

**THE GWINNETT COUNTY BOARD OF EDUCATION'S
RETIREMENT SYSTEM**

**As Amended and Restated
Effective July 1, 2020**

THE GWINNETT COUNTY BOARD OF EDUCATION'S RETIREMENT SYSTEM

PREAMBLE

Establishment of Plan

Effective January 1, 1983, the Board of Education of Gwinnett County Public Schools (the "Board") withdrew from coverage under the Social Security System (the "System"). Thereafter, except for certain residual benefits, employees of the Board were not eligible for Old-Age, Survivors, Disability, and Medicare benefits under the System. It was, therefore, desirable to provide certain replacement benefits for those individuals who would have otherwise received benefits under the System.

Effective January 1, 1983, the Gwinnett County Board of Education's Retirement System (hereafter referred to as the "**Plan**") was adopted.

The Plan was amended and restated, effective January 1, 1987, to reflect liberalizations to certain Plan provisions, to reflect changes in Federal legislation, to eliminate post-retirement medical benefits, and to make additional technical changes.

The Plan was amended and restated, effective January 1, 1997, to reflect liberalizations to certain Plan provisions, to increase disability benefits, to reflect changes in Federal legislation, and to make additional technical changes.

The Plan was amended and restated, effective January 1, 2002, to enhance the portability of pension benefits, to reflect changes in Federal legislation, and to make additional technical changes.

The Plan was amended and restated, effective January 1, 2002, to apply only to individuals who were active participants on or after January 1, 2002 and to reflect changes in Federal legislation, including the Uniformed Services Employment and Reemployment Rights Act of 1994 ("**USERRA**"), the Small Business Job Protection Act of 1996 ("**SBJPA**"), the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Economic Growth and Tax Relief Reconciliation Act of 2001 ("**EGTRRA**"), and to make additional technical changes.

The Plan was amended and restated, effective January 1, 2004, to allow for spouses of terminated vested employees to receive beneficiary benefits, applicable to all active vested employees and terminated vested employees on or after July 1, 2004.

The Plan was amended and restated, effective January 1, 2009, to reflect changes in Federal legislation, including the Pension Protection Act of 2006 ("**PPA**"), the final Section 401(a)(9) Regulations (regarding required minimum distributions) released in June 2004, the final Section 415 Regulations (regarding limitations on maximum annual benefits payable) released in April 2007, to remove the requirement to honor domestic relations orders and to make additional technical changes.

The Plan was amended and restated, effective July 1, 2010 in connection with its initial Cycle C Determination Letter filing with the Internal Revenue Service to incorporate all amendments adopted since the last restatement, comply with all applicable regulatory changes since the last restatement, and to revise the methodology used to calculate post-retirement benefit adjustments.

The Plan was amended and restated, effective July 1, 2012 to make changes to the definition of "Vesting Date," to modify the Normal Form of Retirement Income, to make additional technical changes, and to comply in good faith with the Heroes Earnings Assistance and Relief Act of 2008 ("**HEART**").

The Plan was amended and restated, effective January 1, 2013 in connection with the Plan's second Cycle C Determination Letter filing with the Internal Revenue Service to incorporate all amendments adopted since the last restatement and to comply with all applicable regulatory changes since the last restatement.

2020 Restatement of Plan

The purpose of this amendment and restatement is to makes changes to the definitions of "Vesting Date" and "Normal Retirement Date," to incorporate all amendments adopted since the last restatement, and to comply in good faith with the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 and with all applicable regulatory changes since the last restatement. Except as otherwise provided, the provisions of this Plan shall apply only to individuals who are active participants on or after July 1, 2020.

Objective of Plan

The objective of the Plan is to provide defined retirement benefits for covered employees. All funds contributed will be held in the trusts, custodial accounts, insurance contracts, or a combination thereof, as described hereinafter, and invested to achieve the objective of the Plan. The Plan and the trusts, custodial accounts, and insurance contracts forming a part hereof are intended to meet the requirements for governmental plans of Sections 401(a) and 501(a) of the Internal Revenue Code of 1986 (the "**Code**"), as amended from time to time, and of ERISA, as defined in the Plan. Because the Plan is established and maintained by the Board of Education of Gwinnett County Public Schools for its employees, the Plan is a governmental plan under Section 3(32) of ERISA and Section 414(d) of the Code. The Plan is intended to be maintained and operated as necessary to retain its status as a governmental plan. As a governmental plan, the Plan is exempt from Titles I, III, and IV of ERISA, certain provisions of Title II of ERISA, and various provisions of the Code.

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**THE GWINNETT COUNTY BOARD OF EDUCATION'S
RETIREMENT SYSTEM**

As Amended and Restated Effective July 1, 2020

ARTICLE 1: DEFINITIONS

The following words and phrases, when used in this Plan with an initial capital letter, unless the context clearly indicates otherwise, shall have the following meanings. Whenever applicable, the masculine shall include the feminine pronoun and the singular shall include the plural.

- 1.01 ACCRUED RETIREMENT BENEFITS:** As defined in Section 4.01 of the Plan.
- 1.02 ACTUARIAL EQUIVALENT:** For all benefits commencing on or after July 1, 2019, the benefit of equivalent value, computed using 1) the RP-2000 White Collar Mortality Table projected to 2025 with the BB Projection Scale, with rates blended 80% female, 20% male for participants and 20% female, 80% male for beneficiaries, 2) an interest rate of 7.50%, and 3) a Cost-of-Living assumption of 2.75%.
- 1.03 ACTUARY:** A Fellow or Associate of the Society of Actuaries, or a firm employing one or more Fellows or Associates of the Society of Actuaries, appointed by the Committee as Actuary for the Plan.
- 1.04 BENEFICIARY:** The person, estate or trust last designated by a Participant, by written notice filed with the Committee, to receive a Plan benefit upon his death. For purposes of assigning pre-retirement death benefits defined in Section 6.01 and Section 6.02, in the event a Participant fails to make a designation as provided above, or if no Beneficiary so designated survives the Participant, then the Participant's Beneficiary shall be his surviving Spouse, if any; and if none, the Participant's surviving children; and if none, the Participant's estate.
- 1.05 BOARD:** The Gwinnett County Board of Education.
- 1.06 CASE MANAGER:** An individual (who need not be a Physician) who is trained to evaluate medical claims and who is independent of the Board.
- 1.07 COMMITTEE:** The Administrative Committee provided for in Article 10 (Administration).
- 1.08 DEFINED BENEFIT DOLLAR LIMITATION:** The amount defined in Section 4.07 (Maximum Benefits).
- 1.09 DIRECTOR:** The Director of the Gwinnett Retirement System, who is the senior manager, appointed by the Board, to whom the Committee has delegated the responsibility of day-to-day operations of the Plan, or any successor to his duties with respect to the Plan.
- 1.10 DISABILITY:** As defined in Section 8.02.
- 1.11 DISABILITY FUND:** The fund established for contributions of the Employer and Employees in order to provide for the payment of the disability benefits provided under Article 8.
- 1.12 DISABILITY INCOME BENEFITS:** The long-term disability income replacement benefits described in Section 8.01.
- 1.13 EARNINGS:** The total compensation paid to an Employee by the Employer, during a calendar year, as reportable on the Employee's Federal Withholding Tax Form W-2, or any successor form, plus any amounts not included on such form which were contributed to a plan authorized by Section 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 403(b) of the Code or contributed to an eligible deferred compensation plan described in Section 457(b) of the Code. Effective for years

beginning on or after January 1, 1996, the annual limit on compensation imposed by Section 401(a)(17) of the Code (\$285,000 for 2020) shall apply to the total compensation of each Participant. Notwithstanding the previous sentence, the annual limit on compensation imposed by Section 401(a)(17) shall not apply to any individual who first became a Participant in the Plan prior to January 1, 1996.

- 1.14 EARNINGS BREAKPOINT:** Earnings of \$9,000 in a calendar year.
- 1.15 ELIMINATION PERIOD:** As defined in Section 8.01.
- 1.16 EMPLOYEE:** Any regular, full-time employee hired to perform duties for the Employer on a continuing basis, who is scheduled to work at least twenty (20) hours per week, who is subject to the control of the Employer, who is reported on the Employer's payroll records as a common law employee, and who receives a regular stated compensation other than a pension, severance pay, retainer, or fee under contract. "Employee" shall not include student, seasonal, and intermittent employees. "Employee" shall include an individual on a Leave of Absence.
- 1.17 EMPLOYER:** The Gwinnett County Board of Education.
- 1.18 ERISA:** The Employee Retirement Income Security Act of 1974, as amended from time to time. All references to any Section of the Act shall be deemed to refer not only to such Section but to any successor statutory provisions to such Section. This Plan shall be considered a "governmental plan" under the Act.
- 1.19 FIDUCIARY:** A person or company who exercises discretionary control over the Plan or assets, as defined in Section 3(21) of ERISA.
- 1.20 FUNDS:** Collectively, the Retirement Fund and the Disability Fund.
- 1.21 HOUR OF SERVICE:** Each hour, or part thereof, during which an Employee is paid, or entitled to payment, for the performance of duties for the Employer.
- 1.22 INDEPENDENT MEDICAL EVALUATOR:** A medical evaluation service that is independent of the Board.
- 1.23 INDEMNIFIED PARTY:** As defined in Section 10.07.
- 1.24 INELIGIBLE EMPLOYEES:** The following individuals shall be Ineligible Employees and shall not be entitled to membership in the Plan:
- An individual who is a Leased Employee.
 - An individual who is identified by a specified job code or work status on the Employer's payroll records as an ineligible employee.
 - An individual who is not reported on the Employer's payroll records as a common law employee or who is otherwise deemed by the Employer to be an independent contractor, a Leased Employee, or an employee of a third party regardless of whether any court or other government entity shall determine that such individual should have been classified as a common law employee of the Employer.
- 1.25 LEASED EMPLOYEE:** The term Leased Employee means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person ('leasing organization') has performed services for the recipient (or for the recipient and related persons determined in accordance with Section 414(n)(6) of the Code) on a substantially full-time basis for a period of at least one year; and such services are performed under the primary

direction or control of the recipient. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer. A Leased Employee shall not be considered an employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Section 415(c)(3) of the Code, but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee's gross income under Section 125, Section 402(e)(3), Section 402(h)(1)(B) or Section 403(b) of the Code, (2) immediate participation, and (3) full and immediate vesting; and (ii) Leased Employees do not constitute more than twenty percent (20%) of the recipient's nonhighly compensated work force.

1.26 LEAVE OF ABSENCE: A leave of absence pursuant to the Family and Medical Leave Act of 1993, as amended from time to time, applicable state or local medical leave law, a leave of absence while receiving Short-Term Disability benefits or Disability Income Benefits (as described in Section 8.01), or under any other leave of absence granted and approved by the Employer.

1.27 MONTH OF SERVICE: Any calendar month in which an Employee performs an Hour of Service. If an Employee is on a Leave of Absence, such Employee shall be credited with one Month of Service for each month or part of a month the Employee is on the Leave of Absence. Month of Service shall also include any month during which a Participant receives payment for service to the Employer under a policy or agreement to annualize pay.

1.28 NORMAL RETIREMENT DATE: The first day of the month coincident with or next following the date an Employee attains age sixty-five (65) and nine (9) Months of Service.

