



# KENTUCKY PUBLIC PENSIONS AUTHORITY

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Kentucky Public  
Pensions Authority

April 7, 2026

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Ave.  
Frankfort, KY 40601



RE: 105 KAR 1:160 Sick leave plans  
105 KAR 1:170 Membership form requirements  
105 KAR 1:330 Purchase of service credit  
105 KAR 1:400 Federal taxation limitation year

Dear Co-Chairs West and Lewis:

After discussions with the Administrative Regulation Review Subcommittee staff of issues raised by the above-referenced regulations, the Kentucky Public Pensions Authority accepts the proposed attached staff suggested amendments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Carole Catalfo".

Carole Catalfo  
Policy Specialist

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Public Pensions Authority**  
**(Amendment)**

**105 KAR 1:160. Sick leave plans.**

RELATES TO: KRS 61.546, **61.552, 61.702, 78.5536**~~[61.5525]~~, 78.616, 161.155

STATUTORY AUTHORITY: KRS 61.505(1)(g)~~[61.645(9)(e)]~~

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS **13A.105(2)**~~[13A.150(2)]~~ because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g)~~[61.645(9)(e)]~~ authorizes the~~[Board of Trustees of]~~ Kentucky Public Pensions Authority, on behalf of County Employees Retirement System and Kentucky Retirement Systems,~~[Retirement Systems]~~ to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 61.546 provides for retirement service credit for unused sick leave for members of the Kentucky Employees Retirement System and the State Police Retirement System who began participating before January 1, 2014. KRS 78.616 provides for retirement service credit for unused sick leave for members of the County Employees Retirement System who began participating before January 1, 2014. This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of the service credit, and payment of the employer's cost of the credit. This administrative regulation also establishes the formula for prorating sick leave if it is earned by a member partly under SPRS, partly under KRS hazardous duty coverage, and partly under the Kentucky Employees Retirement System nonhazardous coverage. This administrative regulation also establishes when service credit due to sick leave may be used to calculate health insurance payments under KRS 61.702 or 78.5536.

Section 1. Definitions.

- (1) "Alternate plan" means the sick leave program established~~[described]~~ in KRS 78.616(5).
- (2) "Standard plan" means the sick leave program established~~[described]~~ in KRS 61.546 or 78.616(1), (3) and (4).

Section 2.

**(1)** An employer~~[agency]~~ participating in the County Employees Retirement System:

**(a)**~~[(1)]~~ May~~[may]~~ provide a sick leave program under KRS 78.616 by adopting an order appropriate to the employer;~~[agency.]~~

**(b)**~~[(a)]~~~~[(1)]~~ Shall offer only~~[Only]~~ one (1) sick leave program under KRS 78.616 to its employees~~;~~~~[shall be offered to the employees of an agency.]~~

**(c)**~~[(b)]~~~~[(2)]~~ Shall~~[The agency shall]~~ certify to the agency~~[retirement system]~~ that the program shall be universally administered;~~;~~~~[:]~~

**(d)**~~[(c)]~~~~[(3)]~~ Shall~~[The agency shall]~~ pay all costs of the program; and~~;~~~~[:]~~

**(e)**~~[(d)]~~~~[(4)]~~ Shall~~[The agency shall]~~ certify to the agency~~[retirement system]~~ the number of hours that constitutes a regular working day for its employees~~[of the agency]~~.

**(2)**~~[(5)]~~

(a) If an employer[agency] participating in the County Employees Retirement System has no retirement sick leave program, it may choose the standard plan or it may choose the alternate plan.

1. An employer[agency] adopting the standard plan may elect to purchase credit:

a. Only[To purchase credit only] for the first six (6) months of accrued sick leave;

b. For[To purchase credit for] the first six (6) months and to pay fifty (50) percent of the cost for service above six (6) months; or

c. For[To purchase credit for] all accumulated sick leave.

2. An employer[agency] ***that[which]*** elects to pay only for the first six (6) months of accumulated sick leave may at a later date elect to pay fifty (50) percent or all of the cost of service above six (6) months. An employer[agency] ***that[which]*** elects to pay for the first six (6) months and fifty (50) percent of the cost for service above six (6) months, may at a later date elect to pay for all accrued sick leave.

3. If an employer[the agency] adopted the standard plan prior to July 1988, it may choose to adopt the alternate plan.

4. Within thirty (30) days of adoption of a sick leave plan, the employer[agency] shall file at the agency[retirement office] a description of the employer's[agency's] sick leave policy, which shall specify:

a. The maximum sick leave that may be accrued;

b. Whether the policy applies to sick leave accrued prior to the adoption of the sick leave plan; and

c. Whether the policy applies to current and former employees or only to employees who retire from the employer[agency].

(b) Employers[Agencies] participating in the Kentucky Employees Retirement System or the State Police Retirement System shall provide sick leave credit for all accrued sick leave.

(c) Once a sick leave program is adopted, the employer[agency] shall continue to offer a sick leave program to its employees.

Section 3. If an employer[the agency] adopts the standard plan, upon a member's retirement:

(1) Each employer[agency] participating in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System with which the member has accrued sick leave credit or to which ***his or her[their]*** [his] accrued sick leave transferred, shall certify the unused sick leave credit ***that[which]*** the member has accrued on "Standard Plan Sick Leave Authorization," Form 6500.

(2)

(a) The agency[retirement system] shall determine the number of days of credit and divide the number of days by twenty-one (21), the average number of working days in a month, unless the employer[agency] verifies an alternate number of average working days per month. If the remainder is equal to or greater than eleven (11), the member shall receive credit for an additional month. If an employee has an alternate work schedule, the employer[agency] shall verify an alternate number of average working days per month.

(b) For each employer[agency] participating in the Kentucky Employees Retirement System or County Employees Retirement System with which the member accrued sick leave credit, the cost of the credit, determined by utilizing the member's final compensation with the formula established[described] in KRS 61.552(10)(a)[61.5525], shall be paid by the employer[agency] within thirty (30) days of notification by the agency[retirement system].

(c) If the member accrued sick leave credit in the Kentucky Employees Retirement System, the last employer[agency] with which the member was employed shall pay the cost of sick leave credit[is

~~excess of six (6) months, if any]. If the member has multiple last employers, the cost due from the last employers under this subsection shall be equally apportioned between them.~~

(3)

(a) If the total sick leave accrued at a County Employees Retirement System employer[agency] is greater than six (6) months and the employer[agency] does not pay for service greater than six (6) months, the employee may purchase some or all of the additional months by paying the cost, determined by utilizing the member's final compensation with the formula established[described] in KRS 61.552(10)(a)[61.5525], to the agency[retirement system] before **his or her[their]**[his] termination, but no earlier than three (3) months from **his or her[their]**[his] effective retirement date.

(b) If the total sick leave accrued at a County Employees Retirement System employer[agency] is greater than six (6) months and the employer[agency] pays fifty (50) percent of the cost of additional months, the employee shall receive credit for all or some of the additional months if the employee pays fifty (50) percent of the cost determined by utilizing the member's final compensation with the formula established[described] in KRS 61.552(10)(a)[61.5525], to the agency[retirement system] before **his or her[their]**[his] termination, but no earlier than three (3) months from **his or her[their]**[his] effective retirement date, and the employer pays the remaining fifty (50) percent.

Section 4. Alternate Sick Leave Plans. An employer[agency] adopting the alternate plan shall also certify the maximum number of sick leave days that an employee may accumulate prior to termination.

