

#### 4 KAR 1:020. Minimum distribution.

RELATES TO: KRS 6.525, 21.385 and 21.540, 26 C.F.R. 1.401(a)(9)-9, 26 U.S.C. 401(a)(9), 414(d)

STATUTORY AUTHORITY: KRS 21.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 21.540(2) authorizes the board of trustees of the Judicial Form Retirement System to promulgate administrative regulations, with retroactive effect if required by federal law, to conform the Kentucky Judicial Retirement Plan and the Kentucky Legislators Retirement Plan with federal law and to meet the qualification requirements under 26 U.S.C. 401(a). This administrative regulation establishes minimum distribution requirements in compliance with 26 U.S.C. 401(a)(9).

Section 1. Definitions. (1) "Member" means a member of a retirement fund established in accordance with KRS 6.500 to 6.577 or KRS 21.345 to 21.580 and administered by the Kentucky Judicial Form Retirement System.

(2) "Plan" means the Kentucky Judicial Retirement Plan and the Kentucky Legislators Retirement Plan.

(3) "Required beginning date" means April 1 of the calendar year following the later of:

- (a) The calendar year in which the member attains age seventy and one-half (70 1/2); or
- (b) The calendar year in which the member retires.

Section 2. (1) This administrative regulation shall apply to any member of a fund established in accordance with KRS 6.500 to 6.577, or 21.345 to 21.580.

(2) Effective January 1, 2003, the Plans shall pay all benefits in accordance with a good faith interpretation of the requirements of 26 U.S.C. 401(a)(9) and 1.401(a)(9)-1 to 1.401(a)(9)-9, as applicable to a governmental plan within the meaning of 26 U.S.C. 414(d). The requirements of 26 U.S.C. 401(a)(9) shall take precedence over any inconsistent provisions of KRS 6.500 to 6.577, and 21.345 to 21.580.

(3) The members entire interest shall be distributed over the members life or lives of the member and the members beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and the members beneficiary.

Section 3. (1) Except as provided in subsection (2) of this section, the members entire interest shall be distributed, or begin to be distributed, to the member no later than the members required beginning date.

(2) If the member dies before distribution begins and there is a qualified beneficiary, the members entire interest shall be distributed, or begin to be distributed, no later than as follows:

(a) Except as provided in subsection (3) of this section, if the members surviving spouse is the members sole beneficiary, distributions to the surviving spouse shall begin by the later of:

1. December 31 of the calendar year immediately following the calendar year in which the member died; or

2. December 31 of the calendar year in which the member would have attained age seventy and one-half (70 1/2);

(b) If the members surviving spouse is not the members sole beneficiary, distributions to the members beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died; or

(c) If there is not a beneficiary as of September 30 of the year following the year of the members death, the members entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the members death.

(3) If a member dies after the required distribution of benefits has begun but before the recoupment of the members personal contributions, the remaining portion of the members interest shall be distributed at least as rapidly as under the method of distribution before the members death.

(4)(a) For purposes of subsections (2) and (3) of this section, distributions shall be required to begin on the members required beginning date.

(b) If annuity payments irrevocably commence to the member before the members required beginning date, or to the members surviving spouse before the date distributions are required to begin to the surviving spouse pursuant to subsection (2)(a) of this section, the date distributions are considered to begin shall be the date distributions actually commence.

Section 4. (1) If the members interest is paid in the form of annuity distributions, payments pursuant to the annuity shall satisfy the following requirements:

(a) The annuity distributions shall be paid in monthly periodic payments;

(b) The distribution period shall be over a life (or lives) or over a period certain not longer than the period described in this section or Section 5 of this administrative regulation; and

(c) Payments shall increase only as follows:

1. By the annual percentage increase provided for pursuant to KRS 6.500 to 6.577 and 21.345 to 21.580;

2. To the extent of the reduction in the amount of the members payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in this section dies;

3. To provide cash refunds of employee contributions upon the members death; or

4. To pay any increased benefits that result from a plan amendment.

(2)(a) The amount that shall be distributed on or before the members required beginning date, or if the member dies before distributions begin, the date distributions are required to begin under Section 3(2) of this administrative regulation, shall be the payment that is required for one (1) month.

(b) The second payment shall not be required to be made until the end of the next payment interval even if that payment interval ends in the next calendar year.

(c) All of the members benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for months ending on or after the members required beginning date.

Section 5. (1) The amount of annuity paid to a members beneficiary shall not exceed the maximum determined pursuant to the incidental death benefit requirement of 26 U.S.C. 401(a)(9)(G), and the minimum distribution incidental benefit rule established in 26 C.F.R. 1.401(a)(9)-6, Q&A-2.

(2) The death and disability benefits provided by the Plans shall be limited by the incidental benefit rule established in 26 U.S.C. 401(a)(9)(G) and 1.401-1(b)(1)(i). (37 Ky.R. 873, eff. 12-3-2010; Crt eff. 1-27-2020.)