1.29 OTHER PLANS: As defined in Section 8.08.

1.30 PARTICIPANT: Anyone who has become included in this Plan as provided in Article 2 (Plan Membership) or who became a Participant under prior versions of this Plan, and who continues to have rights or contingent rights to benefits payable under this Plan. A Participant who has retired and commenced receiving retirement benefits under the Plan shall continue to receive retirement benefits during a period of reemployment, but the Participant shall not:

- Accrue any further retirement benefits under the Plan;
- Earn additional Years of Service on account of such employment;
- Be entitled to any disability income benefits; or
- Be required to make any contributions to the Disability Fund.

Such retired Participant's benefits payable pursuant to this Plan shall be solely those payable in accordance with Article 5 as though the Participant had not been reemployed with the Employer.

1.31 PHYSICIAN: An individual who is:

- A doctor of medicine, osteopathy, psychology or other legally qualified practitioner of a healing art;
- Licensed to practice in the jurisdiction where care is being given;
- Practicing within the scope of that license; and
- Not related to the Participant by blood or marriage.

- 1.32 PLAN:** The Gwinnett County Board of Education's Retirement System, as stated herein and as it may be amended from time to time.
- 1.33 PLAN ADMINISTRATOR:** The Administrative Committee.
- 1.34 PLAN YEAR:** The period January 1 through December 31 during which the Plan is in effect.
- 1.35 REGULAR CARE OF A PHYSICIAN:** Treatment by a Physician(s) whose medical training and clinical experience are suitable to treat the condition(s) causing Disability and whose treatment is consistent with the diagnosis of the condition causing Disability according to guidelines established by medical, research, and rehabilitative organizations and is administered as often as needed to achieve the maximum medical improvement.
- 1.36 RETIREMENT DATE:** The date a Participant retires, as determined in Article 3 of the Plan.
- 1.37 RETIREMENT FUND:** The fund established by contributions of the Employer in order to provide for the payment of retirement and death benefits specified in the Plan, as provided in Articles 4, 5, 6, and 7.
- 1.38 SEVERANCE FROM SERVICE DATE:** The later of (a) and (b):
- (a) The last day of the calendar month during which a Participant ceases to be an Employee of the Employer; or
- (b) The last day of the calendar month during which a Participant receives final payment of Earnings for service to the Employer.
- 1.39 SHORT-TERM DISABILITY:** Qualifying for benefits under the Gwinnett County Public Schools Short Term Disability Plan.
- 1.40 SURVIVING SPOUSE:** The person to whom the Participant is legally married, as determined under federal law, at the time benefits commence under this Plan, and for purposes of Article 6, the person who has been such deceased Participant's "spouse" continuously for the one-year period immediately prior to the date of such Participant's death.
- 1.41 SUBSTANTIAL GAINFUL WORK :** As defined in Section 8.04.
- 1.42 TERMINATED VESTED EMPLOYEE:** A Participant who, for reasons other than death, ceases to be an Employee of the Employer subsequent to attaining his Vesting Date and prior to attaining his Retirement Date.
- 1.43 USERRA:** The Uniformed Services Employment and Reemployment Rights Act of 1994, as amended from time to time.
- 1.44 VESTING DATE:** The date on which a Participant's right to his benefits under Section 4.01 shall become fully-vested and nonforfeitable, determined pursuant to Sections 1.45, 1.46 and 7.03, in accordance with the following:
- A Participant whose initial date of employment with the Employer was prior to July 1, 2012, shall become fully-vested upon his completion of five (5) Years of Service.
- A Participant whose initial date of employment with the Employer was on or after July 1, 2012, shall become fully-vested upon his completion of nine (9) Years of Service and nine (9) Months of Service.

Employees reemployed on or after July 1, 2012, who were not fully-vested upon their Severance from Service Date, shall become fully-vested upon completion of nine (9) Years of Service and nine (9) Months of Service.

- 1.45 YEAR OF BREAK IN SERVICE:** Any period of twelve (12) consecutive calendar months following an Employee's Severance from Service Date if during such period the Employee does not complete an Hour of Service. For purposes of counting consecutive Years of Break in Service, the first Year of Break in Service shall begin on the first day of the month immediately following the Severance from Service Date and shall end on the last day of the twelfth (12th) month following such starting day. Additional Years of Break in Service shall start on the first day of the calendar month immediately following the preceding Year of Break in Service and shall end on the last day of the twelfth (12th) month following such starting day.
- 1.46 YEARS OF SERVICE:** A Participant's aggregate credited service with the Employer. A Year of Service is an accumulation of twelve (12) Months of Service, whether consecutive or otherwise. Years of Service include each whole Year of Service credited and, for any remaining credited service of less than a Year of Service, any credited Months of Service.

ARTICLE 2: PLAN MEMBERSHIP

- 2.01 PLAN MEMBERSHIP:** Any Employee who is not an Ineligible Employee shall commence membership in the Plan upon his Participation Date. An Ineligible Employee who later becomes an Employee shall commence membership in the Plan upon his Participation Date and may receive service credit for prior service with the Employer as an Ineligible Employee, as described in Section 2.02 (Participation Date).
- 2.02 PARTICIPATION DATE:** An Employee's Participation Date shall be the later of the effective date of the Plan and the Employee's initial date of employment with the Employer. For an Employee who was employed by the Employer or who provided services to the Employer as an Ineligible Employee, such Employee's Participation Date shall be the later of the effective date of the Plan and the Employee's initial date of employment as an Employee. A Leased Employee who later becomes an Employee shall receive credit for prior Years of Service completed as a Leased Employee as if he were an Employee, but such Years of Service shall be credited solely for purposes of determining vesting and eligibility under the Plan and not for purposes of accruing retirement benefits.
- 2.03 REEMPLOYMENT:** An Employee who terminates employment and is later rehired by the Employer shall commence (or recommence) membership in the Plan upon reemployment with the Employer as an Employee, unless such Employee is an Ineligible Employee upon reemployment. A Participant who has retired and commenced receiving retirement benefits under the Plan shall continue to receive retirement benefits during a period of reemployment, but the Participant shall not:
- Accrue any further retirement benefits under the Plan;
 - Earn additional Years of Service on account of such employment;
 - Be entitled to any disability income benefits; or
 - Be required to make any contributions to the Disability Fund.

Such retired Participant's benefits payable pursuant to this Plan shall be solely those payable in accordance with Article 5 as though the Participant had not been reemployed with the Employer.

- 2.04 REEMPLOYMENT OF PERSONS SERVING IN THE UNIFORMED SERVICES:** Notwithstanding any other provisions of the Plan, Employees will be provided with contributions, benefits and service credit with respect to qualified military service as provided under USERRA as codified in Section 414(u) of the Code.

ARTICLE 3: ELIGIBILITY FOR RETIREMENT

- 3.01 RETIREMENT DATE:** Except as otherwise provided in this subsection 3.01, a Participant shall retire on his Normal Retirement Date, which shall be his "**Retirement Date.**" Notwithstanding any other provisions for determining a Participant's Vesting Date under the Plan, a Participant's right to his benefits under Section 4.01 shall become fully-vested and nonforfeitable upon the date of attainment of age sixty-five (65) and nine (9) Months of Service while employed.

Unless otherwise specified, a Participant who remains in service with the Employer beyond his Normal Retirement Date shall be considered to have postponed his retirement under the Plan. Any such Participant who postpones retirement may elect to retire on the first day of any month after his Normal Retirement Date, which elected day shall become the Participant's "**Retirement Date.**"

A Terminated Vested Employee shall commence his retirement benefit on his Normal Retirement Date, which shall be his "**Retirement Date,**" unless such Terminated Vested Employee elects to postpone his retirement to a later date, which later date shall become his "**Retirement Date.**"

A Participant who attains his Vesting Date may elect to receive retirement benefits prior to his Normal Retirement Date if he becomes eligible for early retirement under the Teachers Retirement System of Georgia, the Employees Retirement System of Georgia, the Public School Employees Retirement System, or any successors thereto. For the purposes of this Article 3, the "**Retirement Date**" of a Participant who meets the requirements of this paragraph and who terminates employment with the Employer prior to attaining his Normal Retirement Date shall be the first day of the month coinciding with or subsequent to the date of such early retirement eligibility, or termination of employment, whichever is later.

- 3.02 COMMENCEMENT OF BENEFITS:** A Participant may apply to have retirement income benefits commence as of the first day of any month on or after the Participant's Retirement Date as provided in Section 3.01 (Retirement Date), notwithstanding the fact that he may receive residual Earnings following commencement of benefits under the Plan. The application must be in the form prescribed by the Committee, and must be filed with the Committee not less than seventy-five (75) days prior to the date retirement income is to commence. No retirement income will be payable unless a Participant retired as provided in Section 3.01 (Retirement Date), and until proper application has been received by the Committee.

Notwithstanding the Participant's ability to postpone his benefits or postpone his retirement, in no event shall benefits begin later than a Participant's Required Beginning Date as set forth under Section 3.03, and in accordance with Code Section 401(a)(9) and the Treasury regulations thereunder.

3.03 MINIMUM DISTRIBUTION REQUIREMENTS

(a) General Rules

(1) Effective Date. This Section 3.03 is effective January 1, 2004; however, the provisions of this Section 3.03 will first apply for purposes of determining required minimum distributions for calendar years beginning on or after January 1, 2006.

(2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 3.03 shall be determined and made in accordance with Code Section 401(a)(9), including the incidental death benefit requirement in Code Section 401(a)(9)(G), and the Treasury regulations thereunder.

(3) Precedence. Subject to the joint and survivor annuity requirements of the Plan, the requirements of this Section 3.03 will take precedence over any inconsistent provisions of the Plan.

(4) TEFRA Section 242(b)(2) elections.

(i) Notwithstanding the other provisions of this Section 3.03 and the Plan, other than the spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act ("TEFRA") and in accordance with all of the following requirements (regardless of when such distribution commences):

(A) The distribution by the Plan is one which would not have disqualified such plan under Code Section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

(B) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the plan is being distributed or, if the Participant is deceased, by a beneficiary of such Participant.

(C) Such designation was in writing, was signed by the Participant or beneficiary, and was made before January 1, 1984.

(D) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(E) The method of distribution designated by the Participant or the beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the beneficiaries of the Participant listed in order of priority.

(ii) A distribution upon death will not be covered by the transitional rule of this Subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

(iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (i)(A) and (i)(E) of this subsection.

(iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code Section 401(a)(9) and the Treasury regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code Section 401(a)(9) and the regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be

made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

(v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation Section 1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

(5) Limits on Distribution Periods. To the extent otherwise permitted under the terms of the Plan, as of the first Distribution Calendar Year, distributions to a Participant, if not made in a single sum, may only be made over one of the following periods:

(i) The life of the Participant;

(ii) The joint lives of the Participant and a designated Beneficiary;

(iii) A period certain not extending beyond the Life Expectancy of the Participant; or

(iv) A period certain not extending beyond the joint life and last survivor expectancy of the Participant and a Designated Beneficiary.

(b) Time and Manner of Distribution.

(1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) Life Expectancy rule, spouse is beneficiary. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the Surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½ (if Participant was born before July 1, 1949) or age 72 (if Participant was born after June 30, 1949), if later.

(ii) Life Expectancy rule, spouse is not beneficiary. If the Participant's Surviving Spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died.

