

Article 4: City Employees' Retirement System

Division 14: Deferred Retirement Option Plan

*("Deferred Retirement Option Plan"
added 3-4-1997 by O-18385 N.S.)*

§24.1401 Purpose and Duration

- (a) Effective April 1, 1997, a deferred retirement option plan (DROP) is created and offered to Members as an alternative method of benefit accrual in the Retirement System as set forth in this Division.
- (b) DROP is created to add flexibility to the Retirement System and its Members. It provides Members who elect to participate in DROP access to a lump sum benefit at the time of their actual retirement, in addition to their normal monthly retirement allowance. DROP is intended to be cost neutral.
- (c) DROP was initially offered on a trial basis for a period of three years beginning on April 1, 1997. DROP became a permanent benefit effective April 1, 2000.

(Amended 6-18-2002 by O-19071 N.S.)

§24.1402 Eligibility, Duration of DROP Participation, and Waiver

- (a) Any Member who is eligible for a service retirement is eligible to participate in DROP, except for a Safety Member who elects to accrue benefits under Section 24.0403(g).
- (b) Before a Member may participate in DROP, he or she must voluntarily and irrevocably:
 - (1) designate a participation period of 60 consecutive months or less;
 - (2) elect to receive either the Maximum Benefit or one of the retirement settlement options described in Division 6 of this Article;
 - (3) designate his or her Beneficiary for the continuance payable upon his or her death, if any;
 - (4) stop accruing benefits under any other Division of this Article starting on the date the Member enters DROP;

- (5) have DROP benefits credited to a DROP Participation Account as provided in this Division;
- (6) accrue benefits under the terms of this Division starting on the date the Member enters DROP;
- (7) receive benefits from the Retirement System when the Member leaves City or Port District employment, as provided in the relevant sections of this Article;
- (8) agree to leave City employment on or before the end of the Member's designated DROP participation period, unless the Member is represented by the San Diego City Fire Fighter's Local 145 bargaining unit, in which case the Member may extend his or her five-year DROP participation period by the amount of Unused Annual Leave the Member accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, which was not converted to Creditable Service before the Member entered DROP;
- (9) waive his or her right to assert a claim or bring an action against the City, the Port District or the Retirement System based upon age discrimination or any other employment discrimination law arising out of the Member's participation in DROP or the requirement that he or she leave employment at the end of his or her DROP period.

(Amended 12-3-2002 by O-19126 N.S.)

§24.1402.1 Ineligibility of DROP Participation, and Waiver

Members hired or assuming office on or after July 1, 2005, may not participate in DROP.

("Ineligibility of DROP Participation, and Waiver" added 1-17-2007 by O-19567 N.S.; effective 2-16-2007.)

§24.1403 Termination of DROP Participation

- (a) A Member who is participating in DROP may leave DROP at any time before the end of his or her designated DROP participation period by voluntarily leaving City or Port District employment.
- (b) The Retirement System will terminate the Member's participation in DROP when any of the following events occurs:
 - (1) the Member's designated DROP participation period ends, or in the case of a Member who is represented by the Firefighter's Local 145 bargaining unit, at the end of the Member's five-year DROP

participation period extended by the amount of Unused Annual Leave the Member accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, which was not converted to Creditable Service before the Member entered DROP;

- (2) the Member's City or Port District employment is terminated for cause; but, if the termination for cause is reversed, the Member's participation will be reinstated for the remainder of the Member's designated DROP participation period, less any benefits previously distributed from the Member's DROP account;
- (3) the Member dies; or
- (4) the Retirement Board grants the Member a disability retirement.
(Amended 12-3-2002 by O-19126 N.S.)

