back credit purchased shall not exceed the member's actual City service at the time the buy back is concluded.

(f) **Agreement with the City Employees' Retirement System - Buy Back Methods.** A member electing to buy back credit described herein shall enter into a written agreement with the Los Angeles City Employees' Retirement System. Such agreement shall provide that the member contribute an amount equal to the present value of the liability incurred by the System in crediting the service based upon actuarial assumptions in effect at the time the agreement is entered into or amended and the projected retirement date contained in the agreement. Such agreement shall identify the method of payment of the additional contributions required to fund the purchased credit, which may be a specific dollar payment or percent of salary obligation. If a member elects to make the required contribution by a specific dollar payment, the payment may be made in a lump sum or in biweekly installments through payroll deduction over a period not to exceed five years. If the member elects to enter into a percent of salary obligation, the member shall agree to make the contributions as a percent of salary through payroll deduction over a period extending from the date of the agreement with the Los Angeles City Employees' Retirement System to a projected retirement date included in the agreement.



(g) **Termination or Completion of Agreement.** A member who has entered into a buy back agreement shall complete all contributions prior to the effective date of retirement in order to receive agreed upon buy back credit. If all contributions have not been completed and the member elects to retire, the member may receive prorated buy back credit for that portion of the service which has been purchased by contributions already made and forfeit the remainder of credit covered by the agreement or may make a lump sum payment sufficient to complete the total payment covered by the agreement. In the event the member elects to retire at a later date than the age specified in the agreement after completing all payments, no adjustments shall be made in the buy back credit or the cost of such credit. A member, who elects to terminate an after-tax agreement prior to its completion or at the time of retirement, shall forfeit buy back credit and may elect to receive a cash refund of the buy back contributions and interest payable upon the earlier of death, termination of employment or retirement.

(h) **Plan Member's Death.** In the event of the death of a member who has entered into a buy back agreement, the surviving eligible beneficiary of the member may elect a refund of the buy back contributions and interest thereon, or elect to apply the credit or a portion thereof to the calculation of the benefits for which the survivor qualifies without the addition of buy back service credit or elect to complete the terms of the agreement with a lump sum payment of the remaining amount owed.

(i) **Administration.** The administration of this section shall be under the exclusive management and control of the Board of Administration. Said Board shall have and is hereby granted full power and authority to adopt and enforce all such rules and regulations as it may deem necessary for the carrying out of the provisions of this ordinance. The Board of Administration shall have the right to construe this section, to interpret any provision thereof, to make rules and regulations relating to this section, and to determine any factual questions arising in connection with this section's operation after such investigation or hearing as the Board may deem appropriate. Any decision made by the Board under the provisions of this section shall be conclusive and binding on all parties concerned.

(j) Subsection (j) is hereby repealed.

#### SECTION HISTORY

Added by Ord. No. 164,362, Eff. 3-2-89.  
Amended by: In Entirety, Ord. No. 171,487, Eff. 1-24-97;  
Subsecs. (d), (e) and (f), Ord. No. 173, 237, Eff. 6-19-00,  
Oper. 7-1-00; Title and Subsecs. (a), (b), (c), (e), (f) and (g),  
Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1052.2. Government Service Buy Back Program.

(a) **Definitions.** For the purpose of this section, the following words and phrases shall have the meaning ascribed to them in this subsection unless a different meaning is clearly indicated by the context:

**"Buy Back"** shall mean purchase by a member of retirement credit for periods of eligible service with other governmental entities or purchase by a member of retirement credit for uncompensated maternity leave.

**"Effective Date"** shall mean the effective date of the ordinance adopting this section.

**"Full-time Service"** shall mean a minimum of six months of uninterrupted service with an eligible governmental entity, excluding part-time service.

**"Governmental Entity"** shall mean the United States Government including its territories, any agency of the United States Government, the United States Postal Service and any branch of the United States military service; any State or political subdivision thereof; any local government or special district within any State in the United States; and shall exclude non-governmental agencies supported by government contracts or grants and any prior service with the City of Los Angeles.

**"Prior Plan"** shall mean a retirement plan of a governmental entity in which the member was a participant during full-time service.

**Uncompensated Maternity Leave** shall mean a leave of absence from City Service taken for maternity reasons without pay, provided that such leave shall be a minimum of one month and a maximum of twelve months with respect to any one pregnancy.

(b) **Eligibility.** Every person who is a member on the effective date of this section or who shall become a member subsequent thereto shall be eligible to buy back credit for periods of full-time service with other governmental entities and to buy back credit for periods of Uncompensated Maternity Leave. Notwithstanding the foregoing:

(1) Members may not buy back credit for periods of service for which they are currently eligible or will become eligible to receive a retirement benefit

from a Prior Plan. For purposes of the previous sentence, a member shall be treated as eligible for such benefit from a Prior Plan even if the member will not receive such benefit solely due to the member's withdrawal of member contributions and interest from the Prior Plan, unless such withdrawal occurred prior to the later of the member's date of hire by the City or December 20, 1996 or unless the member deposits the amount of such withdrawal as the buy back purchase price, in accordance with Subsection (e)(2) hereof, within 90 days of such withdrawal. In addition, a member shall be treated as eligible for such benefit from a prior plan if the member received at any time a distribution from the prior plan in excess of member contributions and interest with respect to such period of service. The Board may extend the 90 day period if required for compliance with Section 415 of the Internal Revenue Code. In the event that prior to the attainment of the minimum age and service for a service retirement under LACERS, the member becomes eligible to receive currently or in the future a retirement benefit from the prior plan with respect to such period of service, the corresponding buy back credit shall be canceled and the member shall receive a refund of the payments made under Subsection (e) with respect to such buy back credit, with interest, payable upon the earlier of death, termination of employment, or retirement from City Service.

(2) Members are not allowed to buy back credit for periods of service from a governmental entity which provides reciprocal benefits with LACERS and for which that member would be entitled to those reciprocal benefits. For purposes of the previous sentence, a member shall be treated as entitled to reciprocal benefits even if the member will not receive such benefits solely due to the member's withdrawal of member contributions and interest from the Prior Plan, unless such withdrawal occurred prior to the later of the member's date of hire by the City or December 20, 1996.

(3) Only a member performing "City Service" as defined in Section 4.1001 shall be eligible to execute a buy back agreement.

(4) For purposes of this section, the date of a withdrawal shall be deemed to be the date of receipt of the proceeds of the withdrawal by the member or other designated recipient.

(5) **Uncompensated Maternity Leave.** Only a member who was on an active employment status

immediately before and after taking a leave of absence for maternity reasons without pay shall be eligible to buy back credit for such leave of absence.

(c) **Application of Buy Back Credit.** The service credit purchased under this section shall be treated the same as service credit under LACERS except that it shall not be taken into account for establishing the minimum five year service requirement for service retirement, disability retirement or vested retirement.

(d) **Minimum Periods of Purchase.** A member electing to buy back credit for previous service with other governmental entities or for periods of Uncompensated Maternity Leave, shall file with the Board of Administration a written application identifying the time periods and agencies for which credit is to be purchased, and shall submit proof acceptable to the Board of Administration establishing the fact of such other service with another governmental entity or such uncompensated maternity leave. Buy back credit for one or more periods of full-time service with another governmental entity prior to entrance or re-entrance into the Los Angeles City Employees' Retirement System may be purchased, except, however, such purchase shall be limited to not less than six months of uninterrupted service from a single entity. The six month minimum requirement does not apply to the Uncompensated Maternity Leave.

(e) **Agreement with the Los Angeles City Employees' Retirement System - Buy Back Methods.** A member electing to buy back credit described herein shall enter into a written agreement with the Los Angeles City Employees' Retirement System. Such agreement shall specify the amount to be paid for the purchase of this service credit.

(1) The amount to be paid pursuant to the buy back agreement shall equal (A) the member's contribution rate after any City defrayal, (B) times the member's annual salary rate at the time the agreement is entered into, and (C) times the number of full and partial years of service to be purchased. Partial years of service shall be rounded down to the full month. Such agreement shall identify the method of payment of the additional contributions required to fund the purchased credit, which will be a specific dollar payment.

(2) Notwithstanding Paragraph (1), if the member had made employee contributions and left his or her contributions on deposit with the government entity for which full-time service is being purchased

until after the later of the member's date of hire by the City or December 20, 1996, the buy back purchase price will be the amount of the member contributions and interest on deposit in the member's account with that government entity. For the purpose of purchasing service credit, the Los Angeles City Employees' Retirement System may either receive (A) eligible rollover distributions, as defined in Section 401(a)(31) of the Internal Revenue Code, (B) rollover contributions, as defined in Section 408(d)(3) of the Internal Revenue Code or (C) direct cash contributions, the timing of which shall be governed by Subsection (b)(1) herein. The Board of Administration shall prescribe such rules and forms as are necessary to determine when proposed contributions hereunder qualify as rollover contributions.

(f) **Method of Purchase.**

(1) The member may elect to pay on an after-tax basis in a lump sum or in biweekly installments through payroll deduction, subject to any applicable Internal Revenue Code restrictions.

(2) The member may elect to pay via rollovers of pre-tax and/or after-tax funds pursuant to Section 401(a)(31) or Section 408(d)(3) of the Internal Revenue Code.

(3) Should the member elect to purchase the buy back service credit through payroll deduction, annual interest at a rate determined by the Board and set at the commencement of the agreement shall be charged. The minimum biweekly payroll deduction shall be \$25.00.

(g) **Execution of the Agreement.** A member entering into a buy back agreement shall complete all contributions prior to the effective date of retirement in order to receive agreed upon buy back credit. In the event the member elects to retire prior to completion of the buy back agreement, the member may receive prorated buy back credit for that portion of the service with other governmental entities or uncompensated maternity leave which have been purchased by contributions already made and forfeit the remainder of credit covered by the agreement; or, the member may make a lump sum payment sufficient to complete the total payment covered by the agreement. Additionally, a member who elects to terminate an after-tax agreement prior to its completion, or at the time of retirement, may elect to receive a cash refund of the buy back contributions and interest payable upon the earlier of death, termination of employment or retirement or prorated buy back credit.