(iii) No Designated Beneficiary, 5-year rule. If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31st of the calendar year containing the fifth anniversary of the Participant's death.

(iv) Surviving Spouse dies before distributions begin. If the Participant's Surviving Spouse is the Participant's sole Designated Beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, this paragraph (b)(2), other than paragraph (b)(2)(i), will apply as if the Surviving Spouse were the Participant.

For purposes of this paragraph (b)(2) and paragraph (b)(5), distributions are considered to begin on the Participant's Required Beginning Date (or, if paragraph (b)(2)(iv) applies, the date distributions are required to begin to the Surviving Spouse under paragraph (b)(2)(i)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's Surviving Spouse before the date distributions are required to begin to the Surviving Spouse under paragraph (b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, distributions will be made in accordance with paragraphs (c), (d) and (e) as of the first Distribution Calendar Year. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations thereunder. Any part of the Participant's interest which is in the form of an individual account described in Code Section 414(k) will be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and the Treasury regulations thereunder applicable to individual accounts.

(c) Determination of Amount to be Distributed Each Year

(1) General Annuity Requirements. A Participant who is required to begin payments as a result of attaining his or her Required Beginning Date, whose interest has not been distributed in the form of an annuity purchased from an insurance company or in a single sum before such date, may receive such payments in the form of annuity payments under the Plan. Payments under such annuity must satisfy the following requirements:

(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (d) or (e);

(iii) Once payments have begun over a period certain, the period certain will not be changed, even if the period certain is shorter than the maximum period permitted;

(iv) Payments will either be nonincreasing or increase only to the extent permitted by one of more of the following conditions:

(A) By an annual percentage increase that does not exceed the annual percentage increase in an Eligible Cost-of-Living Index for a 12-month period ending in the year during which the increase occurs or the prior year;

(B) By a percentage increase that occurs at specified times (e.g., at specified ages) and does not exceed the cumulative total of annual percentage increases in an Eligible Cost-of-Living Index since the annuity starting date, or if later, the date of the most recent percentage increase. In cases providing such a cumulative increase, an actuarial increase may not be provided to reflect the fact that increases were not provided in the interim years;

(C) To the extent of the reduction in the amount of the Participant's 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 paragraph (d) dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Code Section 414(p);

(D) To allow a beneficiary to convert the survivor portion of a joint and survivor annuity into a single sum distribution upon the Participant's death;

(E) To pay increased benefits that result from a Plan amendment or other increase in the Participant's accrued benefit under the Plan;

(F) By a constant percentage, applied not less frequently than annually, at a rate that is less than 5 percent per year;

(G) To provide a final payment upon the death of the Participant that does not exceed the excess of the actuarial present value of the Participant's accrued benefit (within the meaning of Code Section 411(a)(7)) calculated as of the annuity starting date using the applicable interest rate and the applicable mortality table under Code Section 417(e) (or, if greater, the total amount of employee contributions) over the total of payments before the death of the Participant; or

(H) As a result of dividend or other payments that result from Actuarial Gains, provided:

1) Actuarial Gain is measured not less frequently than annually;

2) The resulting dividend or other payments are either paid no later than the year following the year for which the actuarial experience is measured or paid in the same form as the payment of the annuity over the remaining period of the annuity (beginning no later than the year following the year for which the actuarial experience is measured);

3) The Actuarial Gain taken into account is limited to actuarial gain from investment experience;

4) The assumed interest rate used to calculate such Actuarial Gains is not less than 3 percent; and

5) The annuity payments are not also being increased by a constant percentage as described in paragraph (c)(1)(iv)(F) above.

(2) Amount Required to be Distributed by Required Beginning Date

(i) In the case of a Participant whose interest in the Plan is being distributed as an annuity pursuant to paragraph (c)(1), the amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under paragraphs (b)(2)(i) or (b)(2)(ii)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g.,

bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

(ii) In the case of a single sum distribution of a Participant's entire accrued benefit during a Distribution Calendar Year, the amount that is the required minimum distribution for the Distribution Calendar Year (and thus not eligible for rollover under Code Section 402(c)) is determined under this paragraph (c)(2)(ii). The portion of the single sum distribution that is a required minimum distribution is determined by treating the single sum distribution as a distribution from an individual account Plan and treating the amount of the single sum distribution as the Participant's account balance as of the end of the relevant valuation calendar year. If the single sum distribution is being made in the calendar year containing the Required Beginning Date and the required minimum distribution for the Participant's first Distribution Calendar Year has not been distributed, the portion of the single sum distribution that represents the required minimum distribution for the Participant's first and second Distribution Calendar Years is not eligible for rollover.

(3) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues. Notwithstanding the preceding, the Plan will not fail to satisfy the requirements of this paragraph (c)(3) and Code Section 401(a)(9) merely because there is an administrative delay in the commencement of the distribution of the additional benefits accrued in a calendar year, provided that the actual payment of such amount commences as soon as practicable. However, payment must commence no later than the end of the first calendar year following the calendar year in which the additional benefit accrues, and the total amount paid during such first calendar year must be no less than the total amount that was required to be paid during that year under this paragraph (c)(3).

(4) Death After Distributions Begin. If a Participant dies after distribution of the Participant's interest begins in the form of an annuity meeting the requirements of this Section 3.03, then the remaining portion of the Participant's interest will continue to be distributed over the remaining period over which distributions commenced.

(d) Requirements for Annuity Distributions That Commence During Participant's Lifetime.

(1) Joint Life Annuities Where the Beneficiary is the Participant's Spouse. If distributions commence under a distribution option that is in the form of a joint and survivor annuity for the joint lives of the Participant and the Participant's spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless, under the distribution option, the periodic annuity payment payable to the survivor does not at any time on and after the Participant's Required Beginning Date exceed the annuity payable to the Participant. In the case of an annuity that provides for increasing payments, the requirement of this paragraph (d)(1) will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and the Participant's spouse and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(2) Joint Life Annuities Where the Beneficiary is not the Participant's Spouse. If distributions commence under a distribution option that is in the form of a joint and survivor annuity for the joint lives of the Participant and a beneficiary other than the Participant's spouse, the minimum distribution incidental benefit requirement will not be satisfied as of the date distributions commence unless under the distribution option, the annuity payments to be made on and after the Participant's Required Beginning Date will satisfy the conditions of this paragraph (d)(2). The periodic annuity payment payable to the survivor must not at any time on and after the Participant's Required Beginning Date exceed the applicable percentage of the annuity payment payable to the Participant using the table set forth in Q&A-2(c)(2) of section 1.401(a)(9)-6 of the Treasury regulations. The applicable percentage is based on the adjusted Participant/beneficiary age difference. The adjusted Participant/beneficiary age difference is determined by first calculating the excess of the age of the Participant over the age of the beneficiary based on their ages on their birthdays in a calendar year. If the Participant is younger than age 70, the age difference determined in the previous sentence is reduced by the number of years that the Participant is younger than age 70 on the Participant's birthday in the calendar year that contains the annuity starting date. In the case of an annuity that provides for increasing payments, the requirement of this paragraph (d)(2) will not be violated merely because benefit payments to the beneficiary increase, provided the increase is determined in the same manner for the Participant and the beneficiary. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary and a period certain annuity, the preceding requirements will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(3) Period Certain Annuities. Unless the Participant's spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this paragraph (d)(3), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

(e) Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in paragraph (b)(2)(i) or paragraph (b)(2)(ii), over the life of the Designated Beneficiary or over a period certain not exceeding:

(i) Unless the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(ii) If the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's Surviving Spouse is the Participant's sole Designated Beneficiary, and the Surviving Spouse dies before distributions to the Surviving Spouse begin, this paragraph (e) will apply as if the Surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to paragraph (b)(2)(i).

(f) Definitions

(1) Actuarial Gain. Actuarial Gain means the difference between an amount determined using the actuarial assumptions (i.e., investment return, mortality, expense, and other similar assumptions) used to calculate the initial payments before adjustment for any increases and the amount determined under the actual experience with respect to those factors. Actuarial Gain also includes differences between the amount determined using actuarial assumptions when an annuity was purchased or commenced and such amount determined using actuarial assumptions used in calculating payments at the time the Actuarial Gain is determined.

(2) Designated Beneficiary. Designated Beneficiary means the individual who is designated as the beneficiary under the Plan and is the Designated Beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-4 of the Treasury regulations.

(3) Distribution Calendar Year. Distribution Calendar Year means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to paragraph (b)(2).

(4) Eligible Cost-of-Living Index. An Eligible Cost-of-Living Index means an index described below:

(i) A consumer price index that is based on prices of all items (or all items excluding food and energy) and issued by the Bureau of Labor Statistics, including an index for a specific population (such as urban consumers or urban wage earners and clerical workers) and an index for a geographic area or areas (such as a given metropolitan area or state); or

(ii) A percentage adjustment based on a cost-of-living index described in paragraph (i) above, or a fixed percentage, if less. In any year when the cost-of-living index is lower than the fixed percentage, the fixed percentage may be treated as an increase in an Eligible Cost-of-Living Index, provided it does not exceed the sum of:

(A) The cost-of-living index for that year, and

(B) The accumulated excess of the annual cost-of-living index from each prior year over the fixed annual percentage used in that year (reduced by any amount previously utilized under this paragraph (f)(4)(ii)).

(5) Life Expectancy. Life Expectancy means the life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(6) Required Beginning Date. Except as otherwise provided in the Plan, the Required Beginning Date means the April 1st of the calendar year following the later of the calendar year in which the Participant attains age 70½ (if Participant was born before July 1, 1949) or age 72 (if Participant was born after June 30, 1949), or the calendar year in which the Participant retires (regardless of whether the Participant is reemployed with the Employer subsequent to his Retirement Date).

(g) Effective Date of Application of Regulations

The provisions of this Section 3.03 will apply with respect to distributions under the Plan made for calendar years beginning on or after January 1, 2006. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2002 and prior to the effective date of the application of the Treasury regulations under Code Section 401(a)(9) that were finalized on June 15, 2004, the Plan will use the 1987 proposed regulations.

A reasonable and good faith interpretation of the provisions of Code Section 401(a)(9) applies to distributions made for 2003, 2004, and 2005.

ARTICLE 4: AMOUNT OF RETIREMENT INCOME

- 4.01 ACCRUED RETIREMENT BENEFITS:** For each calendar year of Plan Membership (or portion thereof), the annual amount of benefits accrued for a Participant shall be determined as 2.2% of Earnings up to the Earnings Breakpoint for the year, plus 1.6% of Earnings in excess of such Earnings Breakpoint. A Participant's "**Accrued Retirement Benefits**" shall be the sum of all the annual amounts of benefits accrued by the Participant as described in the previous sentence. A Participant's retirement benefits shall be paid in the form of a monthly benefit equal to one-twelfth (1/12) of his Accrued Retirement Benefits. The amount of a Participant's Accrued Retirement Benefits shall be determined based on the dates provided for in Sections 4.02, 4.03, and 4.04, and shall be subject to modification under Sections 4.04 through 4.07, if applicable.
- 4.02 NORMAL RETIREMENT BENEFITS:** Where retirement income benefits commence on the Participant's Normal Retirement Date, the amount of such benefits shall be equal to the Participant's Accrued Retirement Benefits.
- 4.03 POSTPONED RETIREMENT BENEFITS:** If a Participant, including a Terminated Vested Employee, elects to postpone his retirement until after his Normal Retirement Date, such Participant's retirement benefits will be based on his Accrued Retirement Benefits determined under Section 4.01 as of his actual Retirement Date, not his Normal Retirement Date.