§24.1404 DROP Benefits and Participation Accounts

- (a) A DROP Participation Account is a "nominal" account established within the Retirement System on behalf of each DROP participant. All benefits accrued by a Member under this Division are accounted for in the Member's DROP Participation Account. A DROP participant does not have a claim on the assets of the Retirement System with respect to his or her DROP Participation Account, nor will the System set aside any assets for any DROP participant that are separate from other System assets.
- (b) All amounts credited to a Member's DROP Participation Account are fully vested.
- (c) A Member's DROP Participation Account will be credited with:
 - (1) An amount, credited monthly, which is calculated in the same manner as an Unmodified Service Retirement Allowance using the Member's age, Creditable Service, Final Compensation and selected retirement option, in effect on the date the Member enters DROP, as well as the retirement benefit levels in place on that date. This amount will increase each year by a cost of living adjustment (COLA), as described in Division 15 of this Article.
 - (2) An amount, credited annually, representing the annual supplemental benefit described in Division 15 of this Article, based upon the Member's Creditable Service on the day before the Member entered DROP.

- (3) An amount equal to 3.05% of the Member's Base Compensation, credited bi-weekly at the end of each pay period, which is paid by the City or the Port District.
- (4) An amount equal to 3.05% of the Member's Base Compensation, credited bi-weekly at the end of each pay period. This amount will be deducted from the Member's salary on a pre-tax basis pursuant to Internal Revenue Code section 414(h)(2).
- (5) For a represented Member in the Firefighter's Local 145 bargaining unit, an amount representing the Member's Unused Annual Leave accrued after July 1, 2002, including Annual Leave accrued after July 1, 2002, while in DROP, which was not converted to Creditable Service before he or she entered DROP.
- (6) Interest on the above amounts, as determined by the Board through rules and regulations adopted under Division 9 of this Article. These rules and regulations will have the same force and effect as a duly adopted ordinance.

(Amended 12-3-2002 by O-19126 N.S.)

§24.1405 Additional DROP Provisions

- (a) The Member and the City or Port District will stop making employer and employee contributions for the Member on the day the Member enters DROP.
- (b) A Member who becomes disabled while participating in DROP is eligible to apply for disability retirement benefits. If the Member's application for disability retirement benefits is approved by the Board:
 - (1) the Member's disability retirement benefit will be calculated using the Member's age, Creditable Service, and Final Compensation in effect the day the Member entered DROP; and
 - (2) the Member will be eligible to receive all amounts in his or her DROP Participation Account, as provided in Section 24.1407.
- (c) If a Member dies while participating in DROP, his or her Beneficiary or Beneficiaries will receive:
 - (1) All amounts in the Member's DROP Participation Account.
 - (2) The retiree death benefit.
 - (3) If the Beneficiary is eligible to receive an industrial death benefit, the Beneficiary may elect to receive this benefit in place of any survivor

continuance otherwise payable under this Division. The benefit will be calculated using the Member's age, Creditable Service and Final Compensation in effect on the day the Member entered DROP.

- (4) If the Member's Beneficiary is ineligible for an industrial death benefit, and the Member designated a Beneficiary to receive a continuance before entering DROP, the Member's Beneficiary will receive the survivor continuance elected by the Member.
- (d) A City employee Member who elects to participate in DROP will qualify as a Health Eligible Retiree and be eligible to receive Post Retirement Health Benefits under Division 12 when the Member leaves DROP and retires.
- (e) No beneficiary designation made under this Section may abrogate the Member's community property obligations under applicable California law.
(Amended 6-19-2002 by O-19071 N.S.)

§24.1406 Designation of Beneficiary

- (a) Before entering DROP, the Member must designate a Beneficiary for his or her DROP Participation Account. This designation will apply to all distributions made from the Member's DROP Participation Account. The Member may change this Beneficiary designation at any time before the amounts in his or her DROP Participation Account are fully distributed.
- (b) If the Member's DROP Participation Account Beneficiary dies before the Member does, and the Member then dies before designating a new Beneficiary, all amounts in the Member's DROP Participation Account will be distributed to the Member's estate.
- (c) No Beneficiary designation made under this Section may abrogate the Member's community property obligations under applicable California law.
(Amended 6-18-2002 by O-19071 N.S.)