(1) The employer[agency] shall compensate the member for all accrued sick leave up to the maximum allowed, upon termination. If the employee is a classified employee of a school board, the employer[agency] shall compensate the employee for accrued sick leave, upon the employee's retirement or death, pursuant to KRS 161.155. The rate of compensation for each day shall be based on the employee's current rate of pay.

(2) Each month, the employer[agency] shall withhold employer and employee contributions from the sick leave compensation of employees who terminate, and shall remit the contributions along with the Form 6501, "**Alternate Plan Sick Leave Authorization**", for each employee. The forms and contributions deducted during the month shall be sent to the agency[retirement office] within ten (10) days following the end of the month. The contributions and compensation shall not be reported with the regular payroll.

(3) If the member has one (1) or more months of service credit as determined in Section 3 of this administrative regulation, the service shall be added to the member's total service credit.

(4) Compensation and service shall be included in the member's final compensation as established in this subsection.[follows:]

(a) The member's sick leave credit expressed in months and the compensation for those months shall be included in the fiscal year with the highest average monthly salary used in **his or her[their]**[his] final compensation until the service credit in the fiscal year has reached twelve (12) months.

(b) When service credit in the fiscal year with the highest average monthly salary has reached twelve (12) months, the remaining months of service and compensation shall be included in the fiscal year with the lowest average monthly salary used in **his or her[their]**[his] final compensation until service credit in the fiscal year has reached twelve (12) months.

(c) When service credit in the two (2) fiscal years with the highest and lowest average monthly salary used in **his or her[their]**[his] final compensation has[have] reached twelve (12) months, the remaining months and compensation shall be used in lieu of the member's service and salary in the fiscal year with the lowest average monthly salary of the member's[members] final compensation. The salary replaced shall be the monthly average of the member's actual salary in the fiscal year.

Section 5. An employee who has service credit in the Kentucky Employees Retirement System as hazardous and nonhazardous, or who has service credit in both the Kentucky Employees Retirement System and the State Police Retirement System, shall have accrued sick leave prorated between the systems and between the hazardous and nonhazardous accounts based on the ratio of service in each account, including purchased service, and to the total service credit.

Section 6. Use of Sick Leave in Calculating Months of Service for Health Insurance Benefits.

(1) Unless otherwise prohibited by statute or this section, service credit attributable to sick leave shall be used to calculate health insurance benefits pursuant to KRS 61.702 or ~~78.5536~~**71.5536** in the same manner as the credit is used to calculate eligibility for retirement benefits.

(2) Service credit attributable to sick leave shall not be used to determine whether a member with service in a:

(a) Nonhazardous position meets the minimum service requirements of "career threshold" as defined by KRS 61.702(4)(e)9. or KRS ~~78.5536~~**71.5536**(4)(e)9.; and

(b) Hazardous position meets the minimum service requirements of "career threshold" as defined by KRS 61.702(4)(e)9. or ~~78.5536~~**71.5536**(4)(e)9. if the member began membership on or after September 1, 2008.

(3) A member who otherwise qualifies for career threshold status shall have the service credit attributable to sick leave used to calculate any insurance contribution due pursuant to KRS 61.702(4)(e)6.b. or ~~78.5536~~**71.5536**(4)(e)6.b. for service as a participating employee beyond the career threshold.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6500, "***Standard Plan*** Sick Leave Authorization", KPPA, 1/2026[11/00]; and

(b) Form 6501, "Alternate ***Plan*** Sick Leave Authorization", KPPA, 1/2026[11/00].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Public Pensions Authority [~~Retirement Systems, Perimeter Park West~~], 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the agency's website at [kyret.ky.gov](http://kyret.ky.gov).

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Public Pensions Authority**  
**(Amendment)**

**105 KAR 1:170. Membership form requirements.**

RELATES TO: KRS 16.530, **61.510**, 61.525, 61.526, 61.540, 61.542, 61.545, 61.625, **78.510**, 78.540, **78.545**

STATUTORY AUTHORITY: KRS 61.505(1)(g)~~[61.645(9)(e)]~~, 26 C.F.R. 1.401-1(b)(1)(i), 26 U.S.C. 401(a)

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g)~~[61.645(9)(e)]~~ authorizes the ~~Board of Trustees of~~ Kentucky Public Pensions Authority ~~[Retirement Systems]~~ to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. KRS 16.530, 61.526, and 61.540 require a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System to file information with the Kentucky Public Pensions Authority~~[Board of Trustees]~~ as a condition of membership. KRS 61.542 requires a member to file a designation of beneficiary. KRS 61.625 establishes the conditions under which a member may apply for a refund. KRS 78.545 requires that designations of beneficiaries and refunds for County Employees Retirement System members be administered in the same manner as for Kentucky Employees Retirement System members. 26 U.S.C. 401(a) provides that a qualified pension plan ***shall not [cannot]*** make distributions prior to normal retirement age if a separation from service has not occurred. This administrative regulation establishes the information and forms required for membership, ~~[and establishes]~~ that the member shall not receive a refund unless the member has terminated employment, when a member serving simultaneously in hazardous and nonhazardous positions may make an irrevocable election to participate only in the hazardous plan, and how to update member contact information with the agency.

Section 1. An employee eligible for participation on the date ***his or her [their]*** employer~~[his agency]~~ first participates shall complete a ***[“]Form 2010, “Election or Rejection of Participation”***, designating ***his or her [their]***~~[his]~~ desire to participate in or waive participation and benefits in the retirement system. The original form shall be kept on file at the agency~~[in the retirement office]~~.

Section 2. Within thirty (30) days of participation, an employee who is required to participate or who elects to participate may~~[shall]~~ complete a ***[“]Form 2001, “Membership Information”***. The membership form shall be kept on file at the agency~~[in the retirement office]~~.

Section 3. An employee shall file with the agency a valid~~[may also complete a]~~ ***[“]Form 2035, “Beneficiary Designation”*** to designate or change a beneficiary prior to retirement. If a valid beneficiary designation is not on file at the agency, the employee’s estate shall be the beneficiary~~[which shall be sent to the retirement office]~~.

Section 4. (1) If an employee is participating in a hazardous position, as defined by KRS 61.592, that meets the definition of a regular full-time position under KRS 61.510(21) or 78.510(21) based solely upon **his or her[their]** service in a hazardous position, and is simultaneously employed in a nonhazardous position with a different participating employer that **is/would** not **[be-]** considered a regular full-time position based solely upon **his or her[their]** service in the nonhazardous position, the employee may make a one (1) time irrevocable election within thirty (30) days of employment in the nonhazardous position to not participate in the system for **his or her[their]** employment in the nonhazardous position with that employer by filing with the agency a valid Form 2014, "Rejection of Nonhazardous Part-Time Participation"~~[If an employee is simultaneously eligible to participate in more than one (1) of the Kentucky Retirement Systems, the employee may elect to participate in only one (1) system and waive participation in and any rights to benefits from the employment in the other system during the period of simultaneous employment].~~

~~(2)[The employee shall notify the retirement system in writing of his intent to exercise this right under KRS 61.545(3). Upon receipt of the notification, the retirement system shall provide the employee with an estimate of the benefits that may be forfeited by the employee and the "Form 2026, Simultaneous Employment Choice of Systems", necessary for making an election.~~

~~(3)[ If the employee does not make an election pursuant to subsection 1 of this section[complete and return the form], the employee shall participate in both systems simultaneously and **his or her[their]**[his] service shall be prorated between the systems pursuant to **Section 2 of** 105 KAR 1:320~~[Section 2]~~[based on his ratio of his creditable compensation in each system to his total creditable compensation from all systems].~~

~~(3)[(4) If the employee makes an election pursuant to subsection 1 of this section[submits the completed form], the employer that participates in the system in which the employee rejected participation shall be notified that it shall not report creditable compensation or contributions on the employee while the member is employed by the nonhazardous employer[for the period of simultaneous employment]. If contributions were reported prior to the employee making an election[receipt of the form], the employer and employee contributions shall be refunded to the employer and employee and all service credit under that system shall be deleted from the employee's account for the period of simultaneous employment.~~

Section 5. Pursuant to KRS 61.625, a former[an] employee who is not eligible to retire[vested for monthly benefits] may request a refund of **his or her[their]**[his] account by filing with the agency a valid **[completing and returning a -]**Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection". The agency[Kentucky Retirement Systems] shall not issue a refund to a member unless the member has terminated employment with all employers participating in the retirement system from which the member is attempting to take a refund[his employer].