In the event that a Participant's postponed retirement occurs later than the April 1 of the year following the year in which the Participant attains age 70½ (if Participant was born before July 1, 1949) or age 72 (if Participant was born after June 30, 1949), the Participant's retirement benefits will not be less than the Actuarial Equivalent of the retirement benefits he would have received if he had retired on the April 1 of the year following the year in which he attained age 70½ (if Participant was born before July 1, 1949) or age 72 (if Participant was born after June 30, 1949).

If a Terminated Vested Employee elected (or was deemed to have elected) to postpone commencement of his retirement and such Terminated Vested Employee has attained the age of 70½ as of December 19, 2013, and has failed to commence his benefit, then the Accrued Retirement Benefit of such Terminated Vested Employee shall be deemed forfeited; provided, however, that if the Terminated Vested Employee or his designated Beneficiary claims his benefit at a later date prior to the Plan's termination, his Accrued Retirement Benefit will once again be payable to him.

- 4.04 EARLY RETIREMENT BENEFITS:** In the event of early retirement, as described in Section 3.01 (Retirement Date), the Participant's retirement benefits shall equal his Accrued Retirement Benefits, as determined under Section 4.01 as of his Retirement Date, reduced by the applicable factor based on the Participant's age at commencement of benefits. The Plan Administrator may rely upon such factors provided by the Actuary for the performance of calculations under this section. Solely for its convenience, the Plan Administrator may attach a copy of a table of such factors to the Plan document as Appendix A and replace such appendix as updates are provided by the Actuary.
- 4.05 POST-RETIREMENT BENEFIT ADJUSTMENTS:** Benefits in pay status as of each July 1 shall be subject to adjustment, based on the Cost of Living Index, determined as follows:

(a) The Committee shall determine a current average Cost of Living Index calculated by averaging the 12 preceding monthly Consumer Price Indices for All Urban Consumers (the "Consumer Price Index") for the previous calendar year, as published by the Bureau of Labor Statistics of the Department of Labor. The Committee's determination shall be made by March 1 or as soon thereafter as administratively feasible. If the monthly Consumer Price Index is revised by the Bureau of Labor Statistics, the Committee shall make adjustments to the Cost of Living Index to reflect such revision.

(b) The amount of the Post Retirement Benefit Adjustment that is to be added to benefits shall be equal to a positive percentage of such benefits, with such percentage being equal to the percentage by which the current Cost of Living Index is increased from the index calculated on the preceding March 1.

(c) The percentage shall be calculated by:

(1) dividing the current Cost of Living Index by the prior Cost of Living Index and multiplying the quotient by 100.

(2) The percentage shall be equal to the product calculated in subsection (1) above, minus 100 subject to the following adjustments:

(i) Percentages less than 0% shall be ignored and no adjustments shall be made.

(ii) In no event shall positive percentages exceed 3%.

(d) Benefits shall be adjusted for the twelve-month period beginning on July 1 next following the determination of the Cost of Living Index. Benefits which have been in pay status for less than twelve (12) months will be adjusted on a pro-rata basis. The net amount of Disability Income Benefits determined after all offsets have been taken into account as provided under Section 8.08 (Offset of Disability Income Benefits) shall be adjusted as provided for in this section. Subsequent adjustments under this subsection shall be applied to such adjusted net amounts, without consideration of any changes to the initial offsets.

4.06 EFFECT OF BREAK IN SERVICE ON ACCRUED BENEFITS: For purposes of determining the amount of a Participant's Accrued Retirement Benefits under Section 4.01 subsequent to one or more Years of Break in Service, Accrued Retirement Benefits attributable to service prior to such Year(s) of Break in Service shall be restored upon reemployment as an Employee, except as follows:

(a) If a Participant has not attained his Vesting Date and he completes five (5) or more consecutive Years of Break in Service, then his Accrued Retirement Benefits attributable to service prior to such break in service shall not be taken into account and shall be permanently disregarded for all purposes under this Plan.

(b) If a Participant who has attained his Vesting Date completes at least five (5) consecutive Years of Break in Service, his Accrued Retirement Benefits attributable to service prior to such a break in service shall not be taken into account until he completes one Year of Service after his most recent Year of Break in Service.

(c) If a Participant has received a distribution pursuant to Section 7.02 or 11.02, upon reemployment he may repay such distribution to the Plan with 5% interest compounded annually from the date of distribution to the date of repayment. In the absence of such repayment prior to five (5) consecutive Years of Break in Service, the Participant's Accrued Retirement Benefits attributable to service prior to such break in service shall not be taken into account and shall be permanently disregarded under this Plan.

In no event will duplication of benefits be permitted under the Plan.

4.07 BENEFIT PAYMENT LIMITATIONS: The Plan will be administered in compliance with the requirements of Section 415 of the Internal Revenue Code and the regulations thereunder applicable to governmental plans, including the limitations on the annual retirement benefit payable to a Participant.

(a) **Maximum Benefits:** A Participant's annual retirement benefit payable from this Plan (and from any other qualified defined benefit plan), expressed as a benefit payable annually in the form of a straight life annuity shall not exceed the “**Defined Benefit Dollar Limitation**” as defined and described in Section 415(b)(1)(A) of the Code and the regulations thereunder. If the Defined Benefit Dollar Limitation would otherwise be exceeded by the annual retirement benefit payable to the Participant, then the Participant’s annual retirement benefit shall be limited as necessary to prevent the Defined Benefit Dollar Limitation from being exceeded.

The Defined Benefit Dollar Limitation (\$230,000 for 2020) shall be adjusted annually, effective as of January 1 of each year, in accordance with Section 415(d) of the Internal Revenue Code and the regulations thereunder. Such automatic annual adjustment of the Defined Benefit Dollar Limitation shall also apply to Participants who have terminated employment.

(b) **Minimum Benefit Permitted:** Notwithstanding anything in paragraph (a) to the contrary, the annual retirement benefit payable to a Participant under the Plan shall be deemed not to exceed the Defined Benefit Dollar Limitation if the annual retirement benefits payable under any form of benefit with respect to such Participant do not exceed \$10,000 multiplied by a fraction—(a) the numerator of which is the Participant’s Years of Service (which number shall not be less than one (1) and shall not exceed ten (10)), and (b) the denominator of which is ten (10). The numerator in the previous sentence may include fractional numbers between one (1) and ten (10) to include periods of partial Years of Service measured in Months of Service. This paragraph (b) does not apply to Participants who have ever participated in a 403(b) annuity contract or custodial account offered through the Employer.

4.08 INDEXED EARNINGS: Earnings for the years 1983 through 1995 shall be increased in accordance with the Social Security wage index, based on increases in compensation for OASDI purposes through 1996, as follows:

<u>Year</u>	<u>Increase</u>	<u>Year</u>	<u>Increase</u>
	%		%
1983	70.0	1990	23.2
1984	60.6	1991	18.8
1985	54.0	1992	13.0
1986	49.6	1993	12.0
1987	40.6	1994	9.1
1988	34.0	1995	4.9
1989	28.9	1996 and later	0.0

The indexed earnings provisions described above in this section (effective January 1, 1999) shall apply only to Participants who are active Employees on January 1, 1999.

4.09 HEART ACT

(a) **Death Benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in IRC § 414(u)), the Participant’s beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant’s qualified military service as service for vesting purposes, as though the Participant had resumed employment under USERRA immediately prior to the Participant’s death.

(b) **Differential Wage Payments.** For years beginning after December 31, 2008: (i) an individual receiving a differential wage payment, as defined by IRC § 3401(h)(2), is treated as an employee of the Employer making the payment, (ii) the differential wage payment is treated as

Compensation for purposes of IRC § 415(c)(3) and Treasury Reg. §1.415(c)-2 (e.g., for purposes of IRC § 415, top-heavy provisions of IRC § 416, determination of highly compensated employees under IRC § 414(q), and applying the 5% gateway requirement under IRC § 401(a)(4) regulations); and (iii) the Plan is not treated as failing to meet the requirements of any provision described in IRC § 414(u)(1)(C) (or corresponding Plan provisions) by reason of any contribution or benefit which is based on the differential wage payment. Differential wage payments shall not be treated as Compensation for purposes of calculating any benefits under the Plan.

Subparagraph (b)(iii) above applies only if all employees of the Employer performing service in the uniformed services described in IRC § 3401(h)(2)(A) are entitled to receive differential wage payments (as defined in IRC § 3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account IRC §§ 410(b)(3), (4), and (5)).

(c) Deemed Severance. Notwithstanding (b)(i) above, if a Participant performs service in the uniformed services (as defined in IRC § 414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to IRC § 412. However, the Plan will not distribute such a Participant's account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder.

ARTICLE 5: FORM OF BENEFITS AND OPTIONS

5.01 NORMAL FORM OF RETIREMENT INCOME: The Normal Form of Retirement Income payable under this Plan for all Participants shall be an income payable during the lifetime of the retired Participant.

5.02 OPTIONAL FORMS OF RETIREMENT INCOME: In lieu of the Normal Form of Retirement Income, a Participant may elect an optional form of retirement income from among the following:

(a) 100% Joint and Survivor Annuity. A reduced retirement benefit payable during the life of the retired Participant, with 100% of the reduced retirement benefit continuing for the lifetime of the Beneficiary named by the Participant at the time of his retirement.

(b) 75% Joint and Survivor Annuity. A reduced retirement benefit payable during the life of the retired Participant, with 75% of the reduced retirement benefit continuing for the lifetime of the Beneficiary named by the Participant at the time of his retirement.

(c) 66-2/3% Joint and Survivor Annuity. A reduced retirement benefit payable during the life of the retired Participant, with 66-2/3% of the reduced retirement benefit continuing for the lifetime of the Beneficiary named by the Participant at the time of his retirement.

(d) 50% Joint and Survivor Annuity. A reduced retirement benefit payable during the life of the retired Participant, with 50% of the reduced retirement benefit continuing for the lifetime of the Beneficiary named by the Participant at the time of his retirement.

(e) Five Year Certain and Life Annuity. A reduced retirement benefit payable as a Five Year Certain and Life Annuity, for the lifetime of the retired Participant and guaranteed to continue to the Participant, to a designated Beneficiary (which Beneficiary may be changed by the Participant at any time), or to the estate of the last to die of the Participant and the Beneficiary, for five (5) years (but not greater than the complete life expectancy of the Participant at retirement), regardless of whether or not the Participant survives such period.

(f) Ten Year Certain and Life Annuity. A reduced retirement benefit payable as a Ten Year Certain and Life Annuity, and payable during the lifetime of the retired Participant and guaranteed to continue to the Participant, to a designated Beneficiary (which Beneficiary may be changed by the Participant at any time), or to the estate of the last to die of the Participant and the Beneficiary, for ten (10) years (but not greater than the complete life expectancy of the Participant at retirement), regardless of whether or not the Participant survives such period.

(g) Fifteen Year Certain and Life Annuity. A reduced retirement benefit payable as a Fifteen Year Certain and Life Annuity, and payable during the lifetime of the retired Participant and guaranteed to continue to the Participant, to a designated Beneficiary (which Beneficiary may be changed by the Participant at any time), or to the estate of the last to die of the Participant and the Beneficiary, for fifteen (15) years (but not greater than the complete life expectancy of the Participant at retirement), regardless of whether or not the Participant survives such period.