(h) **Plan Member's Death.** In the event of the death of a member who has entered into a buy back agreement, the surviving eligible beneficiary of the member may elect a refund of the buy back contributions and interest thereon, elect to apply the credit or a portion thereof to the calculation of the benefits for which the survivor qualifies without the addition of buy back service credit or elect to complete the terms of the agreement with a lump sum payment of the remaining amount owed.

(i) **Benefit Adjustment.** The annuity attributable to contributions made pursuant to this Section, as well as the service purchased with such contributions, shall not be utilized in the calculation to determine whether a retirement allowance is to be increased to provide a minimum pension of 50% pursuant to the provisions of Section 4.1022(a)(4).

(j) **Administration.** The administration of this section shall be under the exclusive management and control of the Board of Administration. Said Board shall have and is hereby granted full power and authority to adopt and enforce all such rules and regulations as it may deem necessary for the carrying out of the provisions of this ordinance. The Board of Administration shall have the right to construe this section, to interpret any provision thereof, to make rules and regulations relating to this section, and to determine any factual questions arising in connection with this section's operation after such investigation or hearing as the Board may deem appropriate. Any decision made by the Board under the provisions of this section shall be conclusive and binding on all parties concerned.

(k) **El Pueblo Employees.** Notwithstanding the above, persons who were employed by El Pueblo de Los Angeles State Historic Monument between May 17, 1977 and June 30, 1995 and who became members of LACERS on July 1, 1995, may purchase service credit for their employment with the El Pueblo between May 17, 1977 and June 30, 1995. The service credit purchased under this section for employment at El Pueblo shall be treated as same as service credit under LACERS including vesting, disability retirement and minimum qualification for service retirement.

SECTION HISTORY

Added by Ord. No. 171,487, Eff. 1-24-97.

Amended by: Subsecs. (a), (b), (b)(5), (d), (g) and (k), Ord. No. 172,808, Eff. 9-20-99; Subsecs. (b)(1), (2) and (3), (c), (d), (e), (i), and (k), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (b)(1), Ord. No. 175,767, Eff. 2-9-04; Title and Subsecs. (a), (b), (e), (f) and (i), Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1053. Optional Retirement Allowance.**

(a) At any time before the first payment of a retirement allowance on account of any voluntary, compulsory or disability retirement, the person or member to be retired, or retired, as the case may be, may elect to receive in lieu of his retirement allowance as provided in Sections 4.1020, 4.1002.1(g) or 4.1055 of this chapter the actuarial equivalent at that time of such retirement allowance, in accordance with any of the following:

(1) An optional retirement allowance payable throughout the balance of his or her life, with the provision that upon his or her death such optional retirement allowance shall be continued through the life of and paid to the member's surviving spouse; or to his or her minor children, in the event there be no surviving spouse; or to his or her dependent parents, in the event there be no surviving spouse or minor children; provided that, in the case of a minor child, the same shall terminate with the monthly payment next preceding the date on which said child attains the age of eighteen (18) years; or

(2) An optional allowance payable throughout the balance of his or her life, with the provision that upon his or her death one-half (1/2) of such optional retirement allowance shall be continued through the life of and paid: to the member's surviving spouse; or to his or her minor children, in the event there be no surviving spouse; or to his or her dependent parents, in the event there be no surviving spouse or minor children; provided that, in the case of a minor child, the same shall terminate with the monthly payment next preceding the date on which said child attains the age of eighteen (18) years; or

(3) Any other optional retirement allowance which the member may elect to receive and which shall be authorized by the Board of Administration; provided, however, that should any provision be made therein for the payment of any benefit after the death of the member, such benefit shall be payable to only those persons mentioned in (1) and (2) hereof and shall terminate, in the case of a minor child, with the monthly payment next preceding the date on which said child attains the age of eighteen (18) years.

(b) The amount of any optional retirement allowance granted pursuant to this section shall be so calculated that the liability of the system at the date of retirement under the optional retirement allowance shall be equal to the liability of the system at the same date under the retirement allowance provided in Sections 4.1020, 4.1002.1(g) or

4.1055 of this chapter, including in each case the liability for continuance to surviving spouse provided in Section 4.1044 of this chapter. For the purpose of this section, the liability of the system is defined as the present value, in accordance with tables adopted by the Board, of the retirement allowance or optional retirement allowance calculated by approved actuarial methods, giving due weight to the average probabilities of survivorship of all parties involved in the allowance, or optional allowance, to the limitation of payments to age eighteen in the case of a minor child, and to the requirement for refund of unused contributions after the death of the member or beneficiary as provided for in Section 4.1062(b) of this chapter.

(c) Any member selecting one of the options available under this section who has an eligible spouse as defined in Section 4.1044 of this chapter shall have the annuity portion of such member's retirement allowance calculated on the basis of the sum of the normal contributions and survivor contributions taken pursuant to the provisions of Section 4.1044 of this chapter and no refund shall be made for the excess of such member's total accumulated contributions over the normal contributions.

(d) No optional allowance shall be granted under the provisions of this Section that exceed any limitations imposed by federal law.

(e) A member at retirement may elect to provide a continuance for an ineligible spouse or an unqualified domestic partner pursuant to the provisions of Section 4.1044.5. A member at retirement may not opt to provide an optional retirement allowance under Section 4.1053 for any spouse or domestic partner for whom the member could elect to provide a continuance under Section 4.1044.5.

**SECTION HISTORY**

Added by Ord. No. 147,053, Eff. 5-4-75.

Amended by: Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00;

Subsecs. (d) and (e) added, Ord. No. 182,196, Eff. 8-8-12;

Subsecs. (a) and (b), Ord. No. 182,296, Eff. 11-12-12.

**Sec. 4.1053.1. Election of Annuity With No Payment Due On Death of Last Survivor.**

Any member or the survivor of a deceased member who is eligible for a retirement allowance under the provisions of this chapter may, in lieu of the annuity payment calculated on the basis of the refund of unused contributions, elect to receive an annuity payable only during the life or lives of the persons covered by the option with no payment due upon the death of the last survivor on account of unused contributions. In all other respects, the

provisions of Section 4.1053(b) of this chapter with respect to the liability of the System under the option being equal to the liability of the System under the member's unmodified retirement allowance shall be applicable.

#### SECTION HISTORY

Added by Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00.

### Sec. 4.1054. Duty Related and Non-Duty Related Deaths Creating Entitlement to Survivorship Benefits.

(a) **Definitions.** As used in this section, the following words and phrases shall have the meaning ascribed to them in this paragraph unless a different meaning is clearly indicated by the context:

**“Duty Related Death”** shall mean the death of a member caused by illness or injury, either of which arose out of the performance of his or her duties as an employee of the City of Los Angeles.

**“Non-Duty Related Death”** shall mean a member's death which occurred due to illness or injury not arising out of the member's performance of his or her duties as an employee of the City of Los Angeles.

**“Eligible Surviving Spouse”** shall mean the person who was married to the member at the time of the member's death and who is entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of such member's accumulated contributions.

**“Eligible Surviving Domestic Partner”** shall mean the person who was the domestic partner of a member, as defined in Section 4.1044.4, at the time of the member's death and who is entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of such member's accumulated contributions.

**“Eligible Survivor”** shall refer to a person who is either an Eligible Surviving Spouse or Eligible Surviving Domestic Partner, as defined in this Subsection.

(b) If a member, who at the time of Duty Related Death was not eligible for a disability retirement allowance pursuant to the provisions of Section 4.1053(a) and Section 4.1055 of this chapter, leaves an Eligible Survivor, the latter may elect to receive a monthly allowance equal to the disability retirement allowance benefit the member would have received, as provided in Section 4.1055 of this chapter,

had he or she completed five years of continuous service and had he or she been eligible for a disability retirement and had retired under a disability retirement on the day preceding the date of death and elected to receive the benefit as computed under the provisions of Section 4.1053(a). In the event the member had completed less than twelve (12) months of service, the salary for the missing months shall be at the rate for the first month of service to arrive at the compensation earnable.

(c) If, at the time of Duty Related Death or Non-Duty Related Death, a member would have been eligible to receive a disability retirement allowance pursuant to Section 4.1055 and leaves an Eligible Survivor, the latter may elect to receive a monthly allowance equal to the amount the deceased member would have been entitled to if he or she had been so retired on the day preceding his or her death and elected to provide a continuing benefit under the provisions of Section 4.1053(a).

(d) The one hundred percent (100%) disability survivorship allowance hereinabove provided in Subsections (b) and (c) of this section shall consist of an annuity based upon the Eligible Survivor's age and the member's accumulated contributions, calculated in accordance with approved actuarial methods, supplemented by a pension to equal the remainder of the allowance so computed.

(e) If an Eligible Survivor elects to receive the one hundred percent (100%) disability survivorship allowance hereinabove provided in Subsections (b) and (c) of this section, such Eligible Survivor shall thereby, upon the effective date of the allowance provided in this section, have no rights under the provisions of Section 4.1062 of this chapter, provided however, that said Eligible Survivor shall receive the benefits provided under the Family Death Benefit Insurance Plan, established in Section 4.1063 herein if said Eligible Survivor would otherwise have been entitled thereto.

