

MARK-UP

BOARD RULE 14 - Nov. 2003 - DEFERRED RETIREMENT OPTION PLAN (DROP) PROVISIONS FOR MEMBERS CALLED TO ACTIVE DUTY

Generally

- a. A DROP participant who is called to active duty will provide ASPRS with a copy of his/her Orders that will be maintained in the member's file. A copy of the Orders will be utilized to verify the date that the member is called to active duty.
- b. The employer will continue to report the DROP participant on the monthly DROP report. The Agency representative will indicate that the member is on "Military Leave".
- c. The employer will continue to pay in to the System the employer contributions on behalf of the DROP participant.
- d. When the member is released from active duty, he/she will submit a copy of the DD214 Form or other appropriate documents to ASPRS to verify that the member has returned to covered employment and/or been released from active duty.

Maximum Participation Period

- a. A DROP participant who is on active duty shall continue to receive his/her monthly DROP payment (which includes any benefit enhancements awarded to eligible retirees) until the maximum allowable time in the DROP has occurred or the member requests retirement and distribution of his/her DROP account, whichever occurs first.
- b. If the member has participated in the DROP for at least three (3) years, he/she must complete a retirement application packet and DROP Distribution Form(s) prior to his/her departure for active duty and deliver the completed forms to the ASPRS Office along with a copy of his/her Orders. The retirement application and DROP Distribution Forms will be held and processed on the effective date indicated unless he/she returns to covered employment within the ~~five (5) year~~ DROP term under Ark. Code Ann. § 24-6-306 and Ark. Code Ann. § 24-6-507.
- c. Should the DROP member not deliver a retirement application packet and DROP Distribution Form(s) to ASPRS and the maximum period of DROP participation (~~5 years~~) under Ark. Code Ann. § 24-6-306 and Ark. Code Ann. § 24-6-507 expires prior to the member returning to covered employment and/or requesting retirement:
 1. I. the monthly DROP accrual will cease on the fifth anniversary of the member's beginning DROP date and no additional interest will be paid;

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2. the monthly retirement benefit will not become effective until the member files a completed retirement application and complies with applicable deadlines; and the DROP account balance shall be distributed upon the member's filing of the required DROP Distribution Form(s).

Death While on Active Duty

- a. In the event a DROP participant on active duty dies during the period of DROP participation, a lump-sum payment equal to the account balance of the participant shall be paid to the participant's survivor.
- b. If survivor benefits are payable ~~in accordance with A.C.A. 24-6-217 and 24-6-508~~, the surviving spouse ~~(who has been married to the participant for at least one year)~~, dependent children or dependent parents will receive monthly benefits.

Becoming Eligible For DROP Participation While On Active Duty

If a member becomes eligible to participate in the DROP while on active duty, he/she will be placed in the plan retroactive to the date of initial eligibility providing the application is received within one (1) month of the member returning to covered employment. Such participation will also be contingent upon the necessary employee (if applicable) and employer contributions being made to the System for the period of active duty prior to the employee entering the DROP.

Reemployment

After release from active duty, should a DROP member fail to apply for reemployment or fail to accept reemployment pursuant to the provisions of 38 U.S.C. § 4312 as amended, the employer shall promptly notify ASPRS. After notice to the member and opportunity for hearing, should ASPRS determine that the member failed to apply for or accept reemployment as provided above, ASPRS shall:

- a. determine that the member's retirement application and DROP distribution form required under Maximum Participation Period, subparagraph b are void as of the date of the member's release from active duty;
- b. terminate payments of the deferred benefit into the member's DROP account
- c. deduct any payments of the deferred benefit into the member's DROP account after date of the member's release from active duty and interest thereon and pay said amount of the deferred benefit without interest thereon to the member as accumulated monthly annuity payments upon the member's filing a completed retirement application and DROP Distribution Form in compliance with applicable deadlines;

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- d. not pay interest on the member's DROP account after the date of the member's release from active duty and hold said account balance pending the member's filing of the DROP Distribution Forms.
- e. pay the member's monthly retirement annuity to the member upon his/her filing a completed retirement application and in compliance with applicable deadlines.

Procedures Applicable to DROP/Active Duty Issues

- a. The Executive Secretary shall determine all issues of interpretation or implementation of this rule in regard to DROP members and active military duty and shall conduct any hearings provided for herein or required by other law.
- b. If the member is not satisfied with the Executive Secretary's decision on matters that were not decided in conjunction with a hearing, the member may request that the issue be presented to the Board. The Board shall review the member's request for review, the record considered by the Executive Secretary and the Executive Secretary's decision, shall afford the member the opportunity to present additional information or documentation and to appear before the Board, and determine whether to affirm or modify the Executive Secretary's decision or to return the case to the Executive Secretary for further consideration.
- c. A member who was a party to a hearing by the Executive Secretary concerning DROP/active duty issues and who is not satisfied with the Executive Secretary's decision, may file an appeal to the Board. The member shall file notice of appeal in writing, stating the grounds therefore, with the Executive Secretary on or before thirty (30) days following the date of record of the Executive Secretary's decision. The Executive Secretary's written decision shall be mailed to the member by certified mail, return receipt requested, restricted delivery to the member's last known address of record.
- d. Upon appeal, the review by the board shall be confined to the record considered by the Executive Secretary; provided, however:
 - 1. The member may apply to present additional evidence and should the Board find that the evidence is material and that there were good reasons for failure to present it in the proceeding before the Executive Secretary, the Board may order that the additional evidence be taken before the Executive Secretary upon any conditions that may be just. The Executive Secretary may modify the findings and decision by reason of the additional evidence and shall file that evidence and any modification, new findings or decisions with the Board;
 - 2. Should the member assert any alleged irregularity in procedure before the Executive Secretary not shown in the record, the Board may hear testimony on that issue or in its discretion may remand the matter to the Executive Secretary to conduct further

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proceedings on the record on the member's allegation of procedural irregularity; after any further proceeding by the Executive Secretary regarding any procedural irregularity, the Executive Secretary may modify the findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the Board.

3. The member may request the opportunity to make an oral presentation to the Board.
- e. The Board may affirm or reverse the Executive Secretary's decision or remand the case for further proceedings.

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 - 2. Should the member assert any alleged irregularity in procedure before the Executive Secretary not shown in the record, the Board may hear testimony on that issue or in its discretion may remand the matter to the Executive Secretary to conduct further proceedings on the record on the member's allegation of procedural irregularity; after any further proceeding by the Executive Secretary regarding any procedural irregularity, the Executive Secretary may modify the findings and decision by reason

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