Section 6. (1) A member may update **his or her[their]** contact information on file with the agency:

(a) On the Self-Service website at <http://myretirement.ky.gov>;

(b) By telephone with an agency-issued PIN; or

(c) By submitting a valid Form 2040, Change of Contact Information.

(2) An attorney in fact, guardian, or other fiduciary shall file a valid Form 2040 with the agency to change contact information on behalf of a member.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 2010, "Election or Rejection of Participation", KPPA, 1/2026[12/2006];

(b) Form 2001, "Membership Information", KPPA, 1/2026[2/02];

(c) Form 2035, "Beneficiary Designation", KPPA, 1/2026[6/03];

(d)[Form 2026, "Simultaneous Employment Choice of Systems", 5/98; and

(e)] Form 4525, "Application for Refund of Member Contributions and Direct Rollover/Direct Payment Selection", KPPA, 1/2026;[5/08.]

(e) Form 2040, "Change of Contact Information", KPPA, 1/2026; and

(f) Form 2014, "Rejection of Nonhazardous Part-Time Participation", 1/2026.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Kentucky Public Pensions Authority[~~Retirement Systems office at Perimeter Park West~~], 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the agency's website at [kyret.ky.gov](http://kyret.ky.gov).

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Public Pensions Authority**  
**(Amendment)**

**105 KAR 1:330. Purchase of service credit.**

RELATES TO: KRS ~~16.505,~~ 16.545, 16.645, 61.505, **61.510,** 61.543, 61.552, 61.592, **61.645, 61.685,**  
**78.510, 78.545,** 78.5520, ~~[61.685, 78.545, ]~~78.610, 26 U.S.C. 415

STATUTORY AUTHORITY: KRS ~~61.545(9)(e), 61.505(1)(f)-(g) [and (1)(g)]~~

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~61.505(1)(f)-(g) [and (1)(g)]~~ and 61.645(9)(e) ~~authorize~~[authorizes] the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with and necessary or proper to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510~~[[20]]~~ to 78.852. KRS 16.545, 16.645, 61.543, 61.552, 61.592, 78.5520, 61.685, 78.545, and 78.610 provide for purchasing service credit and out-of-state service credit for Kentucky Employees Retirement Systems members. KRS 16.645(19) and 78.545(7) provide that purchase of service credit for members of the State Police Retirement System and County Employees Retirement System, respectively, shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System. 26 U.S.C. 415 establishes federal requirements regarding purchases of service credit. This administrative regulation establishes the requirements and forms for eligibility and purchase of[documentation required from the employee or person as proof of eligibility for purchasing] service credit, and the filing deadlines on which the cost calculation ~~shall~~[will] be made[, and the procedures for purchase of service credit].

Section 1. [Definitions.

(1) ~~Unless otherwise defined in this section, the definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation.~~

(2) ~~Prior to April 1, 2021, "agency" means the Kentucky Retirement Systems, which administers the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. Effective April 1, 2021, "agency" means the Kentucky Public Pension Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.~~

(3) ~~"File" means delivering or submitting a form to the retirement office by mail, fax, secure email, in-person delivery, or upload via Self Service on the Web site maintained by the agency (if available). A form shall not be deemed filed until it has been received at the retirement office.~~

(4) ~~"Provide" means the agency makes a form or document available to a member, retired member, or person by mail, fax, secure email, or upload via Self Service on the Web site maintained by the agency (if available).~~

(5) ~~"Systems" means the State Police Retirement System, the Kentucky Employees Retirement System,~~

and the County Employees Retirement System.

(6) "Valid" means that all required sections on a form are completed and all required signatures on a form are executed.

Section 2.] Cost Calculation Date for Determining the Cost of the Service Purchase.

(1) The cost calculation date for determining the cost of the service to be purchased shall be the later of the last day of the month:

(a) ~~In [The last day of the month in]~~ which the request for the cost of the service is filed at the agency [retirement office];

(b) The ~~last day of the month the~~ employee or person designates as the intended purchase date;

(c) ~~In [The last day of the month in]~~ which documentation of the service is filed at the agency [retirement office];

(d) ~~In [The last day of the month in]~~ which the employee attains sufficient service credit to be eligible to make the purchase; or

(e) ~~In [The last day of the month in]~~ which the employee terminates employment if the employee files a completed Form 4172, Notice of Intent to Transfer Lump Sum Payment(s) to Qualified Employer Sponsored Plan, at the agency [retirement office] indicating that the employee intends to defer the employee's lump sum payment for accrued compensatory and annual leave to be paid to the employee at termination to the Kentucky Public Employees Deferred Compensation Authority or other qualified employer sponsored plan. The employee shall then rollover the funds from the Kentucky Public Employees Deferred Compensation Authority or other qualified employer sponsored plan to the agency as payment, in whole or in part, for the employee's service purchase.

(2)(a) The purchase deadline date shall be the later of the end of the day as defined by 105 KAR 1:001 on the cost calculation date or thirty (30) days from the date the purchase cost is provided to the employee; ~~unless day thirty (30) is a Saturday, Sunday, a public holiday listed in KRS 2.110, a day on which the public office is actually and legally closed, or any other federal or state holiday that disrupts mail service, then the purchase deadline date shall be the next business day].~~

(b) Upon discovery of a delay in providing the purchase cost to the employee or person, the agency may extend the purchase deadline date in paragraph (a).

(3) An employee or person shall not make a new request for cost calculation for purchase of service previously requested until the purchase deadline date has passed.

(4) Payment for purchase of service credit shall be filed at the agency [retirement office] while the employee is participating in an eligible retirement system and prior to the employee's termination date, except if the:

(a) Purchase [If the purchase] of service credit is made pursuant to KRS 61.552(2)(a) [under KRS 61.552(2)];

(b) Employee [If the employee] files a Form 4170, Direct Transfer/Rollover Authorization Form, at the agency [retirement office] while the employee is participating in an eligible retirement system and prior to the employee's termination date, and [so long as] the financial institution completes the transfer or rollover within sixty (60) days of the payment due date, the payment for purchase of service credit by transfer or rollover may occur when the employee is no longer participating in an eligible retirement system and after the employee's termination date; or

(c) Agency [If the agency] discovers an error or omission in the service purchase cost, the [;]

1. Agency [then the agency] may provide corrected costs to the employee, person, member, or retired member; and [;]

2. Employee [to have the service purchase credited to his or her account, the employee], person, member, or retired member shall pay any additional amount due for the corrected costs to have the service purchase credited to his or her [their] account.