(f) If a member or former member, whose contributions are on deposit at the time of his or her death, had completed five or more years of continuous service with the City, notwithstanding the provisions of Section 4.1020(a), the Eligible Survivor shall have the option of waiting until such time as the member would have been entitled to elect a service retirement allowance and shall then receive an allowance equal to that which the member would have received had the member retired under the provisions of Section 4.1053(a) on the day first eligible to receive such benefit. An Eligible Survivor who opts to wait and to receive the allowance provided herein shall no rights under the provisions of Sections 4.1062. However, if he or she would otherwise have been entitled to the benefits provided

under the Family Death Benefit Insurance Plan, an Eligible Spouse who exercises the option provided in this Subsection shall receive the benefits provided in Section 4.1063, but only until such time as the optional benefit provided in this Subsection shall become payable, at which time his or her entitlement to benefits under Section 4.1063 shall cease.

(g) The election by an Eligible Survivor under the provisions of this section constitutes and includes a complete waiver of any right he or she may otherwise have to a refund of contributions made pursuant to the provisions of Section 4.1044(h) herein.

(h) The Board of Administration, with respect to the determination of whether death of a member was attributable to Duty Related causes or Non-Duty Related causes, shall have the power to make such determination based upon such evidence as may be presented to it.

SECTION HISTORY

Added by Ord. No. 147,053, Eff. 5-4-75.  
 Amended by: Subsec. (a), Ord. No. 148,239, Eff. 4-19-76; Ord. No. 171,305, Eff. 10-2-96; Subsecs. (b), (c), (e), (f) and (g), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00; Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1055. Disability Retirement.**

(a) **Applications for Disability Retirement.** A written application for disability retirement may be made at any time within, but not exceeding, one year after the discontinuance of the service of an employee or the termination of any duly authorized sick leave with pay, provided such incapacity has been continuous from the discontinuance of such service. Eligibility requirements differ, depending upon the member’s tier, as follows:

(1) **Members of Tier 1.** Any member who has five or more years of continuous service and who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing his or her duties, may be retired upon written application of such member, or of any person acting in his or her behalf, or of the head of the department in which such member is employed.

Any member retired on account of disability shall receive a disability retirement allowance which shall consist of:

An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement

calculated in accordance with approved actuarial methods as of the date of retirement; and

A pension which shall be in such an amount that the same, when added to that portion of his or her annuity not derived from additional contributions paid to provide a larger annuity at the time of retirement, shall be a sum which shall be equal to one-seventieth (1/70) of his or her final compensation, as defined in Section 4.1010, calculated as of the date of retirement, multiplied by the years of service of such member.

If the sum resulting from this calculation should be an amount which represents less than one-third of the member’s final compensation, in that case the disability retirement allowance shall be one-third of his or her final compensation.

(2) **Members of Tier 2.** Any member who has ten or more years of continuous service and who has become physically or mentally incapacitated and who is incapable, as a result thereof, of performing his or her duties, may be retired upon written application of such member, or of any person acting in his or her behalf, or of the head of the department in which such member is employed.

Any member retired on account of disability shall receive a disability retirement allowance which shall consist of:

An annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of his or her retirement calculated in accordance with approved actuarial methods as of the date of retirement; and

A pension which shall be in such an amount that the same, when added to that portion of his or her annuity not derived from additional contributions paid to provide a larger annuity at the time of retirement, shall be a sum which shall be equal to one-ninetieth (1/90) of his or her final compensation, as defined in Section 4.1002.1(d), calculated as of the date of retirement, multiplied by the City service credit of such member.

(b) The Board of Administration may, from time to time in its discretion, require any beneficiary under the age of sixty (60) years who shall have been retired because of disability to submit to medical examination by three regularly licensed practicing physicians selected by the Board. Upon the basis of such examination and other proper

evidence, said Board shall determine whether such beneficiary is still incapacitated for service in the position held by the beneficiary at the time of his or her retirement. If the Board shall determine that such beneficiary is not so incapacitated, he or she shall be restored to duty in the position held by him or her at the time of said retirement order, and upon his or her return to active service his or her retirement allowance shall be canceled.

(c) The failure, neglect, or refusal of any beneficiary, to submit to such medical examination as the Board may order pursuant to Subsection (b) hereof, or to return to active service pursuant to said subsection, within such reasonable time as the Board may determine, shall be sufficient cause for cancellation of such retirement allowance, in the discretion of the Board, in which event the only right that he or she shall have as a former member pursuant to Section 4.1051.1 of this Chapter is to receive a refund of his or her accumulated contributions, less any payments made on account of the annuity provided herein. If the Board should determine pursuant to Subsection (b) that a beneficiary is no longer incapacitated, but the beneficiary cannot be restored to duty in the position held by him or her at the time of retirement due to the beneficiary's termination or resignation, the Board shall cancel his or her retirement allowance and, as a former member, he or she shall have the rights set forth in Section 4.1051.1 of this Chapter, provided that, in the event he or she requests a refund of contributions, the accumulated contributions shall be reduced by any payments made on account of the annuity provided herein.

(d) Any person heretofore or hereafter retired for disability by the Board, even though incapable of performing the duties of the position from which he or she has been or shall be retired, may be re-employed in a different vacant position if the Board of Civil Service Commissioners were to find that he or she is capable of performing the duties of such position, provided, however, that such person may be so re-employed only with the consent of the appointing authority for such position and the written consent of such person. The Board of Civil Service Commissioners shall adopt rules and regulations to effectuate the purpose of the foregoing provisions. Upon the re-employment of such person, his or her disability retirement allowance shall cease and, should he or she be eligible for membership in the Retirement System, he or she shall again become a member of the Retirement System.

(e) Any beneficiary who re-enters the service of the City, as provided in Subsection (b) or (d) herein, and again becomes a member of the Retirement System, shall immediately upon such re-entry become a member of the tier of the Retirement System from which he or she was

retired and shall make contributions accordingly. The balance, if any, of his or her accumulated contributions, after deducting the annuity payments made to him or her on account of a disability retirement allowance, shall be credited to the individual account of such member with the Retirement System, regardless of whether he or she becomes a member of the Retirement System or of another City retirement system upon re-employment. He or she shall receive credit for services rendered prior to the date of his or her retirement in the same manner as though he or she had never been retired for disability, but the payment of a disability pension shall not constitute compensation from the City entitling him or her to service for the period it was paid. If otherwise eligible, a member may purchase eligible service with another governmental entity for employment during periods in which he or she received a disability allowance. Members of Tier 2 may elect to make contributions, on a post-tax basis, in order to replace some or all of the contributions used to fund the annuity portion of his or her disability pension so as to reduce or eliminate the reduction that would otherwise occur to his or her service retirement allowance pursuant to the provisions of Section 4.1002.1(g). The Board shall adopt rules to allow Tier 2 members to make contributions for this purpose.

(f) The Board of Administration shall have the power to hear and determine all matters pertaining to the granting or termination of any retirement allowance provided for in this section, and the determination of the Board shall be final and conclusive.

#### SECTION HISTORY

Added by Ord. No. 147,053, Eff. 5-4-78.

Amended by: Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00; Ord. No. 182,196, Eff. 8-8-12; Subsecs. (a) and (e), Ord. No. 182,296, Eff. 11-12-12.

#### **Sec. 4.1055.1. Loan Program for Applicants for Disability Retirement.**

The Board of Administration shall by rule establish a loan program for members who have made application for disability retirement or upon whose behalf an application has been made in accordance with the provisions of this chapter, provided that the loan program shall be in compliance with the provisions of Internal Revenue Code Section 72(p). The loan program shall further provide that in no event shall the amount of funds loaned to any member exceed the amount of contributions and interest in the member's LACERS account and that once a Board determination is made granting or denying a member's disability application, no further funds shall be lent to the member in connection with that application. Loan repayments will be suspended under

this program as permitted under Section 414(u)(4) of the Internal Revenue Code.

SECTION HISTORY

Added by Ord. No. 149,161, Eff. 1-17-76.  
 Amended by: Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; In Entirety, Ord. No. 174,820, Eff. 9-25-02; In Entirety, Ord. No. 175,767, Eff. 2-9-04; Last Para. deleted, Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1055.2. Back Contributions for Periods of City Employment While Disability Pension Applications Were Pending and No Entitlement Existed to Receive Credit for City Service – Six Months’ Limitation.**

Any member of the Los Angeles City Employees’ Retirement System who has, at any time, filed an application for the benefit of a disability retirement, which application was thereafter denied by the Board of Administration upon a finding by said Board that the applicant had not become physically or mentally incapacitated so as to be incapable of performing his or her duties, shall have the right to designate up to six months of the period while such application was pending for purposes of acquiring credit towards City Service as defined in Section 4.1001, subject to the following conditions:

1. The designated period does not already entitle the member to service credit.
2. The maximum period to be designated is six months or the actual period of time while the application for disability retirement was pending, whichever was less.
3. If a member has applied more than once for disability retirement, the cumulative total period to be designated may not exceed six months or the time elapsed while applications were processed, whichever is less.
4. The right granted by said section shall be exercised in writing, filed with the Board of Administration, designating the period of City Service for which the member desires to receive retirement credit, and must be accompanied by a single payment of back contributions or by an irrevocable agreement to pay such back contributions in installments. The back contributions to be paid shall be in an amount equal to all of the contributions which he or she would have made to the Fund had he or she been making contributions during such period, based upon such

person’s Compensation Earnable before the discontinuance of his or her service, together with all regular interest which, had he or she so made the same, would have been credited thereon prior to the date of such payment; provided, however, that in the case of such installment payments thereof, the same shall be made pursuant to rules which shall be adopted by the Board of Administration establishing minimum amounts to be paid and the period of time therefor and providing the rate of interest which shall also be paid upon the unpaid balance of the same. Every member who makes up back contributions, as hereinabove provided, shall be allowed credit for the period of City Service designated in the declaration filed by him or her with the Board of Administration; provided, however, that should he or she, for any reason, cease to be a member before making up the full amount thereof, he or she shall be allowed retirement credit, counter-calendarwise, for the same portion of such designated period as the amount made up by him or her is of such full amount, and provided further, that should he or she cease to be a member by reason of his or her death, retirement credit shall be allowed for the whole period designated by him or her if his or her surviving spouse were to exercise the option which, under such circumstances, hereby is given to any surviving spouse to make a single payment of all of the unpaid installments with accrued interest thereon.