5.03 SINGLE LUMP SUM PAYMENTS: In the event that any benefit provided under the Plan has an Actuarial Equivalent value at the date of payment in an amount not more than \$25,000, the Committee may direct that a lump sum payment that is the Actuarial Equivalent be paid in lieu of any other benefits under the Plan. This applies to all Participants, including former employees who are entitled to benefits from the Plan. Notwithstanding the preceding, for any benefit payable to the estate of any individual, if the Actuarial Equivalent of such benefit is not more than \$120,000, such benefit shall be paid in a single lump sum payment to such estate. If the Actuarial Equivalent of a benefit payable to the estate of an individual is more than \$120,000, the Committee may, in its discretion, direct that a lump sum payment that is the Actuarial Equivalent be paid in lieu of any other benefits under the Plan to such estate. In no event shall the single lump sum payment in this paragraph exceed the amount permitted under Section 4.07 (Maximum Benefits).

5.04 CONDITIONS RELATIVE TO FORMS OF PAYMENT:

(a) For an election to become effective, the Plan Administrator must receive the election before the date benefits are to commence.

(b) To elect an optional form of retirement income or to change the Beneficiary, the Participant shall designate his Beneficiary on a form provided for the purpose.

(c) The election of an optional form of retirement income shall become effective at the time benefits commence. If the Participant is reemployed by the Employer after the date on which the election becomes effective, the election shall nevertheless continue to be effective.

(d) A Participant who has not made an irrevocable election may, subject to the consent of the Committee, revoke his election of an optional form of retirement income at any time before it has become effective.

(e) If a Participant has elected a period certain and life option and

(1) if the Participant dies before the election becomes effective, the election shall thereupon become void and the Beneficiary shall not be entitled to benefits under such option (however, the Death Benefits under Article 6 may still apply if the requirements under that article are met);

(2) if the Beneficiary dies after the option becomes effective, but before the death of the retired Participant, the retired Participant shall nevertheless receive the amount of income payable to him in accordance with such election.

5.05 DIRECT ROLLOVER: Notwithstanding any provision of this Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Committee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For this purpose, an eligible rollover distribution is any distribution made on or after January 1, 1993, of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income. An eligible retirement plan is:

(1) an individual retirement account described in Section 408(a) of the Code;

(2) an individual retirement annuity described in Section 408(b) of the Code;

- Code;
- (3) a Roth individual retirement annuity described in Section 408A of the Code;
 - (4) a qualified trust described in Section 401(a) of the Code;
 - (5) an annuity plan described in Section 403(a) of the Code;
 - (6) an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible employer described in Section 457(e)(1)(A); and
 - (7) an annuity contract or custodial account described in Section 403(b) of the Code.

A distributee includes a Participant, former Participant, Surviving Spouse, or other nonspouse Beneficiary, provided however that a nonspouse Beneficiary may only make a rollover to a Plan described in (1) or (2) above in accordance with the requirements of Code Section 402(c)(11).

Notice of the available options shall be provided no less than 30 days and no more than 180 days before distribution of benefits. However, if a distribution is one to which Sections 401(a)(11) and 417 of the Code do not apply, such distribution may commence less than 30 days after the notice required under Section 1.411(a)(11)(c) of the Income Tax Regulations is given, provided that:

(a) the Plan Administrator clearly informs the Participant that he has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

(b) the Participant, after receiving the notice, affirmatively elects a distribution.

Such notice shall be written in a manner calculated to be understood by the Participant and shall provide a description of the optional forms of benefit, the eligibility conditions, the financial effect of adopting the optional forms, and a description of their relative values and any other material features. Such notice shall also provide a description of a Participant's right, if any, to defer receipt of a distribution and the consequences of failing to defer receipt of the distribution.

A Participant may change his election of benefits by filing a new election in writing at any time prior to the actual distribution of benefits.

ARTICLE 6: DEATH BENEFITS

6.01 SURVIVING SPOUSE'S PRE-RETIREMENT DEATH BENEFITS: On the death of a married Participant meeting the eligibility requirements below, his Surviving Spouse shall be entitled to receive a monthly benefit, unless the Participant has revoked this benefit in favor of a benefit under Section 6.02. For a Participant's Surviving Spouse to be eligible for Pre-Retirement Death Benefits, the Participant must meet all of the following requirements at the time of his death:

- (a) At the time of death, the Participant must have been an active Employee, an employee on a Leave of Absence, or a Terminated Vested Employee;
- (b) The Participant must have attained his Vesting Date;
- (c) The Participant must not have commenced receiving retirement benefits under the Plan; and
- (d) An optional form of retirement income must not have been in effect at the time of the Participant's death. For purposes of this Section, "in effect" shall mean a properly completed application electing an optional form of benefit has been received by the Plan at least 180 days prior to the Participant's death.

The Surviving Spouse's monthly benefit shall be the Actuarial Equivalent of 50% of the Participant's Accrued Retirement Benefits as of the time of his death. Provided, however, if it is determined an optional form of retirement income is "in effect," the Surviving Spouse's monthly benefits shall be paid in accordance with the election made under such optional form of benefit, but in no event shall the Surviving Spouse's monthly benefit be less than the Actuarial Equivalent of 50% of the Participant's Accrued Retirement Benefits as of the time of his death.

Benefit payments shall commence on the first day of any month following the Participant's death as the Surviving Spouse shall elect, but in no event later than the Participant's Normal Retirement Date. Payments shall be made in monthly installments and shall cease with the payment due for the month in which the Surviving Spouse dies.

6.02 BENEFICIARY'S PRE-RETIREMENT DEATH BENEFITS: On the death of an unmarried Participant, or a married Participant who has revoked Surviving Spouse benefits under Section 6.01, meeting the eligibility requirements below, his Beneficiary will be entitled to receive a monthly benefit. To be eligible for Beneficiary's Pre-Retirement Death Benefits, the Participant must meet all of the following requirements at the time of his death:

- (a) At the time of death, the Participant must have been an active Employee or on a Leave of Absence;
- (b) The Participant must have reached his Vesting Date;
- (c) The Participant must not have commenced receiving retirement benefits under the Plan; and
- (d) An optional form of retirement income must not have been in effect at the time of the Participant's death and a benefit payable under Section 6.01 must not have been payable with respect to the Participant. For purposes of this Section, "in effect" shall mean a properly completed application electing an optional form of benefit has been received by the Plan at least 180 days prior to the Participant's death benefit.

Provided that requirement (b) above was met while the Participant was an Employee, requirement (a) above shall be waived if the cause of the Participant's death occurred and was discovered while the Participant was an Employee and the cause of death was the principal reason for termination of the Participant's employment.

The Beneficiary's monthly benefit shall be the Actuarial Equivalent of the Participant's Accrued Retirement Benefits as of the time of the Participant's death. Benefits shall begin on the first day of any month following the Participant's death as the Beneficiary shall elect, but in no event later than the Participant's Normal Retirement Date. Payments shall be made in monthly installments and shall be payable for ten (10) years.

6.03 POST-RETIREMENT DEATH BENEFITS: On the death of a Participant after retirement benefit payments have commenced, the only benefits payable pursuant to this Plan shall be those provided under the form of Article 5 benefit he was receiving prior to death.

6.04 DEATH BENEFIT LIMITATIONS: All benefit distributions under the Plan are subject to the following requirements:

(a) If the Participant dies after the Participant has commenced receiving retirement benefits, any remaining benefits shall be distributed at least as rapidly as under the form of distribution in effect on the Participant's death.

(b) If the Participant dies before commencement of benefits, the Participant's remaining benefits shall be paid over a period not exceeding (i) five (5) years after the date of the Participant's death; or, (ii) if the Participant's Beneficiary is a designated Beneficiary, over a period not exceeding the designated Beneficiary's life or life expectancy, commencing not later than one (1) year after the Participant's death, except that if the designated Beneficiary is the Participant's Surviving Spouse, such distribution shall commence not later than the date on which the Participant would have attained age 70½ (if Participant was born before July 1, 1949) or age 72 (if Participant was born after June 30, 1949).

ARTICLE 7: TERMINATION BENEFITS

- 7.01 NON-VESTED TERMINATIONS:** If a Participant's employment terminates before his Vesting Date, he shall receive no benefits from the Plan.
- 7.02 VESTED TERMINATIONS:** If a Participant's employment terminates after his Vesting Date for reasons other than death or retirement on a Retirement Date, he shall be entitled to a deferred monthly income commencing at his Normal Retirement Date equal to his Accrued Retirement Benefits determined under Section 4.01 as of the date he terminates employment.
- 7.03 EFFECT OF REEMPLOYMENT ON YEARS OF SERVICE:** For purposes of determining the number of a Participant's Years of Service under this Article, all of a Participant's Years of Service completed before a Year of Break in Service shall be taken into account except as follows:
- (a) If a Participant has not attained his Vesting Date and he completes five (5) or more consecutive Years of Break in Service, then his Years of Service earned prior to such a break in service shall not be counted towards vesting and shall be permanently forfeited for all purposes under this Plan.
 - (b) If a Participant who has attained his Vesting Date completes at least five (5) consecutive Years of Break in Service, his Years of Service completed prior thereto shall not be combined with the Participant's subsequent period of service until he completes one Year of Service after his most recent Year of Break in Service.

ARTICLE 8: DISABILITY BENEFITS

8.01 DISABILITY INCOME BENEFITS:

(a) In the event of a Participant's Disability, such Participant shall be entitled to a monthly income equal to one-twelfth of sixty percent (60%) of the Participant's Earnings in the 12-month period preceding Disability.

(b) Disability Income Benefits will begin on the first day of the month following the completion of all of the following conditions:

(1) A Leave of Absence lasting 180 consecutive days from the first day the Participant is absent from employment ("**Elimination Period**");

(2) Upon a determination in accordance with Section 8.05 that the Participant has a medical condition meeting the definition of Disability, as defined in Section 8.02; and

(3) When all other paid absence benefits have been exhausted, including, but not limited to, the following: Short-Term Disability payments; sick leave payments; and paid vacation.

Eligibility for Disability Income Benefits shall cease upon termination of a Participant's employment with the Employer. Disability Income Benefits will in no event continue beyond the Participant's Severance From Service Date or his Normal Retirement Date.

Disability Income Benefits shall be subject to the provisions of Section 4.05 (Post Retirement Benefit Adjustments).

8.02 DEFINITION OF DISABILITY: "**Disability**" means a medically determinable physical or mental impairment (or an impairment that is both physical and mental) that is severe enough to prevent an individual from doing Substantial Gainful Work, as defined in Section 8.04, resulting from an anatomical, physiological, or psychological abnormality which is demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which is expected to last for at least twelve (12) months or to result in death. Disability shall not include any physical or mental impairment occurring within five (5) years following the date of employment for which medical treatment was provided within twelve (12) months immediately preceding employment.

8.03 EXCLUSIONS: The Plan will not provide Disability Income Benefits for any Disability that is:

- (a) Caused or contributed to by war or act of war (declared or not);
- (b) Caused by the Participant's commission of or attempt to commit a felony;
- (c) Caused or contributed to by the Participant's engagement in an illegal occupation; or
- (d) Caused or contributed to by an intentionally self-inflicted injury.