(5) If the employee elects to purchase only a portion of the service for which ~~he or she has~~ **he or she has** ~~[they have]~~ ~~[he or she has]~~ requested a cost calculation, the employee shall be required to obtain a new cost calculation for the remaining service unless the remaining service is service pursuant to ~~[under]~~ KRS 61.552(2) or (3).

Section 2. ~~[Section 3.]~~ General Requirements to Purchase Service.

- (1) The employee or person shall file at the agency ~~[retirement office]~~ all documentation necessary for the agency to determine that the service meets the eligibility requirements for purchase of service.
- (2) The agency may require that any statement, letter, form, or other document required by ~~[in]~~ this administrative regulation be notarized, made under oath as defined in KRS 523.010, or both.
- (3) An employee or person shall not certify **his or her** ~~[their]~~ ~~[his or her]~~ own service on any of the statements, letters, forms, or other documents required by this administrative regulation.
- (4)(a) The agency shall determine how much service is eligible for purchase by statute and shall notify the employee or person in writing of the cost of the service that qualifies for purchase.
- (b) If the agency determines that the service is not eligible for purchase, it shall notify the employee or person in writing of the reasons.

Section 3. ~~[Section 4.]~~ Purchase of Omitted Service.

- (1)(a) To purchase omitted service pursuant to KRS 61.552(2) and 78.545, the employee or person shall file at the agency ~~[retirement office]~~ a valid Form 4225, Verification of Past Employment.
- (b) If the employee or person is seeking to purchase omitted service based on employment with the Executive Branch, copies of personnel and wage records provided by the employer may ~~[shall]~~ be filed at the agency ~~[retirement office]~~ instead of Form 4225 ~~[, Verification of Past Employment]~~.
- (c) The agency may determine eligibility to purchase omitted service based on records submitted pursuant to KRS 61.675, 78.625, or 105 KAR 1:130 without an application by the employee.
- (2) If the agency determines that the employer records ~~[submitted on Form 4225, Verification of Past Employment, or the personnel and wage records from the Executive Branch employer]~~ are not sufficient, the agency may require the employee or person to supplement the employer records with copies of check stubs, W-2 forms, personnel action forms, or payroll records in the employee's or person's possession.
- (3) If the employee or person does not have additional documentation of the service, the employee or person may file at the agency ~~[retirement]~~ office a report of detailed earnings from the Social Security Administration for the period of service, along with two (2) Form 4160s, Affidavit and Certification for Documentation of Service completed by persons who earned, or were eligible for, service for the same period in a state-administered ~~[state administered]~~ retirement system with the same employer. Each affiant shall detail the employee's or person's employment status and length of service.

Section 4. ~~[Section 5.]~~ Purchase of School Board Service. For service with a school board, the employee shall file at the agency ~~[retirement office]~~ a valid Form 4225, Verification of Past Employment.

Section 5. ~~[Section 6.]~~ Vested Service Purchases.

(1) In order to purchase service credit pursuant to this section, a member shall be:

(a) Participating in one of the retirement systems administered by the Kentucky Public Pensions Authority; and

(b) Vested as defined by KRS 16.505(29), 61.510(22), or 78.510(30).

~~(2)(a)(1)~~

~~(a)~~ To purchase service credit for active duty service in the Armed Forces of the United States pursuant to KRS 61.552(5)(d) and 78.545, the employee shall file at the agency ~~[retirement office]~~ a copy of the

federal form DD-214 or other official military documents clearly indicating the:

1. Date~~[The date]~~ of entry into active duty service;
2. Date~~[The date]~~ of discharge from active duty service; and
3. Type~~[The type]~~ of discharge.

(b) To purchase service credit for service in the National Guard or the military reserve forces pursuant to KRS 61.552(5)(e) and 78.545, including periods of active duty training,~~[or for service in the National Guard,]~~ the employee shall file at the agency~~[retirement office]~~ copies of official military documents clearly indicating the date of entry and current participation or date of discharge.

(c) The documents required by~~[in]~~ paragraphs (a) or (b) of this subsection shall be verified by a statement or letter signed by an authorized employee of the military.

(d) The agency shall verify with the employer the beginning and ending dates of the period of leave associated with active duty service in the Armed Forces of the United States, or service in the National Guard~~;~~ or ~~[service in]~~ the military reserve forces.

~~(3)~~~~(2)~~ (a) To purchase service for a period when the employee was on educational, maternity, or sick leave without pay pursuant to KRS 61.552(5)(i) and 78.545, the employee shall file at the agency~~[retirement office]~~ a statement or letter from the reporting official, personnel director, or agency head certifying the beginning and ending dates of~~[the period of leave]~~ and the type of leave designated by the employer.

(b) The agency shall verify with the employer the beginning and ending dates of~~[the period of]~~ educational, maternity, or sick leave without pay.

~~(4)~~~~(3)~~ To purchase state university service pursuant to KRS 61.552(5)(b) and 78.545, the employee shall file at the agency~~[retirement office]~~ a valid Form 4120, Verification of Employment with a State University.

~~(5)~~~~(4)~~ To purchase federal service pursuant to KRS 61.552(5)(f) and 78.545, the employee shall file at the agency~~[retirement office]~~ a valid Form 4115, Federal Verification.

~~(6)~~~~(5)~~ (a) To purchase past seasonal, emergency, interim, probationary, temporary, or part-time employment that averages the required hours of work per month pursuant to KRS 61.552(5)(g) and 78.545, the employee shall file at the agency~~[retirement office]~~ a valid Form 4225, Verification of Past Employment.

(b) If the employee is seeking to purchase service based on past seasonal, emergency, interim, probationary, temporary, or part-time employment with the Executive Branch, documentation to be filed at the agency shall include:

1. Copies~~[copies]~~ of personnel and wage records provided by the employer;

2. A Form 4225; or

3. Other documentation the agency deems necessary to confirm the employment that the service purchase is being based on~~[shall be filed at the retirement office instead of Form 4225, Verification of Past Employment].~~

~~(7)~~~~(6)~~ To purchase service with a non-participating agency whose service is authorized pursuant to KRS 61.552(5)(j) and 78.545, the employee shall file at the agency~~[retirement office]~~ the following documentation and may be required to file additional information, if necessary for determination:

(a) The beginning and ending dates of the service and any breaks that may have occurred during the service, listed by fiscal year;

(b) The number of calendar months worked;

(c) The position title and status, including full-time, part-time, probationary, emergency, seasonal, temporary, or interim;~~[and]~~

(d) If the employee participated in a retirement plan, and if so, if the:

1. Plan~~[plan]~~ was a defined contribution or defined benefit plan;~~[, and]~~

2. Employee~~[if the employee]~~ has taken a refund of contributions to the plan; and

(e) Any other documentation the agency deems necessary to determine eligibility.

(8)~~[(7)]~~ To purchase urban-county government service pursuant to KRS 61.552(5)(k) and 78.545, the employee shall file at the agency~~[retirement office]~~ a valid Form 4131, Verification of Urban-County Government Service.

(9)~~[(8)]~~ Out-of-State Service Credit.

(a) To purchase service credit for any out-of-state public service pursuant to KRS 61.552(5)(c) and 78.545, the employee shall file at the agency~~[retirement office]~~ a valid Form 4140, Verification of Out-of-State Service.

(b) To purchase nonhazardous out-of-state service credit pursuant to KRS 61.552(5)(c), a member shall:

1. Have been employed in a regular, full-time position;

2. Have earned the out-of-state service credit in a state or local defined benefit plan other than a plan for teachers; and

3. Provide documentation or other evidence that they are not eligible for a retirement benefit from the out-of-state plan for the same period of service.