SECTION HISTORY

Added by Ord. No. 154,050, Eff. 8-2-80.  
 Amended by: First Para. and Para. (4), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00; Para. (4), Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1056. Computation of Allowances in Case of Early Retirement.**

SECTION HISTORY

Added by Ord. No. 147,053, Eff. 5-4-75.  
 Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.  
 Repealed by Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1056.1. Computation of Allowances in Case of Early Retirement; Full Formula Retirement After 30 Years of Service and Attainment of Age 55.**

SECTION HISTORY

Added by Ord. No. 147,686, Eff. 9-12-75.  
 Amended by: Title and section, Ord. No. 157,226, Eff. 12-10-82, Oper. 1-1-83.  
 Repealed by Ord. No. 182,196, Eff. 8-8-12.



**Sec. 4.1056.2. Computation of Allowance in Case of Early Retirement; Full Formula Retirement After 30 Years of Service and Attainment of Age 55.**

(a) Except as otherwise provided in Subsection (b) of this section, service retirement allowances computed as provided in Section 4.1022 of this chapter shall, in case of early retirement, be modified by multiplying them by the factor set forth in the table below corresponding to a member's age taken to the completed quarter year.

**EARLY RETIREMENT REDUCTION FACTORS FOR 2.16 PERCENT FORMULA**

45	0.6250
45 1/4	0.6325
45 1/2	0.6400
45 3/4	0.6475
46	0.6550
46 1/4	0.6625
46 1/2	0.6700
46 3/4	0.6775
47	0.6850
47 1/4	0.6925
47 1/2	0.7000
47 3/4	0.7075
48	0.7150
48 1/4	0.7225
48 1/2	0.7300
48 3/4	0.7375
49	0.7450
49 1/4	0.7525
49 1/2	0.7600
49 3/4	0.7675
50	0.7750
50 1/4	0.7825
50 1/2	0.7900
50 3/4	0.7975
51	0.8050
51 1/4	0.8125
51 1/2	0.8200
51 3/4	0.8275
52	0.8350
52 1/4	0.8425
52 1/2	0.8500
52 3/4	0.8575
53	0.8650
53 1/4	0.8725
53 1/2	0.8800
53 3/4	0.8875
54	0.8950
54 1/4	0.9025

54 1/2	0.9100
54 3/4	0.9175
55	0.9250
55 1/4	0.92875
55 1/2	0.93250
55 3/4	0.93625
56	0.94000
56 1/4	0.94375
56 1/2	0.94750
56 3/4	0.95125
57	0.95500
57 1/4	0.95875
57 1/2	0.96250
57 3/4	0.96625
58	0.97000
58 1/4	0.97375
58 1/2	0.97750
58 3/4	0.98125
59	0.98500
59 1/4	0.98875
59 1/2	0.99250
59 3/4	0.99625
60 and over	1.00

Service retirement allowances of members retiring after attaining age sixty (60) are not subject to reductions.

(b) Any member who has completed thirty (30) or more years of service and has attained the age of fifty-five (55) may elect to retire and be paid a retirement allowance which would be payable to such member had he or she attained age sixty (60) at the time of such retirement without any reduction of said allowance as otherwise provided in Subsection (a) of this section.

**SECTION HISTORY**

Added by Ord. No. 171,305, Eff. 10-2-96.

Amended by: Subsec. (c), Ord. No. 172,808, Eff. 9-20-99;  
Subsec. (c), Ord No. 174,820, Eff. 9-25-02; Ord. 182,196,  
Eff. 8-8-12.

**Sec. 4.1057. Survivor's Right to Designate the Beneficiary of Unused Accumulated Contributions and Accrued but Unpaid Allowances.**

The spouse or domestic partner who is receiving an allowance as a result of the death of a deceased member, referred to as the survivor for purposes of this Section, may file a beneficiary designation with the Board of Administration naming a beneficiary or beneficiaries for any accrued but unpaid allowance payable upon the survivor's death and, subject to the limitations set forth below, for the deceased member's unused accumulated contributions.

Upon the survivor's death, any accrued but unpaid allowance shall be paid in the following order: to the survivor's designated beneficiaries; if none, to the children of the survivor; if no children, to the parents of the survivor; if no parents, to the executor or administrator of the estate of the survivor or to any other person or legal entity legally entitled to collect money due to the survivor. Should the survivor leave no one legally entitled to collect any accrued allowance, it shall be paid in the following order: to the deceased member's children or, if none, to the deceased member's parents, or if none, to the executor or administrator of the estate of the member or to any other person or legal entity legally entitled to collect money due to the deceased member.

If the deceased member has failed to designate a beneficiary for the unused accumulated contributions or if the beneficiaries so designated by the deceased member have all predeceased the survivor, then upon the death of the survivor, the Board of Administration shall pay the unused accumulated contributions pursuant to the survivor's beneficiary designation on file with the Board; in the event the survivor has no beneficiary designation on file or the named beneficiaries have all predeceased the survivor, then the unused accumulated contributions shall be paid in the following order: to the deceased member's children or, if none, to the deceased member's parents, or, if none, to the executor or administrator of the estate of the survivor or to any other person or legal entity legally entitled to collect money due to the deceased survivor.

#### SECTION HISTORY

Added by Ord. No. 117,053, Eff. 5-4-78.  
Amended by: Ord. No. 148,239, Eff. 4-19-76; Title and Section,  
Ord. No. 182,196, Eff. 8-8-12.

#### **Sec. 4.1058. Medical examinations of Disability Retirement Applicants.**

Whenever the Board of Administration shall have before it for consideration or decision an application for disability retirement pursuant to the provisions of Section 4.1055, the Board shall cause such member to be examined by and a written report thereon rendered by at least three regularly licensed, practicing physicians selected by said Board and shall hear such other evidence relating to such disability of such member as may be presented to said Board. If the member is terminally ill, the Board shall cause said member to be examined by only one regularly licensed, practicing physician selected by the Board. If, upon considering the report of such physician(s) and such other evidence as shall have been presented to it, said Board finds that said member has become physically or mentally

incapacitated and is incapable, as a result thereof, of performing his duties and if said Board finds that such disability was not due to intemperance or the willful misconduct of such member, he shall be retired as of the date of the discontinuance of his service on account of such disability or termination of sick leave with pay.

#### SECTION HISTORY

Added by Ord. No. 147,053, Eff. 5-4-75.  
Amended by: Ord. No. 171,410, Eff. 12-23-96; Ord. No. 173,  
237, Eff. 6-19-00, Oper. 7-1-00.

#### **Sec. 4.1058.1. Requirements Concerning Proof of Disability in Case a Member Dies Subsequent to His or Her Application but Before Reports from Three Physicians can be Obtained.**

Whenever the Board of Administration shall have before it for consideration or decision an application for disability retirement pursuant to the provisions of Section 4.1055 by a member who died while he or she was waiting for the disability application to be processed and prior to reports of examination being obtained from three or more physicians selected by the Board, a disability retirement may be granted on the basis of fewer than three medical reports or no such reports subject to the following provisions:

The Board must find:

- (a) That the applicant was physically or mentally incapacitated since the discontinuance of service and incapable of performing the duties of his or her position; and
- (b) That the disabling condition(s) and death of the applicant were not due to the applicant's intemperance or willful misconduct.

It shall be within the power of the Board to adopt all necessary rules to implement the provisions of this section including but not limited to rules regarding the type and quantity of evidence required to make a determination as required under the provisions of the last preceding paragraph of this section.

In the event that an applicant's disability retirement is granted by the Board after his or her death, whether pursuant to the provisions of this Section or based upon three or more reports that were obtained from physicians selected by the Board, and he or she leaves a survivor eligible for a continuance of his or her disability retirement allowance as provided in Section 4.1044, the retirement allowance payable to such deceased member shall be

reduced so as to provide for a 100% disability survivorship allowance as if such deceased applicant had elected to provide a continuing benefit under the provisions of Section 4.1053(a).

## SECTION HISTORY

Added by Ord. No. 151,860, Eff. 2-23-79.  
Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00; Last Para. added, Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1058.2. Past Service Credit for Former Members of the Fire and Police Pension Plans, Tiers 1 and 2, who Transferred Pursuant to Charter Section 1014 and Certain Provisions of Former Section 108 of the City Charter.**

## SECTION HISTORY

Added by Ord. No. 154,877, Eff. 2-26-81.  
Amended by: Sec. Title, First Para., Subsecs. (a), (b), (c), (d), (e), (f), (g) and (h), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.  
Repealed by Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1059. Accumulated Contributions May Be Refunded to Certain Employees.**

Any member whose employment status changes in such manner that he or she would be ineligible for membership pursuant to the provisions of Section 4.1002(8) if not already a member, may file a written application, together with proof of status change, with the Board of Administration requesting that his or her membership in the Retirement System be terminated. Provided that he or she provides sufficient proof of status change, the Retirement System shall approve the request. If such request is approved, the former member shall become a member of the Pension Savings Plan for Part-time, Seasonal and Temporary Employees established in Chapter 16 of this Code, provided that he or she otherwise qualifies to participate in such plan. Unless federal law permits a withdrawal of contributions, the former member's accumulated contributions shall remain in the fund so long as he or she continues to be employed, in any capacity, by the City.