8.04 SUBSTANTIAL GAINFUL WORK: "Substantial Gainful Work" shall mean:

(a) During the first 24-months, essential duties that the individual was performing at the time of Disability.

(b) After the first 24 months, any occupation for which the individual is reasonably suited by reason of education, training or experience.

8.05 DETERMINATION OF DISABILITY: The determination of whether a Participant meets the definition of Disability in Section 8.02 shall be made in accordance with uniform principles consistently applied and upon the basis of such evidence as the Committee or its delegate deems necessary and desirable in accordance with any evidentiary requirements or procedures as the Committee shall establish. In determining whether a Participant meets the definition of Disability, the Committee or its delegate will follow the procedures described in this Article 8.

(a) A Participant who wishes to receive Disability Income Benefits must file a completed Disability application with the Director at the Department of Retirement Services of the Gwinnett County Public Schools. The completed Disability application must include supporting medical documentation by the Participant's Physician and must be submitted within 180 days of the date of Disability.

(b) After considering the Participant's application and the records and findings of the Participant's Physician, the Director will determine whether the Participant meets the definition of Disability and will inform the Participant of his determination. If the Director determines that the Participant meets the definition of Disability, the Director will authorize Disability Income Benefits to begin as described in Section 8.01.

(c) The Participant who has been determined by the Director not to meet the definition of Disability may appeal the Director's denial by so advising the Director in writing. Such written appeal must be submitted within 60 days from the date of the Director's denial of a claim. In that event, the Director shall either appoint a Physician to review the Participant's claim or shall engage an Independent Medical Evaluator to provide a Physician to review the Participant's claim. This Physician may, at his discretion or as directed by the Director, restrict his analysis to the examination of records and findings provided by the Participant's Physician. After considering the report of the Participant's Physician and the Physician appointed by the Director, the Director will either approve or deny the appeal and will inform the Participant of the determination within 45 days of receiving the written appeal from the Participant. If the Director determines that the Participant has a medical condition meeting the definition of Disability, the Director will authorize Disability Income Benefits to begin as described in Section 8.01. If the appeal is denied, a written notice of denial will be provided and will include information describing the Participant's rights to appeal.

(d) If the Participant wishes to appeal the Director's second denial of the application, the Participant shall so inform the Committee in writing. Such written appeal must be submitted within 60 days from the date of the Director's second denial of a claim. The Committee shall promptly notify the Board of a request for a review. The Board shall decide whether it or the Committee shall handle the review and shall so notify the Committee and the Participant. The Committee will instruct the Participant's Physician and the Physician or Independent Medical Evaluator chosen by the Director for the second denial to appoint a third Physician to review the Participant's claim. If the Participant's Physician and the Physician or Independent Medical Evaluator chosen by the Director for the second denial fail to appoint a third Physician, then the Director's denial of the application shall stand. If a third Physician is appointed then, the Committee (or the Board, as the case may be) will review the reports of all three Physicians. The Committee (or the Board, as the case may be), in its discretion, may also hold a full hearing of the issues presented by the claimant if a majority of the Committee (or Board) members vote for such a hearing. After consideration of the reports of all three Physicians and, if elected by the Committee or the Board, any hearing, the Committee (or the Board, as the case may be) will either approve or deny the application and shall so inform the Participant in writing within 45 days of receiving the written appeal from the Participant. If the Committee (or the Board) determines that the Participant has a medical condition meeting the definition of Disability, the Director will authorize Disability Income Benefits to begin as described in Section 8.01. If the Committee (or

the Board) denies the appeal, written notice of denial will be provided and such determination shall be final.

(e) In considering the Participant's application, the Director, the Committee, and the Board may consult with other parties, including a Case Manager, as the Director, the Committee, or the Board deems appropriate in his or its sole discretion. If the Participant fails to cooperate with the application process, for example by failing to furnish requested records, by failing to submit to medical examinations, or otherwise, the Participant's application will be denied and a letter of denial will be sent to the Participant within 45 days of receipt of the claim, not including any period of time during which the Director (or Committee or Board) provided the Participant more time to provide information (or submit to medical examinations) to support a Disability claim. In the case of any appeal of a denial of Disability benefits, the Director, Committee, or Board may grant a Participant additional time to provide information required by the reviewer, in which such case the period of days in which reviewer must respond will toll until such information is provided or the extension granted by the reviewer expires. If additional information is not provided by the Participant, the reviewer will issue his or its decision based upon the information that has been provided.

8.06 TERMINATION OF DISABILITY INCOME BENEFITS: The Disability Income Benefits of a Participant shall be terminated upon the occurrence of any of the following events:

- (a) If the Participant is able to engage in any Substantial Gainful Work, as defined in Section 8.04;
- (b) If it shall be determined on the basis of a medical examination that the Participant no longer has a medical condition meeting the definition of Disability;
- (c) If the Participant refuses to undergo a medical examination at the Committee's request, provided that the Committee shall not request that a Participant undergo a medical examination more than once a year;
- (d) If it is determined by the Committee that the Participant is not under the Regular Care of a Physician;
- (e) If the Participant fails to provide medical documentation or verification of continuing Disability when requested every six (6) to twelve (12) months by the Committee;
- (f) If the Participant returns to active employment with the Employer, or if the Participant returns to active employment with any employer and receives monthly earnings exceeding the Disability Income Benefits;
- (g) If the Participant ceases to be an Employee of the Employer;
- (h) If the Participant reaches his Normal Retirement Date;
- (i) Upon the death of the Participant.

8.07 RECOVERY AND SUBSEQUENT RELAPSE

(a) A Participant who takes a Leave of Absence and who subsequently returns to active employment with the Employer prior to meeting the Elimination Period required under Section 8.01(b)(1) shall receive credit towards the Elimination Period for any such Leave of Absence if the following conditions are met:

- (1) The Participant begins a subsequent Leave of Absence no later than 90 days following the return to employment; and

(2) Within a one-year period, the Participant accrues a total of 180 days of Leave of Absence meeting the requirements of this Section 8.07(a) (not including any days during periods of active employment with the Employer) and meets all the other requirements of Section 8.01(b).

(b) A Participant who met the definition of Disability under Section 8.02 satisfied the Elimination Period requirement under Section 8.01 and subsequently returns to active employment with the Employer shall not be required to satisfy the 180-day requirement again to begin receiving Disability Income Benefits if, subsequent to returning to active employment, the following requirements are met:

(1) The Participant commences a new Leave of Absence within 90 days of returning to employment with the Employer;

(2) The Participant meets the definition of Disability under Section 8.02; and

(3) The Participant's Disability is due to the same cause or due to a related cause to the Disability that existed before the return to active employment.

If the Participant acquired additional paid absence benefits during such periods of reemployment, the Participant's Disability Income Benefits will not commence or resume until such paid absence benefits have been exhausted.

8.08 OFFSET OF DISABILITY INCOME BENEFITS:

(a) Other Plans. A Participant's Disability Income Benefits under this Plan shall be offset by the benefits available under "Other Plans." For the purposes of this Section 8.08, "Other Plans" shall include, but not be limited to, the Teachers Retirement System of Georgia, the Employees Retirement System of Georgia, the Public School Employees Retirement System, workers' compensation, unemployment insurance, Social Security (including disability payments under Social Security), and any successor plans thereto. The Participant must apply for benefits from such Other Plans in accordance with the terms of those Other Plans. If the Participant does not apply for benefits from Other Plans for which he could be eligible, no Benefits shall be payable under this Article 8 and no benefits shall accrue under Section 8.10. The Participant shall be required to inform the Committee that he is receiving benefits under any Other Plans and, upon request by the Committee, the amount of such benefits.

In the event that a benefit from some Other Plan is denied, the denial of benefits is appealed, and the benefit is awarded retroactively on appeal, a Participant's Disability Income Benefits shall be offset prospectively only, against future Benefit payments from this Plan. No repayment of Disability Income Benefits previously paid from this Plan shall be required under those circumstances.

Participants receiving Disability Income Benefits who receive a benefit from some Other Plan in a lump sum or settlement are required to provide the Plan Administrator, under procedures as set forth by the Plan Administrator, with documentation providing the amount of such payment attributed to loss of income and providing the period of time covered by the lump sum or settlement. The Plan Administrator shall pro rate the lump sum or settlement over the period of time for which it was provided. If the Participant does not provide such documentation within a reasonable period of time, which shall be set forth in the Plan Administrator's documentation procedures, the Plan Administrator shall pro rate the entire sum awarded under such lump sum or settlement as if it were to be paid for the loss of income over a 24-month period. The Plan Administrator shall be permitted to offset future benefit payments prospectively from this Plan.

(b) GCPS Employment. A Participant's Disability Income Benefits under this Plan shall be offset by wages earned by a Participant as a result of employment in any classification

with Gwinnett County Public Schools (“GCPS”). The Participant shall be required to inform the Committee that he is receiving wages from GCPS and, upon request by the Committee, the amount of such wages.

(c) Requested Information. The Participant shall also be required to cooperate with the Committee in providing any information the Committee deems necessary to determine the proper amount of Disability Income Benefits for the Participant, any offset for income from Other Plans or GCPS employment, and any reduction of Disability Income Benefits under the Plan’s provisions.

8.09 RIGHT OF SUBROGATION, REIMBURSEMENT AND OFFSET:

(a) The Plan has a right to subrogation and reimbursement in connection with any Disability Income Benefits paid. As set forth in more detail below, the Plan is expressly exempt from Section 33-24-56.1 of the Official Code of Georgia. Accordingly the Plan disclaims any application of common law doctrines such as the “make whole doctrine” or the “made whole doctrine.” Title 33 of the Georgia Code and the common law doctrines referenced herein shall have no application to the Plan’s rights or a Participant’s obligations under this Section.

(b) Subrogation applies when the Plan has paid benefits on a Participant’s behalf for a Disability for which any third party is allegedly responsible. The right to subrogation means that the Plan is substituted to and will succeed to any and all legal claims that the Participant may be entitled to pursue against any third party for the Disability Income Benefits that the Plan has paid that are related to the Disability for which any third party is considered responsible.

(c) The right to reimbursement means that if a Participant receives a settlement, judgment, or other form of recovery from any third party, regardless of the amount or nature or characterization of such recovery, the Participant must use those proceeds to fully return to the Plan 100% of any Disability Income Benefits paid to the Participant for that Disability. The Plan’s right of reimbursement will apply to any Disability Income Benefits received at any time until the rights are extinguished, resolved, or waived in writing.

(d) The following persons and entities are examples of those considered to be third parties:

(1) A person or entity alleged to have caused a Participant to suffer a Disability or damages, or who is legally responsible for the Disability or damages.

(2) Any insurer or other indemnifier of any person or entity alleged to have caused or who caused the Disability or damages.

(3) The Employer in a workers’ compensation case or other matter alleging liability.

(4) Any person or entity who is or may be obligated to provide benefits or payments to a Participant or on his behalf, including benefits or payments for underinsured or uninsured motorist protection, no-fault or traditional auto insurance (including where no third party may be liable), medical payment coverage (auto, homeowners’, or otherwise), workers’ compensation coverage, other insurance carriers, or third party administrators.

(5) Any person or entity against whom a Participant may have any claim for professional and/or legal malpractice arising out of or connected to a Disability the Participant alleges or could have alleged were the responsibility of any third party.