(c)~~[(b)]~~ To purchase out-of-state service credit for a hazardous duty position, the employee shall:~~[also]~~

1. File~~[file]~~ at the agency a Form 4140 and~~[retirement office]~~ a copy of the description of the duties of the out-of-state position from **his or her**~~[their]~~~~[his or her]~~ former out-of-state employer;~~[:]~~

2. Meet the eligibility requirements established in subsection (9)(b) of this section;

3. Be vested in any system in which the member has a hazardous service account based solely upon service in that system; and

4. Have been employed in an out-of-state

~~[(c) Out-of-state service credit shall be eligible for purchase as hazardous duty if the]~~ position that is the same as or substantially similar to positions for which hazardous duty credit has been approved pursuant to, and meets the definition of a hazardous position as established in,~~[under]~~ KRS 61.592 or 78.5522.

(d) Nonhazardous service may not be used to meet the vesting requirement for a hazardous service credit purchase.

#### Section 6.~~[Section 7.]~~ Service Purchase Calculations Based on Actuarial Cost.

(1) Except for employees of a school board paid under an employment contract, for a purchase based on the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, the higher of the current rate of pay, final rate of pay, or final compensation times the actuarial age factor shall be~~[determined as follows]~~:

(a) Current rate of pay shall be~~[determined as follows]~~:

1. For an hourly employee paid on a seven and one-half (7 1/2) hour day, the hourly rate times 1,950;

2. For an hourly employee paid on an eight (8) hour day, the hourly rate times 2,080;

3. For an employee paid by the day, the daily rate times 260;

4. For an employee paid by the week, the weekly rate times fifty-two (52);

5. For an employee paid by the month, the monthly rate times twelve (12);

6. For a part-time employee who averages 100 or more hours per month, the hourly rate times hours per day times 260. If the number of hours worked per day is not fixed by the employer, seven and one-half (7 1/2) hours shall be used;

7. For an employee who receives a fixed amount in addition to an hourly, daily, weekly, monthly, or annual rate, the current rate shall include all fixed amounts, averaged into the same period;

8. For an employee simultaneously employed in more than one (1) of the systems, the higher of the combined current rate of pay, combined final rate of pay, or combined final compensation shall be used as of the cost calculation date.

(b) Final compensation shall be determined as of the cost calculation date, except that if the agency provides or corrects a cost calculation for a retired member, final compensation shall be based on the definition of final compensation as established in 105 KAR 1:001 in effect on **the member's[their]** retirement date. To determine final compensation in effect for the cost calculation or correction for a retired member, the agency shall use~~[the final compensation of nonhazardous members of the County Employees Retirement System or Kentucky Employees Retirement System with an effective retirement date within the window provided in KRS 61.510(14)(b) and 78.510(14)(b) shall be based on the three (3) fiscal years with the highest average monthly earnings if the sum of the employee's service when added to his age would equal at least seventy-five (75), assuming]~~ the employee's actual service, including~~[includes]~~:

1. All service~~[remaining on an active installment purchase agreement;~~

2. All service] **that[which]** the employee purchased pursuant to~~[is eligible to purchase under]~~ KRS 61.552(2), 61.552(3), and 78.545; and

2. The employee's age at retirement

~~[3. All service the employee would accrue if employment continued through December 31, 2008.~~

~~(c) The employee's age [rounded to the nearest year as of the cost calculation date shall be used].~~

~~(c)[(d)]~~ The benefit factor used to determine the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, shall be the benefit factor to which the employee is entitled on the first day of the month following the cost calculation date, except that the benefit factor for nonhazardous employees of the County Employees Retirement System and the Kentucky Employees Retirement System with an effective retirement date within the window established~~[provided]~~ in KRS 61.510(14)(b) and 78.510(14)(b) shall be the highest benefit factor to which the employee would be entitled, assuming total service as determined in paragraph (b) of this subsection.

(2) For employees of a school board paid under an employment contract, for a purchase based on the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, the higher of the current rate of pay, final rate of pay, or final compensation times the actuarial age factor shall be~~[determined as follows]~~:

(a) The current rate of pay shall be equal to the final compensation as of the cost calculation date.

(b) Final compensation shall be determined as of the cost calculation date, except that the final compensation of nonhazardous members of the County Employees Retirement System or Kentucky Employees Retirement System with an effective retirement date within the window established~~[provided]~~ in KRS 61.510(14)(b) and 78.510(14)(b) shall be based on the three (3) fiscal years with the highest average monthly earnings if the sum of the employee's service when added to **his or her[their]**~~[his]~~ age would equal at least seventy-five (75), assuming the employee's service includes all service:

1. Remaining~~[All service remaining]~~ on an active installment purchase agreement;

2. Which~~[All service which]~~ the employee is eligible to purchase under KRS 61.552(2), 61.552(3), and 78.545; and

3. The~~[All service the]~~ employee would accrue if employment continued through December 31, 2008.

(c) The employee's age rounded to the nearest year as of the cost calculation date shall be used.

(d) The benefit factor used to determine the actuarial cost, in accordance with KRS 61.552(10)(a) and 78.545, shall be the benefit factor to which the employee is entitled on the first day of the month following the cost calculation date, except that the benefit factor for nonhazardous employees of the County Employees Retirement System and the Kentucky Employees Retirement System with an effective retirement date within the window established~~[provided]~~ in KRS 61.510(14)(b) and 78.510(14)(b) shall be the highest benefit factor to which the employee would be entitled, assuming total service as determined in paragraph (b) of this subsection.

Section 7.~~[Section 8.]~~ Correction Upon Discovery of Error or Omission in Service Purchase Costs.

- (1) After the employee, member, or retired member has purchased service, the agency may recalculate the cost of the service if, upon audit, the agency determines that any of the information utilized to calculate the cost of the service was incorrect.
- (2) If the recalculation results in an increase in the cost of \$100 or more, the employee or person, member, or retired member shall have thirty (30) days to pay the additional amount.
- (3) If the employee, member, retired member, or the employer, fails to pay the additional amount, the employee's, member's, or retired member's service shall be reduced to the next lower increment or number of months for which the employee, member, or retired member is eligible based on the original payment, and the difference shall be refunded to the employee, member, or retired member.

Section 8.~~[Section 9.]~~ Special Considerations for Purchase of Refunded or Past Service.

- (1) The verified wages associated with service purchased under the provisions of KRS 61.552 and 78.545 that would have qualified as creditable compensation shall be added to the employee's account and shall be used in determining the employee's final compensation.
- (2) An employee purchasing service pursuant to~~[under the preceding]~~ subsection (1) of this section by increments or by installment purchase agreement shall have the service credited in chronological order beginning with the earliest service.

Section 9.~~[Section 10.]~~ Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) Form 4172, "Notice of Intent to Transfer Lump Sum Payment(s) to Qualified Employer Sponsored Plan," April 2021;
  - (b) Form 4170, "Direct Transfer/Rollover Authorization Form" 1/2026~~[April 2021]~~;
  - (c) Form 4225, "Verification of Past Employment," 1/2026~~[April 2021]~~;
  - (d) Form 4160, "Affidavit and Certification for Documentation of Service," 1/2026~~[September 2010]~~;
  - (e) Form 4120, "Verification of Employment with a State University," April 2021;
  - (f) Form 4115, "Federal Verification," 1/2026~~[April 2021]~~;
  - (g) Form 4131, "Verification of Urban-County Government Service," April 2021; and
  - (h) Form 4140, "Verification of Out-of-State Service," April 2021.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or on the agency's website at [kyret.ky.gov](http://kyret.ky.gov).