§24.1407 Payment of Benefits

- (a) When a Member simultaneously leaves DROP and leaves City or Port District employment:
 - (1) the Member will begin receiving his or her monthly retirement allowance, as determined under this Division; and

- (2) the Member will begin receiving the annual supplemental benefit in accordance with Division 15, to the extent the Member is eligible, based upon the Member's Creditable Service on the day he or she entered DROP.
 - (3) the Member will be entitled to receive the amounts credited to his or her DROP Participation Account as of the day the Member left DROP.
- (b) A Member may receive the amounts in his or her DROP Participation Account in any of the following benefit forms:
- (1) a single lump sum distribution of all amounts credited to the Member's DROP Participation Account,
 - (2) equal monthly payments over 240 months starting with the date the Member leaves DROP and retires, or
 - (3) any other benefit form approved by the Board, subject to applicable provisions of the Internal Revenue Code.
- (c) The following rules govern the payment of benefits under this Division:
- (1) No COLA, Annual Supplemental Benefit or later similar adjustment will be made with respect to any benefit payable under subsection (b).
 - (2) Each form of benefit paid must be the Actuarial Equivalent of the amount credited to the Member's DROP Participation Account at the end of his or her DROP participation period. Where appropriate, the Annuity will be calculated using the Member's age and, if the Member elected a joint and survivor option, the age of the Beneficiary at the end of the DROP participation period.
 - (3) Each form of benefit paid must equal the amount credited to the Member's DROP Participation Account, including interest credited to that account after the Member retires. If amounts remain credited to the Member's DROP Participation Account after the Member's death, the System will pay the remaining amounts to the Member's Beneficiary in the form selected by the Member before his or her death. If the Member did not select a form, the Beneficiary may elect to be paid under any of the benefit forms provided in subsection (b).
- (d) The Retirement System will credit the DROP Participation Accounts of retired Members as follows:

- (1) If a Member or Beneficiary receives a benefit in a form other than a single lump sum distribution of the entire DROP Participation Account, the value of his or her DROP Participation Account will be credited with interest quarterly and reduced by the amount of distributions.
- (2) The interest rate credited to the DROP Participation Account under subsection (d)(1) may not exceed the higher of the following:
 - (A) 5%, or
 - (B) the interest rate the Board is using to credit DROP Participation Accounts on the date the Member is first eligible to receive distributions from his or her DROP Participation Account.

(Amended 6-18-2002 by O-19071 N.S.)

§24.1408 Compliance with Applicable Provisions of the Internal Revenue Code

- (a) DROP is not intended to jeopardize the tax-qualified status of the Retirement System under the rules and regulations of the Internal Revenue Service. The Board has the authority under Division 9 of this Article to adopt rules and regulations to assure that DROP complies with applicable Federal laws and regulations. The Board's rules and regulations will have the same force and effect as a duly enacted ordinance.
- (b) Despite any other provision in this Article, benefits provided under this Division are subject to the requirements of the Internal Revenue Code and regulations issued thereunder for the Retirement System to remain a tax qualified retirement plan, including the following:
 - (1) The limitations of Section 415 of the Code relating to the amount of benefits that can be paid. In this regard, the interest rate that will be used for testing benefits under the limits of Section 415 and DROP benefits will be the greater of the following:
 - (A) 5%, or
 - (B) the interest rate the Board is using to credit DROP Participation Accounts on the date the Member is first eligible to receive distributions from his or her DROP Participation Account.
 - (2) The limitations of Section 401(a)(17) of the Code relating to the amount of compensation that can be taken into account for benefit accrual.

- (3) The limitations of Section 401(a)(9) relating to the time that benefit payments must begin.
- (4) The rules of Section 401(a)(31) relating to the rollover of benefits.
- (5) The limitations of Section 401(a)(25) relating to “definitely determinable” benefits.

(Amended 6-18-2002 by O-19071 N.S.)

§24.1409 Employment Status during DROP Participation

Except as provided in this Division, a Member who elects to participate in DROP has all of the rights, privileges and benefits, and is subject to all other terms and conditions of active employment, including the City Flexible Benefits Plan.

(Amended 6-18-2002 by O-19071 N.S.)