

# MACOMB COUNTY EMPLOYEES' RETIREMENT SYSTEM

## POLICY RESOLUTION

ADOPTED: 5-17-18

REVISED: 4-25-19

### **RE: Corrections of Errors Overpayments/Underpayments**

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**WHEREAS**, the Board of Trustees of the Macomb County Employees' Retirement System ("Board of Trustees") is vested with the authority and fiduciary responsibility for the proper administration, management and operation of the Macomb County Employees' Retirement System ("Retirement System"), and

**WHEREAS**, the Board of Trustees acknowledges its fiduciary obligation to ensure that retirees receive the retirement pension to which they are entitled under the plan provisions, no more and no less, and

**WHEREAS**, the Board of Trustees recognizes that in the event of an underpayment or overpayment of a retirement pension, due to an error, the Board of Trustees has a duty to correct the error and as far as is practicable, to adjust the payment in such a manner that the actuarial equivalent of the pension to which the member, retiree or beneficiary was correctly entitled is paid, and

**WHEREAS**, the Board of Trustees recognizes the term "practicable" simply means "that which is performable, feasible, possible, or capable of being accomplished or done," and

**WHEREAS**, the Board of Trustees recognizes the term "actuarial equivalent" means an "amount which is actuarially equal or alike in value" which may include adjustments through the use of lump sum payments and modified payments for a term certain or permanent adjustments over an individual's actuarial life expectancy at the time of retirement, and

**WHEREAS**, the Board of Trustees has discussed this matter with its Legal Counsel and has determined that it is in the best interest of the Retirement System to establish a payment policy and procedure for correction of errors, therefore be it

#### I. UNDERPAYMENTS

**RESOLVED**, that upon discovery of an underpayment in a retirement pension, the Board of Trustees shall provide the retiree or beneficiary with notification of the underpayment as well as the following re-payment options as established by the Board of Trustees:

- (1) Where the underpayment is less than \$10,000.00 a lump sum payment with simplified interest of 3.5% (three and one half percent) interest will be made as soon as reasonably practicable, or
- (2) Where the underpayment is greater than or equal to \$10,000.00 a lump sum payment with simplified interest of 3.5% (three and one half percent) interest will

be made as soon as reasonably practicable, or the retiree or beneficiary may elect to accept a form of re-payment over a five (5) year period. This election must be made within sixty (60) days. In the event the retiree or beneficiary fails to select their retirement pension re-payment option, the Board of Trustees, in its sole discretion, may select an appropriate option and direct payment of the retirement pension accordingly.

- (3) Where the retiree or beneficiaries has died prior to payment of the lump sum amount is paid in full:
  - (a) The remaining payment will be paid to an open estate of the retiree or beneficiary, or
  - (b) If an estate was not established, the remaining payment will be paid in accordance Probate Code Section 1301, and be it further

**RESOLVED**, in the event the Board of Trustees are unsuccessful in re-paying the remaining balance, the Retirement System shall hold the funds on behalf of the Estate for five (5) years. If the funds are not claimed within five years, the funds will be transferred into the system's pension reserve fund, and further

## II. OVERPAYMENTS

**RESOLVED**, the Board of Trustees shall provide the retiree, beneficiary or Estate with notification of the overpayment, which explains the nature and amount of the overpayment, and further

**RESOLVED**, where the overpayment has occurred as a result of a clerical error through no fault of the retiree, beneficiary or Estate, the re-payment will not include interest, and further

**RESOLVED**, where the overpayment has occurred through fault of the retiree, beneficiary, or Estate, the re-payment will include interest, and further

**RESOLVED**, that the Board of Trustees hereby establishes that the re-payment of an overpayment of a retirement pension shall be determined by the Board of Trustees in each instance consistent with the following:

- (1) Where the overpayment is less than \$10,000.00, the individual shall have the option of a one-time lump sum re-payment or have the option of repaying the amount owed over a period to not exceed five (5) years. Re-payment will be made as soon as reasonably practicable. In the event the retirant fails to elect either, a lump sum or prorated repayment, the Retirement System shall take action to recoup the overpayment sum prorated over 60 months.
- (2) Where the overpayment is greater than or equal to \$10,000.00, the actuary will calculate upon the final determination by the Board the re-payment using the actuarial life expectance of the retirant or the beneficiary. The retiree or the beneficiary will have all future retirement pension payments reduced until the overpayment has been recouped. However, the re-payment is to not exceed 25%

of the retirement pension. Re-payment will begin ninety (90) days from the notification date to the retiree or beneficiary.

- (3) Where the overpayment is under \$500.00 and the Board of Trustees is unsuccessful in collecting the re-payment, the Retirement System will forgive the overpayment.
- (4) Overpayments made as a result of fraud or intentional misrepresentation shall be prosecuted to the fullest extent of the law.
- (5) The Board of Trustees, in its sole discretion, reserves the right to amend, modify, supplement or waive any of the foregoing provisions based upon the circumstances in each instance.

**RESOLVED**, that a copy of this resolution shall be forwarded to all applicable retirees, beneficiaries, and other appropriate parties.