## SECTION HISTORY

Added by Ord. No. 147,053, Eff. 5-4-75.  
Amended by: Title and Section, Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1059.1. Immediate Vesting Of Retirement Benefits For Part-Time Employees Who Are Members Of The Los Angeles City Employees' Retirement System.**

## SECTION HISTORY

Added by Ord. No. 169,048, Eff. 10-18-93.  
Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.  
Repealed by Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1060. Benefits for Employees Upon Their Change of Membership from the Water and Power Employees' Retirement Plan to Membership in the Los Angeles City Employees' Retirement System and for Members Who Change Membership from the Los Angeles City Employees' Retirement System to the Water and Power Employees' Retirement Plan.**

(1) **Definitions.** For the purpose of Section 4.1060 of the Los Angeles Administrative Code, the Los Angeles City Employees' Retirement System will be referred to as "**the LACERS**" and the Water and Power Employees' Retirement Plan as "**the WPERP**". Members of the Los Angeles City Employees' Retirement System will be referred to as "**System Members**" and the members of the Water and Power Employees' Retirement Plan will be referred to as "**Plan Members**".

"**City Service**" or "**Service**" shall mean only those periods during which a member received compensation from the City as an employee and for which the member made contributions to either the LACERS or the WPERP.

With respect to all other terms used in this section the definitions contained in Chapter 10 of the Los Angeles Administrative Code shall be applicable unless a different meaning is clearly indicated by the context.

(2) **Membership in the LACERS.** A plan member shall become a system member immediately upon changing employment from the Department of Water and Power to such other office, class, or position established by the City of Los Angeles as would make him or her eligible for membership in the LACERS, provided, however, that there is no break in service of more than seven calendar days. If there is a break in service of more than seven calendar days, the former plan member shall become a system member on the date that his or her entrance into such employment with the City of Los Angeles makes him or her eligible to become a system member.

Membership shall entitle the system member to all benefits for retirement, disability and death for which he or she would qualify based upon his or her total service in both the LACERS and the WPERP.

(3) **Contributions of System Members who Transfer from the Department of Water and Power.** A plan member who becomes a system member shall contribute to LACERS at the applicable rate provided in Section 4.1031.2.

(4) (This subsection has been deleted as obsolete because LACERS contributions are no longer based on entry age.)

(5) **Election not to Participate in the Reciprocal Retirement Benefits Arrangement.** A system member may, at any time prior to the expiration of a seven (7) month period following a change of employment from the Department of Water and Power, elect in writing as prescribed by the Board of Administration of the LACERS to commence membership with the LACERS as if such member had no previous City service if (a) the member withdraws his or her contributions from the WPERP or (b) leaves his or her contributions on deposit with the WPERP in order to qualify for a deferred retirement allowance from WPERP in the future.

(6) **Transfer of Members' Accumulated Contributions and Service Credit Between WPERP and LACERS.** Subject to the provisions of Subsection (12) of this section a member's accumulated contributions in the WPERP will be transferred from the WPERP to the LACERS in accordance with necessary administrative procedures to be developed between the WPERP Board of Administration and the LACERS Board of Administration, unless the system member has made one of the elections provided in Subsection (5) of this section.

In the case of a system member who becomes a plan member by virtue of his or her change of employment to the Department of Water and Power and who has not made an election pursuant to the terms of the WPERP, the LACERS upon an appropriate demand for such transfer by the WPERP shall pay to the WPERP the former system member's accumulated contributions to the LACERS.

(7) **Treatment of Uncompleted Service Purchases.** System members who, at the time of their transfer to membership in the LACERS, have commenced making service purchases with the WPERP for service but have not completed payment of the obligation undertaken by them, may complete the payment thereof with the LACERS at the

same rate that was to be payable by them pursuant to the arrangements with WPERP to make such service purchase.

(8) **Continuous Service.** Continuous service to determine a system member's eligibility for service or disability retirement shall include City service as defined in this section and not as defined in Section 4.1001, provided however, that the system member has not exercised one of the elections provided in Subsection (5) of this section.

(9) **Family Death Benefit Insurance Plan.** The phrase "Death Benefit Plan Service" as used in Section 4.1063 shall in the case of a plan member who transfers to the LACERS include such City service as a plan member for which the system member has made back contributions in accordance with the requirements set forth in Section 4.1052 of the Los Angeles Administrative Code.

A system member in order to be eligible to make back contributions, must not have exercised one of the elections provided in Subsection (5) of this section.

The mode of paying such back contributions in a lump sum or on an installment basis shall be decided by the Board of Administration of the LACERS which Board shall, within a reasonable time after the effective date of this section, adopt appropriate rules for the implementation of the provisions of this subsection.

(10) **Prohibition Against Dual Benefits.** Benefits provided to system members as a result of the enactment of this section shall not be in addition to benefits provided by the WPERP on account of the occurrence or non-occurrence of any contingency or event which would under the provisions of the WPERP generate entitlement to a benefit or benefits.

(11) **Application of this Section to Current System Members; Waiver by LACERS of Funds from WPERP and the General Fund.** A system member, on the effective date of this section, who has been a member of the WPERP prior to his membership in LACERS and who has not transferred or withdrawn his accumulated contributions from WPERP, shall be entitled to the benefits herein described upon making application for such benefits as provided herein, provided however, that no funds shall be provided by WPERP or the General Fund of the City in excess of a member's accumulated contributions.

(14) **Reciprocity of Benefit Provisions and Conditions Affecting this Section.** It is the intent and purpose of this section to provide or help to provide portability between the LACERS and the WPERP. The

achievement of complete portability of benefits is dependent upon appropriate action by the governing body of the WPERP. Should the implementation of any provisions of this section be possible only if some specific action is taken by the WPERP, then and as to such provisions only, the effect of this section shall be suspended until appropriate action has been taken by the WPERP.

#### SECTION HISTORY

Added by Ord. No. 153,294, Eff. 2-15-80,  
Amended by: Paras. (12) and (13) repealed, Ord. No. 168,732,  
Eff. 5-31-93; Sec. Title, Subsecs. (1), (2), (3), (4), (5), (6),  
(7), (8), (9), (11) and (14), Ord. No. 173, 237, Eff. 6-19-00,  
Oper. 7-1-00; Subsecs. (2), (3), (4), (5), (7), (8) and (9),  
Ord. No. 182,196, Eff. 8-8-12.

#### **Sec. 4.1061. Compliance with Certain Internal Revenue Code Provisions.**

(a) Notwithstanding any other provisions of this chapter, the benefits payable to any person who becomes a plan member on or after January 1, 1990, shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code. Effective for limitation years beginning on or after January 1, 2001, for purposes of applying the limitations of Section 415 of the Internal Revenue Code, compensation paid or made available during the limitation year shall include any amounts that are not includable in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code.

For the purpose of applying the limitations of Section 415(e) of the Internal Revenue Code, the portion of the LACERS that constitutes a defined benefit plan shall be the portion subject to reduction in the event that Section 415(e) requires reduction of benefit or contributions.

(b) The benefits payable to any person who became a plan member prior to January 1, 1990, shall be subject to the greater of the following:

(1) The limitations set forth in Section 415 of the Internal Revenue Code; or

(2) The accrued benefit of the member (determined without regard to any amendment made after October 14, 1987, as provided in Section 415(b)(10)(A) of the Internal Revenue Code.

(c) If compliance with the provisions of Internal Revenue Code Section 415 and related sections would result in a lower level of retirement benefits for members on or after January 1, 1990 than for members prior to that date,

then the Council shall provide, by ordinance, an alternative means of maintaining for such members the level of benefits in effect for members as of December 31, 1989.

(d) If any of the limitations of Section 415 of the Internal Revenue Code should be repealed, the provisions of this section shall be deemed repealed to the same extent.

(e) Nothing contained in this section shall limit the City Council from modifying benefits to the extent such modifications are permissible by City Charter and applicable State and Federal law.

(f) Notwithstanding any provision of this plan to the contrary, effective December 12, 1994, contributions, benefits, and service credit with respect to qualified military service while an employee will be provided in accordance with Section 414(u) of the Internal Revenue Code.

#### SECTION HISTORY

Added by Ord. No. 165,334 Eff. 1-15-90.  
Amended by: Subsec. (a) Unnumbered Para. added by Ord. No. 171,487, Eff. 1-24-97; Subsec. (a), Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00; Subsec. (a) amended, Subsec. (f) added, Ord. No. 175,767, Eff. 2-9-04.

#### **Sec. 4.1062. Payments Upon Death.**

(a) **Upon the death of any member before retirement:**

(1) The member's accumulated contributions shall be paid to such person or legal entity as the member shall have nominated by written designation duly executed and filed with the Board of Administration or, if there be no such written designation of beneficiary, then to the surviving spouse of such deceased member, or to the member's children in the event there be no surviving spouse, or to the member's parents in the event there be no surviving spouse or children. In the event there be no written designation of beneficiary, surviving spouse, children or parents, then said accumulated contributions shall be paid to the executor or administrator of the estate of such deceased member, or to any other person or legal entity legally authorized to collect money due the decedent.

(2) In the event such member shall have had at least one year of City service for which the member is entitled to receive retirement credit, then a limited pension shall be paid as provided herein. The limited pension shall be paid in equal monthly payments of

one-half of the average monthly compensation earnable of such member during the member's last year of service. For each year of service, not to exceed six years, two monthly payments shall be paid, not to exceed a total of 12 monthly payments for six or more years of service. Such limited pension shall be paid to the surviving spouse or domestic partner of such deceased member or to the minor children of such member, in the event there shall be no surviving spouse or domestic partner. The payment to a minor child shall continue beyond the month the child reaches age 18 if the child was a minor on the date of the member's death. In the event there be no surviving spouse or domestic partner or minor children, the limited pension shall be paid to the dependent parents of such member. However, no limited pension shall be paid in the event the Board of Administration, upon investigation and after a hearing in the matter, finds that the death of such member was due to or resulted from the intemperance or the willful conduct of such member. In the event any such beneficiary should die before receiving the full amount of such limited pension, the same shall be continued to the persons who, in the order hereinabove set forth, qualify as beneficiaries thereof as of the date of death of such deceased beneficiary and who, within sixty (60) days after such date make demand for payment thereof; provided, however, that in the event no such demand is made within such time, the said limited pension shall conclusively be deemed to have been terminated as of such date of death.