(6) Any person or entity that is liable for payment to a Participant or from which a Participant obtains a recovery.

(e) By participating in and receiving benefits from the Plan, Participants agree they will cooperate with the Plan in protecting the Plan's legal and equitable rights to subrogation and reimbursement in a timely manner, including, but not limited to:

- (1) Notifying the Plan, in writing, of any potential legal claim(s) the Participant may have against any third party for acts that caused or were related to payment of Disability Income Benefits.
- (2) Providing any relevant information requested by the Plan.
- (3) Signing and/or delivering such documents as the Plan or its agents (including attorneys) reasonably request to secure the subrogation and reimbursement claim.
- (4) Responding to requests for information about any accident, illness or injuries.
- (5) Making court appearances.
- (6) Obtaining the Plan Administrator's consent or its agents' consent before releasing any party from liability or payment of expenses.
- (7) Complying with the terms of this section.

(f) A Participant's failure to cooperate with the Plan, including the failure to provide the Plan with reimbursement pursuant to this Section, is considered a breach of contract. As such, the Plan has the right to terminate or deny future benefits, take legal action against the Participant, and/or set off from any future Disability Income Benefits the value of Disability Income Benefits the Plan has paid relating to any Disability. If the Plan incurs attorneys' fees and costs in order to collect third party settlement funds held by the Participant or his representative, the Plan has the right to recover those fees and costs from the Participant. The Participant will also be required to pay interest on any amounts he holds that should have been returned to the Plan.

(g) The Plan has a first priority right to receive reimbursement for benefits paid hereunder before a Participant (or his attorney or other representative) receive payment or any recover from any third party. Further, the Plan's first priority right to payment is superior to any and all claims, debts, or liens asserted by any medical providers, including, but not limited to, hospitals or emergency treatment facilities, that assert a right to payment from funds payable from or recovered from an allegedly responsible third party.

(h) The Plan's subrogation and reimbursement rights apply to full and partial settlements, judgments, or any other recoveries paid or payable to a Participant, his representative, his estate, his heirs, or his beneficiaries, no matter how those proceeds are captioned or characterized. Payments include, but are not limited to, insurance payments, benefit payments, economic damages (e.g., loss of future earnings, medical expenses, and benefits), non-economic damages (e.g., pain and suffering, reputational damage, loss of enjoyment of activities, mental anguish), pecuniary damages (e.g., loss of wages, property damage), damages for loss of consortium, punitive damages, and attorney's fees or expenses. The Plan is not required to help a Participant pursue his claim for damages or personal injuries or other relief associated with the Participant's Disability, and no amount of associated costs, including attorneys' fees, will be deducted from the Plan's recovery without the Plan Administrator's express written consent. No so-called "fund doctrine" or "common-fund doctrine" or "attorney's fund doctrine" will defeat this right.

(i) Regardless of whether a Participant (or his attorney or other representative) has been fully compensated or made whole, the Plan may collect from a Participant the proceeds of any full or partial recovery that the Participant or his legal representative obtain, whether in the

form of a settlement (either before or after any determination of liability) or judgment or by lawsuit, mediation, arbitration, award, order, insurance payment or otherwise, no matter how those proceeds or recoveries are captioned or characterized. Proceeds from which the Plan may collect include, but are not limited to, insurance payments, benefit payments, attorney's fees and expenses, and economic, non-economic, pecuniary, and punitive damages. No public policy, "collateral source" rule, "made-whole doctrine" or "make-whole doctrine," claim of unjust enrichment, or any other equitable limitation will limit the Plan's subrogation and reimbursement rights, and neither those doctrines nor Title 33 of the Georgia Code (including Section 33-24-56.1 of the Georgia Code) have any applicability to the Plan's rights or the Participant's obligations hereunder.

(j) Benefits paid by the Plan may also be considered to be benefits advanced. This means that benefits paid under the Plan are contingent upon the Participant's subrogation and reimbursement obligations hereunder. If the Plan previously paid Disability Income Benefits to a Participant or made payments on his behalf, the Participant must reimburse the Plan for those amounts.

(k) If a Participant receives any payment from any third party as a result of a Disability, and the Plan alleges some or all of those funds are due and owed to the Plan, the Participant and/or his representative will hold those funds in trust, either in a separate bank account in the Participant's name or in his representative's trust account.

(l) By accepting and receiving benefits under the Plan, Participants further agree that:

(1) Any amounts recovered by the Participant from any third party constitute Plan assets (to the extent of the amount of Disability Income Benefits provided on behalf of the Participant);

(2) The Plan has established an equitable lien against any money or property or other recovery the Participant or his representative (including his attorney) recover;

(3) The Participant and his representative (including his attorney) will be fiduciaries of the Plan with respect to such amounts;

(4) The Participant will be liable for and agree to pay any costs and fees (including reasonable attorneys' fees) incurred by the Plan to enforce its reimbursement rights;

(5) The Plan's rights to recovery will not be reduced due to a Participant's own negligence; Upon the Plan's request, a Participant will assign to the Plan all rights of recovery against third parties, to the extent of the Disability Income Benefits the Plan has paid for the Disability;

(6) The Plan may, at its option, take necessary and appropriate action to preserve the Plan's rights under these provisions, including, but not limited to, providing or exchanging benefit payment information with an insurer, the insurer's legal representative, or other third party; filing a reimbursement lawsuit to recover the full amount of benefits the Participant receives for the Disability out of any settlement, judgment, or other recovery from any third party; and filing suit in the Participant's name or his estate's name, which does not obligate the Plan in any way to pay the Participant part of any recovery the Plan might obtain.

(7) A Participant may not accept any settlement that does not fully reimburse the Plan, without its prior written approval.

(8) The Plan has the authority and discretion to resolve all disputes regarding the interpretation of the subrogation and reimbursement provisions contained herein.

(9) In the case of a Participant's death, giving rise to any wrongful death or survival claim, the provisions of this section apply to the Participant's estate, the personal representative of his estate, and his heirs or beneficiaries. In the case of the Participant's death, the Plan's right of reimbursement and right of subrogation will apply if a claim can be brought on behalf of the Participant or his estate that can include a claim for past Disability Income Benefits paid by the Plan or damages. The obligation to reimburse the Plan is not extinguished by a release of claims or settlement agreement of any kind.

(10) No allocation of damages, settlement funds, or any other recovery, by a Participant, his estate, the personal representative of his estate, his heirs, his beneficiaries, or any other person or party will be valid if it does not reimburse the Plan for 100% of Disability Income Benefits paid unless the Plan provides written consent to the allocation.

(11) In the event that a Participant does not abide by the terms of the Plan pertaining to reimbursement, the Plan may terminate benefits to the Participant; deny future benefits; take legal action against the Participant; and/or set off from any future benefits the value of benefits the Plan has paid relating to any Disability. If the Plan incurs attorneys' fees and costs in order to collect third party settlement funds or any other recovery held by a Participant or his representative, the Plan has the right to recover those fees and costs from the Participant. The Participant will also be required to pay interest on any amounts the Participant holds that should have been returned to the Plan.

(12) The Plan Administrator shall have such powers and duties as are necessary to discharge its duties and functions, including the exercise of its discretionary authority to (i) construe and enforce the terms of the Plan's subrogation and reimbursement rights and related provisions, and (ii) make determinations with respect to any reimbursement amounts or related obligations owed to the Plan.

8.10 DISABILITY ACCRUAL BENEFITS: A Participant receiving Disability Income Benefits under Section 8.01 shall continue to accrue retirement benefits under Section 4.01 (Accrued Retirement Benefits). For purposes of determining such Participant's Accrued Retirement Benefits, his Earnings for each complete year for which the Participant receives Disability Income Benefits shall be considered to be equal to the Earnings used to determine the amount of his Disability Income Benefits under Section 8.01.

Retirement benefit accruals shall in no event continue later than the Participant's Normal Retirement Date. Upon reaching his Normal Retirement Date, any Participant receiving Disability Income Benefits under the Plan shall receive retirement benefits from the Plan that, when expressed in the form of a monthly benefit payment, shall not be less than those provided under Section 8.01 in the month immediately preceding the Participant's Normal Retirement Date disregarding any offsets under Section 8.08.

If a Participant's Disability Income Benefits are terminated for any reason, then the Participant's retirement benefit accruals under this Section 8.10 shall cease.

If the Participant returns to active employment with the Employer as an Employee, then the Participant shall commence accruing retirement benefits under Section 4.01 (Accrued Retirement Benefits), but in no case shall there be duplication of credit for Accrued Retirement Benefits, Years of Service or vesting. If a Participant's Disability Income Benefits are terminated and the Participant does not return to work with the Employer, the Participant's employment shall be deemed to have been terminated as of his Severance from Service Date and he may be entitled to the Termination Benefits under Article 7, calculated as of his Severance from Service Date.

8.11 MEDICAL DOCUMENTATION: All medical documentation required to be provided by the Participant under this Article 8, including reports provided by a treating Physician, must be written in English and otherwise meet procedures established by the Committee.

ARTICLE 9: CONTRIBUTION AND FUNDS

9.01 PARTICIPANT CONTRIBUTIONS: Each Participant shall contribute one percent (1%) of Earnings, or such other amount as the Board shall determine in accordance with Section 9.02. Such contributions shall be placed in the Disability Fund and shall be deemed to provide Disability Income Benefits under Article 8. This Section 9.01 shall not apply to Participants who are receiving Disability Income Benefits under the Plan, any Participant who postpones his retirement under the Plan by remaining in service with the Employer beyond his Normal Retirement Date, or to Participants whose retirement benefits under the Plan have commenced.

9.02 CONTRIBUTIONS BY THE EMPLOYER: The Actuary shall calculate the amount of contributions which are sufficient to fund the benefits provided by the Retirement and Disability Funds using accepted actuarial methods. The Employer may rely upon the estimates made by the Actuary of the amount of contributions needed to carry out the Plan. The Committee shall transmit the results of the calculations to the Board together with recommendations as to contributions.

Forfeitures and investment income shall be used to reduce Employer contributions and shall not be used hereunder to increase the benefit of any person prior to termination of the Plan or complete discontinuance of contributions.

9.03 RETIREMENT AND DISABILITY FUNDS:

(a) The Employer shall establish a Retirement Fund into which it shall pay contributions for benefits provided under Articles 4, 5, 6, and 7 under this Plan, and a Disability Fund into which its Employees shall pay contributions for benefits provided under Article 8. The Funds may comprise a trust fund or funds held by one or more corporate trustees, a custodial account or accounts meeting the requirements of Section 401(f) of the Code and the regulations thereunder, or a group annuity contract or contracts or other forms of insurance contracts, or any combination thereof.

(b) At no time prior to the satisfaction of all liabilities under the Plan with respect to Participants and Beneficiaries shall any part of the corpus or income of the Funds be used for or diverted to any purpose other than for their exclusive benefit, nor shall the Board cause or permit any portion of the Funds to revert to or become the property of the Employer. No person shall have any financial interest or right to the Funds, or any part thereof, except as expressly provided for in the Plan.

(c) Each Participant or other person who shall claim the right to any benefit under the Plan shall be entitled to look only to the appropriate Fund for payment thereof. All benefits under the Plan are to be payable only from the Funds and only to the extent that the appropriate Fund shall suffice therefore.