**FINANCE AND ADMINISTRATION CABINET**  
**Kentucky Public Pensions Authority**  
**(Amendment)**

**105 KAR 1:400. Federal taxation limitation year.**

RELATES TO: KRS ~~16.505, 16.568, 61.505, 61.510, 61.552, 61.663, 78.510, 78.652, [(1)(g)]~~ 26 U.S.C. ~~125, 3401, 402, 415, 417, 457, 6041, 6051~~ [61.645(9)(e)]

STATUTORY AUTHORITY: KRS ~~61.505(1)(g)~~ [61.645(9)(e)]

CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with KRS 13A.150(2) because it does not have a major economic impact.

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~61.505(1)(g)~~ authorizes the Kentucky Public Pensions Authority on behalf of Kentucky Retirement Systems and County Employees Retirement System [61.645(9)(g) requires the Board of Trustees of Kentucky Retirement Systems] to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 and to conform to federal statutes and regulations. 26 U.S.C. 415(c) limits post-tax contributions by a member. This administrative regulation concerns the administration of testing contribution and benefit limits in accordance with 26 U.S.C. Section 415.

Section 1. Definitions.

(1) "Annual addition" is defined by 26 U.S.C. 415(c)(2).

(2) "Annual benefit" is defined by 26 U.S.C. 415(b)(2).

(3)[(4)] "Fiscal year" is defined by KRS 16.505(32), 61.510(19), and 78.510(19).

(4)[(2)] "415(b) limit" means [tø] the limitation on benefits established by 26 U.S.C. 415(b).

(5)[(3)] "415(c) limit" means the limitation on annual additions established by 26 U.S.C. 415(c).

Section 2. The ***limitation year*** [***"fiscal year" shall be the limitation year***] established [as set out] in 26 U.S.C. Section 415 for determining contribution and benefit limits in the plans administered by the Kentucky Retirement Systems or County Employees Retirement System ***shall be the fiscal year.***

Section 3. This administrative regulation shall apply to all plans administered by Kentucky Retirement Systems or County Employees Retirement System. Subject to the provisions of this administrative regulation, benefits paid from, and employee contributions made to, these plans shall not exceed the maximum benefits and the maximum annual addition, respectively, as established in [applicable under] 26 U.S.C. 415. The provisions of this section shall not prevent the member receiving benefits from the funds created by KRS 16.568, 61.663, and 78.652.

Section 4. Participation in Other Qualified Plans: Aggregation of Limits. The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in 26 U.S.C. 414(j) maintained by the member's employer in a Kentucky Retirement Systems or County Employees Retirement System [KRS] plan shall apply as if the total benefits payable under all those defined benefit plans in which the member has been a member were payable from one (1) plan.

Section 5. The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in 26 U.S.C. 414(i) maintained by a participating employer~~[the member's employer in a KRS plan]~~ shall apply as if the total annual additions under all those defined contribution plans in which the member has been a member were payable from one (1) plan.

Section 6. Basic 415(b) Limitation. On and after January 1, 1995, a member shall not receive an annual benefit that exceeds the dollar amount established~~[specified]~~ in 26 U.S.C. 415(b)(1)(A), subject to the applicable adjustments established in 26 U.S.C. 415(b) and subject to any additional limits established~~[that are specified]~~ in this section. A member's annual benefit payable in any limitation year from a Kentucky Retirement Systems or County Employees Retirement System~~[KRS]~~ plan shall not be greater than the limit applicable on~~[at]~~ the annuity starting date, as increased in subsequent years pursuant to 26 U.S.C. 415(d) and 26 C.F.R. 1.415(d)-1.

Section 7.~~[Definition of]~~ Annual Benefit.

(1) For purposes of 26 U.S.C. 415(b), the "annual benefit" is the~~[means a]~~ benefit payable annually in the form of a straight life annuity with no ancillary benefits~~[(with no ancillary benefits)]~~ without regard to the benefit attributable to:

(a) After-tax~~[after-tax]~~ employee contributions other than permissive service credit as defined by 26 U.S.C. 415(n); or

(b) ~~[To]~~ Rollover contributions as defined by 26 U.S.C. 415(b)(2)(A)~~[(except pursuant to 26 U.S.C. 415(n)) and to rollover contributions (as defined in 26 U.S.C. 415(b)(2)(A))].~~

(2) The "benefit attributable" shall be determined in accordance with 26 C.F.R. 1.415(b)-1(b)(2).

Section 8. Adjustments to Basic 415(b) Limitation for Form of Benefit.

(1) If the benefit under a Kentucky Retirement Systems or County Employees Retirement System~~[KRS]~~ plan is other than the form specified in Section 6 of this administrative regulation, then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors established~~[prescribed]~~ in 26 C.F.R. 1.415(b)-1(c).

(2) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then subsection (1) of this section shall be applied by either reducing the section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount~~[determined]~~ using the assumptions established~~[specified]~~ in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that take~~[takes]~~ into account the additional benefits under the form of benefit as established in this subsection~~[follows:]~~

(a) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) does not apply a monthly benefit, the actuarially equivalent straight life annuity benefit that is the greater of, or~~[of]~~ the reduced 415(b) limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the assumptions established in subparagraphs 1 and 2 of this paragraph.~~[following assumptions:]~~

1. The annual amount of the straight life annuity~~[(if any)]~~ payable to the member under the Kentucky Retirement Systems or County Employees Retirement Systems~~[KRS]~~ plan commencing on~~[at]~~ the same annuity starting date as the form of benefit to the member; or

2. The annual amount of the straight life annuity commencing on~~[at]~~ the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a five (5) percent statutory interest assumption established in 26 U.S.C. 415(b)(2) E(i); and~~[(or the applicable statutory interest assumption), and:]~~

a. On or before December 31, 2008, the applicable mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

b. On or after January 1, 2009, the applicable mortality tables established[described] in 26 U.S.C. 417(e)(3)(B)[(Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B))]; or

(b) For a benefit paid in a form to which 26 U.S.C. 417(e)(3) applies[a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of, ~~or~~ the reduced 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the assumptions established in subparagraphs 1 through 3 of this paragraph.[following assumptions:]

1. The annual amount of the straight life annuity commencing ~~on~~[at] the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, established[specified] in the Kentucky Retirement Systems or County Employees Retirement System[KRS] plan for actuarial experience;

2. The annual amount of the straight life annuity commencing ~~on~~[at] the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one-half (5.5)[5.5] percent statutory interest assumption established in 26 U.S.C. 415(b)(E)(ii)(I)[415(b)(E)(ii)(I)] and the ~~(or the applicable statutory interest assumption), and:~~

a. On or before December 31, 2008, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62); or

b. On or after January 1, 2009, the applicable mortality tables established[described] in 26 U.S.C. 417(e)(3)(B)[(Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B))]; or

3. The annual amount of the straight life annuity commencing ~~on~~[at] the annuity starting date that has the same actuarial present value as the particular form of benefit payable[~~computed~~] using the applicable interest rate for the distribution established in 26 C.F.R.[under Treasury Regulation section] 1.417(e)-1(d)(3)[(the thirty (30) year Treasury rate (prior to January 1 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate] in effect for the first day of the plan year with a one (1) year stabilization period and[period]]; and:

a. On or before December 31, 2008, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), divided by 1.05; or

b. On or after January 1, 2009, the applicable mortality tables established[described] in 26 U.S.C. 417(e)(3)(B)[(Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing 26 U.S.C. 417(e)(3)(B))] divided by 1.05.