(3) In the event such member was eligible to retire pursuant to the provisions of Section 4.1020 or 4.1002.1(e) of this Chapter and that the person or persons entitled to be paid such limited pension is or are the same person or persons entitled to be paid, against the claims or demands of any and all other persons thereto, the full amount of such member's accumulated contributions, then such person or persons may, by a written instrument duly executed, acknowledged and filed with the Board of Administration, waive payment of such limited pension and such accumulated contributions and elect to be paid, in lieu thereof, the optional retirement allowance which would have been paid to such member throughout his or her life and continued, upon his or her death, throughout the life or lives of such person or persons as his or her designated survivor or survivors, had the member, as of the day preceding his or her

death, been retired pursuant to the provisions of Section 4.1053(a)(1) of this chapter and designated such person or persons as his or her survivor or survivors. The duly appointed, qualified and acting guardian of the estate of a minor child or an incompetent shall make such waiver and election on behalf of such minor child or incompetent. In no event shall the benefits of this subdivision be payable to any person after the allowance of a limited pension pursuant to the provisions of Subdivision (2) of this subsection nor shall the limited pension be payable to any person after the allowance of the benefits of this section. If a spouse or domestic partner of a Tier 1 member makes the election authorized herein, the provisions of Section 4.1044(h) of this Chapter shall apply.

(b) Upon the death of a member after retirement, or, upon the death of all of the member's survivors to whom a retirement allowance was paid, the unused contributions and any accrued but unpaid retirement allowance shall be paid in the same manner as that provided in Subdivision (1) of Subsection (a) of this section for the payment of the accumulated contributions of a member who dies before retirement, provided, however, that the member or any survivors shall not have received a retirement allowance pursuant to which no refund of contributions is payable upon the death of the member or his or her last survivor, in which case no contributions shall be refundable. For the purpose of this subsection, the phrase "**unused contributions**" shall be the remainder, if any, of the accumulated contributions of such deceased member after deducting the total of all amounts paid on account of any annuity to such member and to his or her survivor or survivors, provided that there shall be no unused contributions in the event that the member or any survivors received a retirement allowance pursuant to which no refund of contributions is payable upon the death of the member or his or her last survivor.

(c) Upon the death of every member after retirement provided that such death occurred on or after October 2, 1996, the sum of \$2500 shall be paid to such person or legal entity as the member shall have nominated by written designation duly executed and filed with the Board of Administration or to the surviving spouse of such deceased member, in the event no such designation is filed, or to his or her child or children, in the event there be no designated beneficiary or surviving spouse, provided that such payment shall be made only after satisfactory evidence has been presented to the Board showing that the expense of burial of such deceased member has been paid or that the obligation to pay therefor has been assumed by a person or persons or an organization legally capable of contracting such

obligation. The fact of burial, as evidenced by a certified copy of the death certificate, shall be sufficient evidence of compliance with the requirements stated in the foregoing sentence.

In the event there be no designated beneficiary, surviving spouse or child or children, or in the event the requirements herein stated with respect to the expense of burial of such member have not been complied with within such time as said Board in its discretion may determine, then the payment of the amount specified in this subsection shall be paid to the executor or administrator of the estate of such deceased member or to any other person or legal entity legally authorized to receive money due said decedent.

(d) The right to payment of the member's accumulated contributions upon the member's death before retirement, as provided in Subsection (a) herein, and the right to payment of the member's unused contributions, as provided in Subsection (b) herein, upon the later of the death of the retired member or the retired member's survivor to whom an allowance was paid, is a vested property right of the person(s) entitled to such payment, provided, however, that should the person(s) entitled thereto fail to claim this benefit within ten years from the date of such death, the funds shall revert to the Retirement Fund, unless and until, the Board of Administration receives a valid belated claim for payment determined at the sole discretion of the Board of Administration. Any death benefit payable shall be subject to mandatory minimum distribution as required by the Internal Revenue Code provided that the funds that are required to be distributed shall revert to the Retirement Fund if the person(s) entitled to the funds refuses to cooperate in electing to be paid such funds or cannot be located and the Retirement System has followed Internal Revenue Service procedures to locate such person(s).

#### SECTION HISTORY

Added by Ord. No. 171,305, Eff. 10-2-96.  
Amended by: Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00;  
Subsecs. (a)(2) and (a)(3) amended and Subsec. (d) added,  
Ord. No. 182,196, Eff. 8-8-12; Subsec. (a)(3), Ord. No.  
182,296, Eff. 11-12-12.

#### Sec. 4.1063. Family Death Benefit Insurance Plan.

For the protection of the families of members who die before retirement, the following death benefit plan is hereby established:

(a) **“Family Death Benefit Insurance Plan”** shall mean the death benefit plan established in this Section for the protection of the families of members

who die before retirement. For purposes of this Section **“Plan”** shall refer to the Family Death Benefit Insurance Plan.

**“Family Death Benefit Plan Member”** shall include only a member of the Retirement System who elects to participate in the coverage provided by this Section. Such election shall be made in writing and may be filed with the Board of Administration at any time after the completion of 18 months of service.

A Family Death Benefit Plan Member may cancel participation in the Plan by filing written notice with the Board of Administration of such cancellation and, from and after the first day of the calendar month next succeeding such filing, no contributions on account of the Plan shall be taken. No benefit shall thereafter be paid under the provisions of Subsection (b) of this Section for service rendered prior to such cancellation nor shall such former participant be again eligible to participate in the Plan until he or she has completed 18 or more months of service subsequent to the date of such cancellation.

**“Death Benefit Plan Service”** shall include only months of service as a contributing Family Death Benefit Plan Member.

**“Survivor”** for purposes of this Section only, shall mean the surviving spouse or surviving domestic partner of the member and shall not include any other person(s) who survives the member.

Benefits payable under this Section are subject to earning limitations and, accordingly, may be subject to reduction. Benefits to certain recipients may also be terminable in the event of the person's marriage. Every person receiving payments under the provisions of this Section therefore shall make such reports relative to employment, earnings, and marital status as the Board may determine, and failure to furnish any such report within the time and in the manner specified by said Board shall be cause for the suspension or cancellation of any further payments as said Board may in its discretion determine.

No payments shall be made under this Section on account of the death of a member in which the optional survivorship allowance provided by Section 4.1062 (a)(3) of this Chapter is selected. In the event that the optional survivorship allowance provided by Section 4.1054(f) of this Chapter is selected when the member dies, benefits may be temporarily paid under this Section provided that all benefits payable pursuant to

this Section shall terminate on the day before the effective date that payments begin pursuant to the provisions of Section 4.1054(f).

(b) Upon the death of a Family Death Benefit Plan Member who has completed at least 18 months of Death Benefit Plan Service:

(1) The Survivor of such member, having the care and custody of such member's child or children under the age of 16, shall receive a monthly allowance as provided in Subsection (d) until such time as he or she shall marry.

(2) The Survivor, natural parent or adoptive parent of a member's child or children under the age of 18, having care and custody of such child, shall receive a monthly allowance as provided in Subsection (d).

(3) In the event there are surviving children under the age of 18 who are not in the care or custody of the member's Survivor, or in the care of custody of the child's natural or adoptive parent, there shall be paid to the legally appointed guardian of estate of the member's child or children a monthly allowance as provided in Subsection (d).

The allowance payable to a Survivor under Paragraph (1) of this Subsection shall be paid only so long as such person remains unmarried and has a child or children under the age of 16 in his or her care and custody on whose account an allowance is payable under this Subsection.

The phrase "**child or children under the age of 18**" shall include, in addition to a child who has not attained his or her 18th birthday as of the date of the member's death, any child who, before reaching the age of 22, has become unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or to be of long continued and indefinite duration. The allowance payable on account of every child shall cease when such child reach the age of 18 unless such child was, or has become, disabled as in this paragraph provided, in which case payments on account of such a disabled child shall be continued for the duration of the disability. The Board of Administration shall have the power to hear and determine all matters pertaining to the degree and the duration of any child's disability

and the determination of said Board shall be final and conclusive.

(c) Upon the death of a Family Death Benefit Plan Member, who has at least 120 months of Death Benefit Plan Service:

(1) If there be a Survivor or children of such member eligible to receive payments under Subsection (b), such payments shall be made as therein provided;

(2) Upon reaching age 60, the Survivor of such member, if he or she has not married since the member's death and is not entitled to a Survivor's payment under Subsection (b), shall be paid a monthly pension as provided in Subsection (e).

(3) Upon reaching age 50, the Survivor of such member who is found to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or to be of long continued and indefinite duration, if he or she has not married since the member's death and is not entitled to a Survivor's payment under Subsection (b), shall be entitled to receive the benefit provided in Subsection (e) with such actuarial adjustment as provided by Board rule. The Board of Administration shall have the power to hear and determine all matters pertaining to the degree and the duration of any Survivor's disability and the determination of said Board shall be final and conclusive.

(4) In the event the member is not survived by a Survivor or children, but is survived by a parent or parents who during the last year of the member's service had received at least 1/2 of their necessary living expenses from such member, there shall be paid to each such parent a monthly pension as provided in Subsection (f); provided, however, that such payments shall not begin before the parent has reached age 62 and no payment shall be made to a parent who has married subsequent to the member's death. In order to qualify for this benefit, the parent(s), regardless of their age at the time of the member's death, must within a period of six months following the member's death file a claim with the Board of Administration for such benefit and establish to the



satisfaction of said Board the fact of dependency as provided herein. Failure for any reason to file such claim within the time herein specified shall forever bar the right of such parent or parents to assert a claim to such benefits.

(d) Effective December 16, 1996 and ongoing, the monthly allowance to be paid pursuant to Subsection (b) shall be as follows:

Survivor with one child	-\$1,875.00
Survivor with two children	-\$2,186.90
No survivor:	
1 child	-\$937.50
2 children	-\$1,875.00
3 children	-\$2,186.90

(e) Effective December 16, 1996 and ongoing, the monthly allowance payable to a Survivor pursuant to Subsection (c) shall be as follows:

For payments beginning at age 60	-\$613.04
For payments beginning at age 61	-\$661.93
For payments beginning at age 62	-\$710.78
For payments beginning at age 63	-\$759.66
For payments beginning at age 64	-\$808.52
For payments beginning at age 65 or older	-\$857.40

(f) Effective December 16, 1996 and ongoing, the monthly allowance payable to a dependent parent(s) pursuant to Subsection (c) shall be as follows:



For one dependent parent	-\$1,031.25
For two dependent parents	-\$1,875.00

(g) Full power and authority is hereby vested in the Board of Administration to make such changes in the conditions set forth in Subsections (b) and (c) of this section governing entitlement to and continued payment of the benefits therein provided, as will from time to time, make such conditions comparable to and in substantial accordance with the conditions governing the respective Survivor Benefits under the Old-Age, Survivors and Disability Insurance (OASDI) Program.

In addition, the Board shall establish an earnings test and provide for a reduction in the payments to be made under this section, which test and reduction in payments shall be in substantial accordance with the earnings test and reduced payments on account of earning established under the OASDI Program.

It is the intent, meaning, and purpose of this Subsection to provide a means whereby entitlement to and continuance of benefit payments to the surviving children, Survivor, or parents of a deceased Family Death Benefit Plan Member shall be in substantial accordance with the conditions governing entitlement to and continuance of the comparable Survivor Benefits under the OASDI Program. The rights granted to Family Death Benefit Plan Members under this Section shall be cumulative in the event that benefits become payable to children whose parents were both Family Death Benefit Plan Members at the time of their respective deaths.

(h) Full power and authority is hereby vested in the Board of Administration to make such changes in the conditions set forth in Subsection (b) of this section governing entitlement to and continued payment of the benefits therein provided, as will, from time to time, make such conditions comparable to and in substantial accordance with the conditions governing the respective Survivor Benefits under the OASDI Program.

In addition, the Board shall establish an earnings test and provide for a reduction in the payments to be made under this section which test and reduction in payments shall be in substantial accordance with the earnings test and reduced payments on account of earnings established under the OASDI Program.

It is the intent, meaning, and purpose of this subsection to provide a means whereby entitlement to

and continuance of benefit payments to the surviving children, widow, widower, or parents of a deceased Family Plan Member shall be in substantial accordance with the conditions governing entitlement to and continuance of the comparable Survivor Benefits under the OASDI Program.

It shall be the duty of every person receiving payments under the provisions of this section to make such reports relative to employment, earnings, and marital status as the Board of Administration may determine, and failure to furnish any such report within the time and in the manner specified by said Board shall be cause for the suspension or cancellation of any further payments as said Board may in its discretion determine.

#### SECTION HISTORY

Added by Ord. No. 171,395, Eff. 12-16-96.

Amended by: Ord. No. 173,349, Eff. 7-17-00, Oper. 7-1-00; Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1064. Direct Rollovers.

(a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Los Angeles City Employees' Retirement System to the contrary that would otherwise limit a distributee's election under this part, the "distributee" of an "eligible rollover distribution" may elect to have any portion of an eligible rollover distribution that is equal to at least \$200 paid directly to an "eligible retirement plan" specified by the distributee in a "direct rollover."

#### (b) Definitions.

**"Eligible rollover distribution"**: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal period payments made for the life of the distributee or the joint lives of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income; and any other distribution(s) that is reasonably expected to total less than \$200 during a year. On or after January 1, 2002, a portion of a distribution that is not includable in gross income, but

that otherwise qualifies as an eligible rollover distribution, is an eligible distribution provided that the eligible retirement plan designated to receive such portion of a distribution is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code or a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution, which is includable in gross income and the portion of such distribution, which is not so includable.

**“Eligible retirement plan”:** An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code or a qualified plan described in Section 401(a) of the Internal Revenue Code that accepts a distributee’s eligible rollover distribution. On or after January 1, 2002, an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code, maintained by an employer described in Section 457(e)(1)(A) of the Internal Revenue Code, and annuity contract described in Section 403(b) of the Internal Revenue Code, are also eligible retirement plans. However, prior to January 1, 2002, in the case of an eligible rollover distribution to the surviving spouse or other designated beneficiary, an eligible retirement plan is an individual retirement account or individual retirement plan annuity only.

**“Distributee”:** A distributee means an employee, former employee, spouse or former spouse of an employee or former employee eligible for a rollover distribution.

**“Direct rollover”:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

#### SECTION HISTORY

Added by Ord. No. 171,487, Eff. 1-24-97.  
Amended by: Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00; In Entirety, Ord. No. 174,820, Eff. 9-25-02.

#### Sec. 4.1064.1. Trustee-to-Trustee Transfers to LACERS.

The Board of Administration may, notwithstanding any restrictions upon the method of such payment specified elsewhere, provide by rule that any member eligible to:

- (1) make up back contributions,
- (2) re-deposit contributions,
- (3) buy back service credit,
- (4) make up contributions for periods during which Workers’ Compensation was received,
- (5) make additional contributions to purchase a larger annuity provided it is determined cost-neutral by the actuary or
- (6) make any other payment in order to receive an increased benefit, may make full or partial payment for these purposes by a direct trustee-to-trustee transfer of funds from any eligible retirement plan (as defined in Section 402(c)(8)(B) of the Internal Revenue Code) as permitted under current federal and state law or under these laws as amended in the future. Should this transfer constitute a partial payment, any additional payment received in a lump sum shall together with the amount transferred directly be considered one payment for purposes of this Chapter.

#### SECTION HISTORY

Added by Ord. No. 174,820, Eff. 9-25-02.  
Amended by: In Entirety, Ord. No. 175,092, Eff. 2-20-03.

#### Sec. 4.1065. Reciprocal Benefits with the Public Employees’ Retirement System.

(a) **Uniform Reciprocal Provisions.** The purpose of these reciprocal provisions is to extend to the members of other public agency retirement systems (hereinafter “**reciprocal system**”) which adopt similar reciprocal provisions into their retirement ordinances or plans pursuant to Sections 20351, 20353, 31840.2 and 45310.5 of the Government Code, and who by contract agree to extend the benefits thereof to the Los Angeles City Employees Retirement System (hereinafter “**this system**”), the following rights in this system, provided such member enters into employment under this system or the reciprocal system within six months of terminating his or her employment under such other or this system:

(1) Notwithstanding any provisions of this plan or a reciprocal system plan in the matter of vesting, a member whose movement between systems occurs as herein specified shall have the right to elect to leave his or her accumulated contributions on deposit irrespective of the amount of such contributions or the length of service credited to him or her.

(2) The age of entry for a person entering this system for purposes of fixing member contribution rates from a reciprocal system shall be his or her age at entry into such reciprocal system.

(3) The average monthly salary during any period of service as a member of a reciprocal system shall be considered compensation earnable by a member of this system for purposes of computing final compensation for such member, provided he or she retires concurrently under both systems and is credited with such period of service under the reciprocal system at the time of retirement.

(4) Service, solely for purposes of meeting minimum service qualifications for benefits and retirement allowances under this system, shall also include service rendered as an officer or employee of a reciprocal system if the salary for such service constitutes compensation earnable by a member of this system.

(5) A member shall be retired for disability and receive a retirement allowance based on the service credited to him or her at the time of retirement during any period in which he or she receives a disability retirement allowance under a reciprocal system; provided, that such allowance shall not exceed an amount which when added to the allowance paid under the reciprocal system equals the allowance which would be paid for a non-industrial disability if all the member's service had been credited under the reciprocal system; and provided further, that such allowance shall in no event be less than an annuity which is the actuarial equivalent of the member's contributions, whether or not the disability is for industrial reasons.

(6) The death benefit for a member who dies from non-industrial causes as a member of a reciprocal system shall not exceed an amount which when added to the death benefit paid for such member under the reciprocal system equals the maximum death benefit payable under that system; provided, however, that such death benefit shall be at least the amount of the

accumulated contributions; and, provided further, that if death is caused by industrial injury or disease in the reciprocal system the death benefit shall be the amount of the member's accumulated contributions.

(7) The governing body of this system shall on the request of a reciprocal system supply information and data necessary for administration of such system as it is affected by membership in and service credited under this system.

(8) Interpretation of these provisions shall be made with reference to interpretations that have been made relative to the Public Employees' Retirement System - 1937 Act County Employees' Retirement reciprocal provisions upon which they are based.

(9) These provisions shall apply only to a member whose termination and entry into employment resulting in a change in membership from this system to such other system or from such other system to this system occurred after such acceptance by the board or after the effective date specified in the agreement; provided, however, that provisions relating to computation of final compensation shall apply to any other member if such provision would have applied had the termination and entry into employment occurred after such acceptance or determination by a system's governing board.

(10) Rights under this System shall be modified as necessary to conform to amendments to the Public Employees' Retirement Law or the County Employees' Retirement Law of 1937 as provided in Section 20353, Government Code.

#### SECTION HISTORY

Added by Ord. No. 171,656, Eff. 7-14-97.

Amended by: Subsec. (a), Ord. No. 173,237, Eff. 6-19-00, Oper. 7-1-00.