Section 9. Benefits Not Taken into Account for 415(b) Limit.[4] For purposes of this administrative regulation, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit **that**[which] is not directly related to retirement income benefits;

(2) That portion of any joint and survivor annuity[and] that constitutes a qualified joint and survivor annuity pursuant to 26 U.S.C. 415(b)(2)(g); and

(3) Any other benefit not required under 26 U.S.C. 415(b)(2) and 26 C.F.R. 1.415(b)-1 to be taken into account for purposes of the limitation of 26 U.S.C. 415(b)(1).

Section 10. Other Adjustments in 415(b) Limitation.

- (1) If the member's retirement benefits become payable before age sixty-two (62), the limit established ~~in [prescribed by]~~ this section shall be reduced in accordance with 26 C.F.R. 1.415(b)-1(d), so that the reduced limit ~~[(as so reduced)]~~ equals an annual straight life benefit when the retirement income benefit begins, ~~[(when the retirement income benefit begins)]~~ which is equivalent to an adjusted \$160,000 ~~[a \$160,000 (as adjusted)]~~ annual benefit beginning at age sixty-two (62).
- (2) If the member's benefit is based on at least fifteen (15) years of service as a full-time employee of any police or fire department or on fifteen (15) years of military service, the adjustments established ~~[provided for]~~ in subsection (1) of this section shall not apply.
- (3) The reductions established ~~[provided for]~~ in subsection (1) of this section shall not apply to preretirement disability benefits or preretirement death benefits.

Section 11. Less than Ten (10) Years of Participation.

- (1) The maximum retirement benefits payable to any member who has completed less than ten (10) years of participation in a system shall be the amount determined under Section 6 of this administrative regulation as adjusted under Sections 8 or 10 of this administrative regulation multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten (10).
- (2) The reduction established in ~~[provided by]~~ this section shall not:
  - (a) Reduce ~~[reduce]~~ the maximum benefit below ten (10) percent of the limit determined without regard to this section; or
  - (b) Apply ~~[- The reduction provided by this section shall not apply]~~ to preretirement disability benefits or preretirement death benefits.

Section 12. \$10,000 Limit Less than Ten (10) Years of Service.

- (1) Notwithstanding any provision of ~~[anything in]~~ this administrative regulation to the contrary, the retirement benefit payable ~~[with respect to a member]~~ shall be deemed not to exceed the limit established ~~[set forth]~~ in this section if the benefits payable ~~[- with respect to the member]~~ under a Kentucky Retirement Systems or County Employee Retirement System ~~[KRS]~~ plan and under all other qualified defined benefit pension plans to which the member's employer contributes; ~~[.]~~
  - (a) Do ~~[do]~~ not exceed \$10,000 for the applicable limitation year and for any prior limitation year; and
  - (b) The ~~[the]~~ employer has not at any time maintained a qualified defined contribution plan in which the member participated.
- (2) If the member has completed less than ten (10) years of service with the employer, the limit under this section shall be a reduced limit equal to \$10,000 multiplied by a fraction, the numerator of which is the number of years of service the member has and the denominator of which is ten (10).

Section 13. Effect of COLA without a Lump Sum Component on 415(b) Testing. On ~~[Effective on]~~ and after January 1, 2003, for purposes of applying the 415(b) limit to a member with no lump sum benefit, ~~the following shall apply:~~

- (1) A member's applicable 415(b) limit shall be applied to the member's annual benefit in the member's first limitation year without regard to any automatic cost of living adjustments;
- (2) To the extent that the member's annual benefit equals or exceeds the limit ~~[Limit]~~, the member shall not be eligible for cost of living increases from the funds created by KRS 16.510, 61.515, 78.520, until the ~~[time that the]~~ benefit added to ~~[plus]~~ the accumulated increases are less than the 415(b) limit; and
- (3) In ~~[Thereafter, in]~~ any subsequent limitation year, a member's annual benefit, including any automatic

cost of living increases, shall be tested under the current~~[then applicable]~~ 415(b) limit including any adjustment to the 26 U.S.C. 415(b)(1)(A) dollar limit under 26 U.S.C. 415(d), and 26 C.F.R. 1.415(b)-1(d): ~~The provisions of this section shall not prevent the member receiving benefits from the funds created by KRS 16.568, 61.663, and 78.652].~~

Section 14. Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of ***his or her***~~[their]~~~~[the member's]~~ annual benefit in a lump sum, the~~[a member's applicable]~~ limit shall be applied taking into consideration cost of living increases as required by 26 U.S.C. 415(b) and 26 C.F.R. 1.415(b)-1.

Section 15. 415(c) Limit. After-tax member contributions or other annual additions with respect to a member shall not exceed the lesser of \$40,000, as adjusted pursuant to 26 U.S.C. 415(d),~~[(as adjusted pursuant to 26 U.S.C. 415(d))]~~ or 100 percent of the member's compensation.

~~(1) [Annual additions shall mean the sum (for any year) of employer contributions to a defined contribution plan, post-tax member contributions, and forfeitures credited to a member's individual account. Member contributions shall be determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.~~

~~(2) [For purposes of applying the 415(c) limits only, compensation [and for no other purpose, the definition of compensation if applicable] shall be compensation actually paid or made available during a limitation year, except as established [noted] in subsection (3) of this section and as permitted by Treasury Regulation Section 1.415(c)-2, [or successor regulation;] except that member contributions picked up under 26 U.S.C. 414(h) shall not be treated as compensation.~~

~~(2)(a) [(3)] Unless another definition of compensation that is permitted by Treasury Regulation Section 1.415(c)-2, [or successor regulation;] is specified by a Kentucky Retirement Systems or County Employees Retirement System [KRS] plan, compensation shall be: [defined as]~~

~~1. Wages as defined by [wages within the meaning of] 26 U.S.C. 3401(a);~~

~~2. All [and all] other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under 26 U.S.C. 6041(d), 6051(a)(3), and 6052; and~~

~~3. Determined [shall be determined] without regard to any rules under 26 U.S.C. 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed, including [(such as) the exception for agricultural labor in 26 U.S.C. 3401(a)(2) [3401(a)(2)]]].~~

~~(b) [(a)] For [However, for] limitation years beginning on and after January 1, 1998, compensation shall also include amounts that would otherwise be included in compensation but for an election under 26 U.S.C. 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b).~~

~~(c) For limitation years beginning on and after January 1, 2001, compensation shall also include any elective amounts that are not includible in the gross income of the employee by reason of 26 U.S.C. 132(f)(4).~~

~~(d) [(b)] For limitation years beginning on and after January 1, 2009, compensation [for the limitation year] shall also include compensation paid by the later of two and one-half (2 1/2) months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:~~

~~1. The payment is:~~

~~a. Regular compensation for services during the employee's regular working hours;~~

~~b. Compensation for services outside the employee's regular working hours, including [(such as) overtime or shift differential; or~~

c. Commissions, bonuses, or other similar payments; and  
2. Absent a severance from employment, the employee would have been able to use the payments ~~including~~~~(including)~~ unused accrued bona fide sick, vacation or other ~~leave~~~~(leave)~~ if employment had continued.

~~(e)~~~~(e)~~ Any payments not ~~established~~~~(described)~~ in paragraph ~~(d)~~~~(b)~~ of this subsection shall not be considered compensation if paid after severance from employment, even if they are paid within two and one half (2 1/2) months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service as established in 26 U.S.C. 414(u)(1)~~(within the meaning of 26 U.S.C. 414(u)(1))~~ to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service. An employee who is in qualified military service~~(within the meaning of 26 U.S.C. 414(u)(1))~~ shall be treated as receiving compensation from the employer during the period of qualified military service equal to:

1. The compensation the employee would have received during the period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service; or
2. If the compensation the employee would have received during the period was not reasonably certain, the employee's average compensation from the employer during the twelve (12) month period immediately preceding the qualified military service or~~(or)~~, if shorter, the period of employment immediately preceding the qualified military service~~(service)~~.

~~(f)~~~~(d)~~ Back pay, as established in 26 C.F.R.~~(within the meaning of Treasury Regulation section)~~ 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

#### Section 16. Service Purchases Under Section 415(n).

(1) ~~Beginning~~~~(Effective for permissive service credit contributions made in limitation years beginning)~~ after December 31, 1997, if a member makes one (1) or more contributions to purchase permissive service credit under a Kentucky Retirement Systems or County Employees Retirement System~~(KRS)~~ plan,~~(then)~~ the requirements of 26 U.S.C. 415(n) shall be treated as met only if determined by treating:

- (a) ~~The~~~~(requirements of 26 U.S.C. 415(b) are met, determined by treating the)~~ accrued benefit derived from all these contributions as an annual benefit for purposes of the 415(b) limit; or
- (b) ~~All of the~~~~(The requirements of 26 U.S.C. 415(c) are met, determined by treating all these)~~ contributions made pursuant to this subsection as annual additions for purposes of the 415(c) limit.

(2) For purposes of applying this section, a Kentucky Retirement Systems or County Employees Retirement System~~(KRS)~~ plan shall not fail to meet solely by reason of this section the:

- (a) Reduced~~(reduced)~~ limit under 26 U.S.C. 415(b)(2)(C); and
- (b) Percentage~~(solely by reason of this section and shall not fail to meet the percentage)~~ limitation under 26 U.S.C. 415(c)(1)(B)~~(solely by reason of this section)~~.

(3) (a) For purposes of this section the term "permissive service credit" shall mean service credit:

1. Recognized by a Kentucky Retirement Systems or County Employees Retirement System~~(KRS)~~ plan for purposes of calculating a member's benefit under a Kentucky Retirement Systems or County Employees Retirement System~~(KRS)~~ plan;

2. **That**~~(Which)~~ the member has not received under a Kentucky Retirement Systems or County Employees Retirement System ~~(KRS)~~ plan; and

3. **That**~~(Which)~~ the member may receive only by making a voluntary additional contribution, in an amount determined under a Kentucky Retirement Systems or County Employees Retirement System ~~(KRS)~~

plan, which does not exceed the amount necessary to fund the benefit attributable to the service credit.

(b) ~~Permissive~~~~Effective for permissive~~ service credit contributions made in limitation years beginning after December 31, 1997~~[, the term]~~ may include service credit for periods for which there is no performance of service, and, notwithstanding paragraph (a)2 of this subsection, may include service credited~~[in order]~~ to provide an increased benefit for service credit which a member is receiving under a Kentucky Retirement Systems or County Employees Retirement System ~~[KRS]~~ plan.

(4) The Kentucky Retirement Systems or County Employees Retirement System ~~[KRS]~~ plan shall fail to meet the requirements of this section if:

(a) More than five (5) years of nonqualified service credit are taken into account for purposes of this section; or

(b) Any nonqualified service credit is taken into account under this section before the member has at least five (5) years of participation under a Kentucky Retirement Systems or County Employees Retirement System ~~[KRS]~~ plan.

(5) For purposes of subsection (4) of this section,~~effective~~ for permissive service credit contributions made in limitation years beginning after December 31, 1997,~~the term~~ "nonqualified service credit" shall ~~be~~~~mean~~ permissive service credit other than that allowed with respect to:

(a) Service as an employee of the Government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing ~~other~~~~(other)~~ than military service or service for credit which was obtained as a result of a repayment described in 26 U.S.C. 415(k)(3)~~[26 U.S.C. 415(k)(3)]~~;

(b) Service as an employee ~~other~~~~(other)~~ than ~~that established~~~~[as an employee described]~~ in paragraph (a) of this ~~subsection~~~~[subsection]~~ of an education organization ~~established~~~~[described]~~ in 26 U.S.C. 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary~~,~~~~or~~ secondary through grade twelve (12)~~[education through grade 12]~~, or a comparable level of education, pursuant to~~as determined under~~ the applicable law of the jurisdiction in which the service was performed;

(c) Service as an employee of an association of employees ~~as established~~~~[who are described]~~ in paragraph (a) of this subsection; or

(d) Military service ~~other~~~~(other)~~ than qualified military service under 26 U.S.C. 414(u)~~[26 U.S.C. 414(u)]~~ recognized by the Kentucky Retirement Systems or County Employees Retirement System ~~[KRS]~~ plan.

(6) ~~Service established~~~~[For service described]~~ in subsection (5)(a), (b), or (c) of this section~~[, the service]~~ shall be nonqualified service if recognition of the service would cause a member to receive a retirement benefit for the same service under more than one plan.

(7) For a trustee-to-trustee transfer after December 31, 2001, to which 26 U.S.C. 403(b)(13)(A) or 457(e)(17)(A) applies ~~without~~~~(without)~~ regard to whether the transfer is made between plans maintained by the same ~~employer, the~~~~[employer]~~:

(a) ~~Limitations~~~~[The limitations]~~ of subsection (4)~~[shall]~~ of this section shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

(b) ~~Distribution~~~~[The distribution]~~ rules applicable under federal law to a Kentucky Retirement Systems or County Employees Retirement System ~~[KRS]~~ plan shall apply to these amounts and any benefits attributable to these amounts.

(8) For individuals who began membership in a Kentucky Retirement Systems or County Employees Retirement System plan before January 1, 1998~~[an eligible member]~~, the 415(c) limit shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of a Kentucky Retirement Systems or County Employees Retirement System ~~[KRS]~~ plan as in effect on August 5, 1997~~[,]~~~~[For purposes of this subsection an eligible member shall be an individual who first became a member in a KRS plan before January 1,~~

1998].

Section 17. Modification of Contributions for 415(c) and 415(n) Purposes. The agency[department] may modify a request by a member to make a contribution to a Kentucky Retirement Systems or County Employees Retirement System [KRS] plan if the amount of the contribution would exceed the limits provided in Section 415 by using the methods established in this section~~[following methods:]~~

(1) If the law requires a lump sum payment for the purchase of service credit, the agency~~[Kentucky Retirement Systems]~~ may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under 26 U.S.C. 415(c) or 415(n).

(2) If payment pursuant to subsection (1) of this section will not avoid a contribution in excess of the limits imposed by 26 U.S.C. 415(c) or 415(n), the agency~~[Kentucky Retirement Systems]~~ may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution.

Section 18. Repayments of Cashouts. Any service purchase pursuant to KRS 61.552(3) of repayment of contributions, including interest, is a repayment of a cashout under 26 U.S.C. 415(k)(3) and~~[(including interest thereon) to the KRS plan with respect to an amount previously refunded upon a forfeiture of service credit under the KRS plan or another governmental plan maintained by the State or a local government within the state]~~ shall not be taken into account for purposes of the 415(b) or (c) limits.