#### **Sec. 4.1066. Separate Account Option under Court Orders Dividing Community Property If Legal Separation or Dissolution Occurs Prior to the Member's Retirement.**

When a court of competent jurisdiction orders the division of community property prior to the member's date of retirement, the court may order that the accumulated contributions plus regular interest and service credit attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name

of the member and the nonmember, respectively. Any service credit or accumulated contributions that are not explicitly awarded by the court order shall be deemed the separate property of the member, in which the nonmember shall have no further interest.

The nonmember who is awarded a separate account under this Section shall be required to make an irrevocable written election to either receive a refund of contributions or a separate account allowance, provided he or she must be eligible for the option that is elected. If said election is not timely made, the nonmember shall be deemed to have chosen a refund of contributions.

#### SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.

Amended by: Second Para., Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1066.1. Definitions.

“**Nonmember**” as used in this Section means the spouse or former spouse of a member who, as a result of petitioning the court for the division of community property, has been awarded a separate account reflecting specific credited service and accumulated contributions. Spouse and former spouse, as those terms are used in this Section, shall also include any person, such as a state registered domestic partner, who is required to be treated the same as a spouse pursuant to the provisions of Subsection (f) of Section 4.1044.4 and who has been awarded a community property interest in the member’s benefits as specified herein.

“**Separate Account Allowance**” as used in this section means the monthly amount remitted to a nonmember based on the division of community property, by a court of competent jurisdiction, into a separate account reflecting specific credited service and accumulated contributions, actuarially reduced to provide an annuity for life.

“**Final monthly average compensation**”, for a nonmember only, is the monthly average of the member’s highest consecutive twelve months of salary at the time of separation.

#### SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.

Amended by: First Para., Ord. No. 182,196, Eff. 8-8-12.

#### Sec. 4.1066.2. Benefits Available to Nonmember Awarded a Separate Account.

##### (a) Refunds of Contributions.

(1) A nonmember who is awarded a separate account shall have the right to a refund of the accumulated contributions plus regular interest in the separate account of the nonmember. A nonmember who elects a refund of contributions is deemed to have permanently waived all rights in this system and all rights to any future retirement benefits pertaining to the service credit, accumulated contributions or both when the refund becomes effective. The nonmember may not cancel a refund once it has become effective nor may the nonmember redeposit a refund once it has been paid.

(2) If at the time of separation the member does not have five (5) years of service credit in the System, the nonmember who has been awarded a separate account shall only receive a refund of the accumulated contributions and regular interest placed in the nonmember’s account.

(3) A nonmember who has elected a refund of contributions or whose only separate account right is to a refund of contributions shall not have interest credited to the contributions in his or her separate account after the date of the member’s retirement or death, whichever occurs first. The nonmember’s right to receive a refund of all the contributions in his or her account on such date is a vested property right, provided, however, that should the nonmember fail to request a refund within ten (10) years from the date of the member’s death or retirement, as applicable, said contributions shall be removed from the nonmember’s separate account and shall revert to the Retirement Fund, unless and until the Board of Administration receives a valid belated refund request, determined at the sole discretion of the Board of Administration, which shall be granted. If the nonmember attains age 70 1/2 with contributions still on deposit in his or her separate account, his or her contributions shall be subject to mandatory distribution as required by the Internal Revenue Code, provided that, if such person cannot be located and paid such mandatory distribution and the Retirement System has followed Internal Revenue Service procedures to locate the beneficiary, such funds shall revert to the Retirement Fund as provided above unless and until the Board of Administration receives a valid belated refund request, determined at the sole discretion of the Board of Administration, which shall be granted.

**(b) Separate Account Allowance.**

(1) A nonmember who is awarded a separate account shall have the right to a Separate Account Allowance paid monthly for life unless the nonmember has elected to receive or has received a refund of contributions. The Separate Account Allowance shall terminate upon the death of the nonmember.

(2) A nonmember shall be entitled to receive a Separate Account Allowance if both of the following conditions are met:

(i) On the date of separation the member had five (5) years of service credit in the System; and

(ii) The member was eligible to receive a service retirement allowance on the date that the separate account allowance begins.

(3) The amount of the Separate Account Allowance shall be based on the service retirement formula in effect on the date of separation applicable to the service credited to the nonmember by the employer and the effective date of the nonmember's Separate Account Allowance, actuarially reduced to provide an annuity for life. The Separate Account Allowance shall be subject to all cost-of-living and discretionary increases.

(4) The Separate Account Allowance shall consist of a pension and a life annuity, the latter of which shall be derived from the nonmember's accumulated contributions.

**(c) Election of Nonmember Benefits.** The nonmember may make an irrevocable election, in writing, to receive the benefit provided under this Section as either a refund of contributions or a Separate Account Allowance at any time after the entry of the court order and before the member's retirement or death, whichever occurs first. A nonmember who elects a refund of contributions may request a refund of contributions at the time the election is made or any time thereafter. A nonmember who elects a Separate Account Allowance may request the allowance to begin at the time the election is made or at any time thereafter so long as the conditions set forth in Subsection 4.1066.2(b) have been met by the date the monthly allowance is to begin.

The nonmember shall be deemed to have elected a refund of contributions if an irrevocable written election is

not made either prior to the member's retirement or death, whichever occurs first, or within such period following the retirement or death as provided by Board rule. The Board of Administration shall adopt rules establishing a limited period following the member's retirement or death, as applicable, in which a nonmember who has not yet made an election may be allowed to make an irrevocable written election. If within the period established by Board rule the nonmember elects to take a separate account allowance, the allowance shall begin on the day prior to the member's retirement or death, as applicable, so long as the conditions set forth in Subsection 4.1066.2(b) have been met by that date.

**(d) Benefits not Granted to Nonmember.** A nonmember whose dissolution is final shall not be entitled to any disability retirement allowance, any basic death benefit, any special death benefit, any monthly allowance for survivors of a member or retired person, any insurance benefit, medical or dental subsidy, or retired member lump-sum death benefit. No survivor continuance allowance shall be payable to a survivor of a nonmember.

## SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.

Amended by: Subsec. (a)(3) added and Subsecs. (b)(2) and (c) amended, Ord. No. 182,196, Eff. 8-8-12.

**Sec. 4.1066.3. Calculation of Member's Service Retirement Allowance.**

A member whose retirement is divided under the provisions set forth above shall receive a monthly retirement allowance based on all service credit and his or her final compensation at the date of retirement as provided under the provisions of this Chapter, subject to reduction by the value of the separate account determined as follows:

(a) If the separate account was paid as a refund of contributions, the service credit and contributions awarded to the nonmember shall not be included in the calculation of the member's retirement allowance except to the extent that the member has re-deposited funds as provided in Section 4.1066.5(a) of this Chapter.

(b) If the nonmember elected to receive a Separate Account Allowance, the service credit and contributions awarded to the nonmember shall not be included in the calculation of the member's retirement allowance except to the extent that the member has paid to purchase service credit as provided in Section 4.1066.5(b) of this Chapter.

(c) If the nonmember has not elected to receive either a refund of contributions or a Separate Account Allowance prior to the member's retirement, the service credit and contributions awarded to the nonmember shall not be included in the calculation of the member's retirement allowance.

## SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.  
Amended by: Ord. No. 182,196, Eff. 8-8-12.

#### **Sec. 4.1066.4. Calculation of Member's Disability Retirement Allowance.**

Members whose retirement is divided under the provisions set forth above shall receive a monthly disability retirement allowance as provided for in Section 4.1055 except that the portion of accumulated contributions credited to the nonmember will be treated as missed deductions in the member account.

## SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.  
Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.

#### **Sec. 4.1066.5. Buy Back of Funds Allocated to Nonmember.**

(a) If a nonmember receives a refund of contributions and interest, the member may redeposit these funds together with any accumulated interest these funds would have earned if the refund had not occurred to the System subject to rules adopted by the Board of Administration, and receive full credit for the period of time represented by these funds.

(b) If a nonmember elects to receive a Separate Account Allowance, the member may purchase service credit not to exceed the years of service credited to the nonmember. The purchase of this service credit shall be the full actuarial cost and subject to rules adopted by the Board of Administration.

## SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.

#### **Sec. 4.1066.6. Duties and Responsibilities of the Board of Administration.**

The Board of Administration of the Los Angeles City Employees' Retirement System shall adopt rules to administer separate accounts ordered by a court of competent jurisdiction and shall formulate benefits applicable to these separate accounts in such a way that no additional actuarial liability is incurred either by the System or by the City.

## SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.  
Amended by: Ord. No. 173, 237, Eff. 6-19-00, Oper. 7-1-00.

#### **Sec. 4.1067. Former Spouse Option to Receive an Annuity for Life.**

When a court of competent jurisdiction does not order a separate account as specified in Section 4.1066, but instead awards the former spouse a portion of the retirement benefits payable to the member and to the member's surviving spouse or domestic partner (survivor), if any, the former spouse, in lieu of receiving his or her portion of the benefits payable based upon the lifetime of the member and/or survivor, may instead make an irrevocable election to convert his or her interest in such retirement benefits into an actuarially equivalent life annuity payable for the lifetime of the former spouse. If the member has not yet retired, the former spouse must make this irrevocable election to receive a life annuity in writing prior to receiving payment of his or her community property portion of the retirement allowance. If the member has already retired, the election must be made at the time the former spouse requests direct payment of his or her community property portion of the retirement allowance. If this irrevocable election is not made prior to the applicable times specified herein, the former spouse will be deemed to have waived the right to elect to receive a life annuity. Former spouse, as used in this Section, shall also include any person, such as a state registered domestic partner, who is required to be treated the same as a spouse pursuant to the provisions of Subsection (f) of Section 4.1044.4 and whose legal relationship has been terminated by a court order that provides for a division of the parties' community property interest in the member's benefits.

## SECTION HISTORY

Added by Ord. No. 171,885, Eff. 1-8-98.  
Amended by: Ord. No. 182,196, Eff. 8-8-12.