The Employer, the Board, the Committee, any insurance company, any custodian of a custodial account, and any corporate trustee shall not be liable in any manner for the payment of benefits under the Plan, even if the assets in the Funds are not sufficient to pay Plan benefits. The Board may, however, on the recommendation of the Actuary, cause assets to be transferred from one Fund to the other, except as prohibited by the Internal Revenue Code or other applicable law. Prior to a transfer of assets from the Retirement Fund, approval will be requested from the Internal Revenue Service.

ARTICLE 10: ADMINISTRATION

10.01 AUTHORITY OF THE BOARD: The Board has full and final authority to interpret the Plan and its terms. The Board shall have the necessary responsibilities and powers to discharge its obligations under the Plan with the expressed authority to:

- set plan policies and procedures;
- decide questions of Plan eligibility;
- determine the amount, method and timing of contributions;
- describe procedures for Participants to submit claims for benefits, apply for determinations of Disability, and file appeals;
- receive appropriate Participant information needed to administer the Plan;
- file or delegate responsibility for publishing, disclosing and filing disclosures and documents, such as required or necessary information for Plan compliance and administration;
- determine whether and to what extent Participants are entitled to benefits;
- construe ambiguous or disputed Plan terms;
- appoint, remove and supervise service providers, such as third-party administrators, and to determine their compensation, if appropriate; and
- take any other actions needed to carry out Plan provisions.

The Board has expressly delegated certain responsibilities and authority to the Administrative Committee in this Plan document, subject to the Board's approval or review. The Board may also delegate any other responsibilities or authority to the Administrative Committee or to another person or persons as the Board may in its sole discretion determine.

10.02 COMMITTEE: Plan administration is vested in an Administrative Committee consisting of nine members. The Superintendent shall be a permanent, ex officio, nonvoting member of the Committee. The chief financial officer and the chief benefits administrator shall be permanent, voting members of the Committee. The other seven voting, rotating members of the Committee shall be appointed by the Board, each for a term of seven years. The Board may reappoint any appointed members to a successive term.

On and after January 1, 1989 the seven voting, rotating members of the Committee shall consist of three teachers, one local school administrator, one classified employee, and one retiree under the Plan; provided, however, that once an employee is appointed to serve one of the designated seven rotating positions, a change in job positions within the school district or retirement from the school district shall not make the member ineligible from completing his/her term. One position may be filled by a person in any position, at the discretion of the Board.

The Committee shall serve as a screening committee for nominations from employees to fill vacancies on the Committee. The Committee shall provide the Superintendent with at least two nominations for each vacancy. The Superintendent shall make a recommendation to the Board for each appointment.

The terms of Committee members have been established as follows:

Position	Current Service Term Ends	Next Service Term Ends	Subsequent Service Terms (January – December)
Retiree	April 2021	December 2024	7 years
Any Position	April 2021	December 2025	7 years
Classified Employee	December 2019	December 2026	7 years
Teacher	June 2021	December 2027	7 years
Teacher	October 2021	December 2028	7 years
Local School Administrator	March 2024	December 2029	7 years
Teacher	March 2024	December 2030	7 years

The Board may remove any or all of the appointed members at any time with or without cause. The Board shall promptly fill any vacancy that may arise among the appointed members; provided, however, that the Committee may continue to act with full power prior to the filling of a vacancy. A person appointed to fill a vacancy shall serve until the end of the term of the member being replaced, starting on the date their appointment is approved by the Board. A Committee member may resign by notifying the Board and the Committee Secretary in writing. A Committee member may also serve as Fiduciary with respect to the Plan and may be a Participant.

The Committee shall establish such rules for the administration of the Plan as it deems appropriate; provided, however, that the authority of the Committee shall at all times remain subject to Board policies, as set forth in the Plan.

10.03 COMMITTEE MEETINGS: The Committee shall hold meetings regularly, at least annually, determining the notice, place and time of each. A majority of the members shall constitute a quorum. Decisions with a quorum present shall be by a majority vote. The decisions of the Committee as to interpretations and application of the Plan shall be final. The action of a majority expressed in writing without a meeting shall constitute the action of the Committee and shall have the same effect as if assented to by every member.

10.04 DELEGATION OF DUTIES: The Committee may appoint sub-committees and determine their powers. The Committee may allocate among themselves or may delegate to another person or persons such of the Committee's duties as they may in their sole discretion determine, provided that any such allocation or delegation shall be periodically reviewed by the Board.

The Committee may provide for such legal, clerical, accounting, actuarial and consulting services as it may require in the discharge of its responsibilities. The Committee may authorize one or more members or any agent to execute or to deliver any written instructions, requisitions, orders, notices, or other instruments or to make any payments on their behalf.

The Committee, the Board, the Employer, and an insurance company shall be entitled to rely upon all tables, valuations, certificates and reports furnished by the Actuary selected by the Committee, upon all certificates and reports made by any accountant so selected and upon all opinions given by any legal counsel so selected; the Committee, the Board, and the Employer shall be fully protected in respect to any action taken or suffered by them in good faith and acting as prudent men would act in like circumstances in reliance upon any such actuary, accountant or counsel, and all action so taken or suffered shall be conclusive upon each of them and upon all Participants, retired Participants, Surviving Spouses and Beneficiaries.

10.05 PLAN RECORDS: The Committee shall keep a record of all its proceedings and actions, and shall maintain all such books of account, records, and other data as shall be necessary for proper administration of and necessary actuarial valuations for the Plan and shall, from time to time, adopt standards for use in all actuarial calculations required in connection with the Plan and shall establish the rate of contribution required to maintain the Plan and shall advise the Employer of the rates so established.

The Committee shall submit annually to the Board a report showing in reasonable summary the financial conditions of the Retirement Fund and the Disability Fund, giving an account of the operations of the Plan for the past year and any further information which the Board may require.

10.06 STANDARD OF CONDUCT: Members of the Board and of the Committee and any person to whom the Committee may, in accordance with the Plan, delegate any power or duty in connection with the Plan shall discharge their duties with respect to the Plan solely in the interest of the Participants. No part of the Plan assets may be used for or diverted to purposes other than for the exclusive benefit of the Participants. Except as expressly provided in this Plan or by operation of law, no part of the Plan assets may revert to the Employer. No decision or action taken with respect to the Plan may result in discrimination between Participants similarly situated or result in the application of different rules to substantially similar sets of facts.

10.07 INDEMNIFICATION:

(a) Liability Insurance. The Employer may, with respect to the Plan, purchase insurance for itself, and/or for the Plan, and/or for any person serving at any time as a Board or Committee member or as a Fiduciary and/or for the authorized agents of any of those persons (hereinafter referred to as the "**Indemnified Party**") to cover liability or losses occurring by reason of the act or omission of an Indemnified Party.

(b) Indemnification. To the extent that an Indemnified Party is not protected and held harmless by liability insurance, as provided in paragraph (a) above, the Employer shall assume liability for, indemnify, protect, save, and keep harmless that Indemnified Party and his or their respective successors, assigns, legal representatives, agents, and servants from and against all liabilities, obligations, losses, expenses, damages, penalties, taxes, claims, actions, suits, costs, expenses, or disbursements (including legal fees and expenses) of any kind and nature that may be imposed on, incurred by, or asserted against that Indemnified Party and which in any way relate to or arise out of this Plan, or the administration or enforcement of any of its terms, or of the action or inaction of that Indemnified Party in the performance of his Plan duties, except in the case of fraud or bad faith of the Indemnified Party. For purposes of this Section 10.06, the terms "taxes" and "tax" include all taxes specifically related to this Plan and the Plan assets. The indemnities contained in this Section 10.06 shall survive the termination of this Plan.

Notwithstanding the foregoing provisions of this paragraph (b), on the commencement of any such action or proceeding, the Employer's obligation for such indemnification as provided in this paragraph (b) shall be conditioned on the Indemnified Party's prompt notification to the Employer of the action or proceeding; the Employer shall then be entitled to participate at its own expense in the defense or to assume the defense of any action brought against the Indemnified Party; if the Employer elects to assume defense of the suit, the defense shall be conducted by legal counsel chosen by it and reasonably satisfactory to the Indemnified Party, and the Indemnified Party shall bear the fees and expenses of any additional legal counsel retained by him.

10.08 COMMITTEE EXPENSES: Any expense reasonably incurred by the Committee in the performance of its duties shall be paid by the Plan. Such reasonable expenses include insurance protecting Committee members from personal liability resulting from their actions taken in a Fiduciary capacity with respect to this Plan.

10.09 POWERS AND RESPONSIBILITIES OF THE COMMITTEE: The Committee shall have full power and the full responsibility to administer and interpret the Plan (except to the extent any such powers or responsibilities are vested in any other Fiduciary), including but not limited to the following powers, duties, and responsibilities:

(a) To establish and enforce such rules, regulations and procedures as it shall deem necessary or proper for the efficient administration of the Plan;

- (b) To interpret the Plan, its interpretation thereof in good faith to be final and conclusive;
- (c) To decide all questions concerning the Plan and the eligibility of any Employee to participate in the Plan;
- (d) To compute the amount of benefits which shall be payable to any Participant, retired Participant, Beneficiary or Surviving Spouse in accordance with the provisions of the Plan, and to determine the person or persons to whom such benefits shall be paid;
- (e) To set maxima on the total pension payable from this Plan. These maxima will be applied on a uniform basis and may be changed by the Committee from time to time;
- (f) To employ physicians or other agents for the determination of Disability;
- (g) To purchase insurance, including but not limited to stop-loss insurance, for prudent administration of the Plan;
- (h) To advise any insurance company, trustee, or custodian of a custodial account in writing with respect to all benefits which become payable under the terms of the Plan and to direct such insurer, trustee, or custodian to pay such benefits from the appropriate Fund;
- (i) To establish a funding policy and method and to review such funding policy and method at annual meetings. The Committee shall provide the insurance company, trustee, or custodian with a written statement of such funding policy. All actions taken with respect to such funding policy and method and the reasons therefor shall be recorded in the minutes of the meeting of the Committee. The Committee may, with the approval of the Board, appoint an Investment Manager who shall be authorized to secure and consult with accountants, actuaries and other professionals in the discharge of his responsibilities. The Investment Manager shall be charged with the power to direct the acquisition and disposition of any assets of the Plan within the funding policy established by the Committee. The Committee may charge the Investment Manager with the responsibility for the development of a policy for the funding of the Plan that is consistent with the needs of the Plan. The Investment Manager shall give the Committee trustee, or custodian of a custodial account, if applicable, a written copy of this policy upon its development and shall direct and supervise such trustee's or custodian's action to see that this policy is carried out.

In the exercise of all its functions the Committee shall act in an impartial and non-discriminatory manner, and shall be entitled to rely upon opinions and reports of counsel and actuaries with whom the Committee may consult from time to time.

ARTICLE 11: SPECIAL PROVISIONS

- 11.01 PLAN NOT A CONTRACT OF EMPLOYMENT:** Neither the adoption of the Plan by the Employer, nor any action of the Employer or the Plan Administrator under this Plan, nor the establishment of any custodial account, nor the payment of any benefits, shall be construed to confer upon any person any legal right to be continued as an Employee of the Employer. All Employees shall be subject to discharge to the same extent as they would have been had this Plan never have been adopted.
- 11.02 PAYMENTS TO MINORS AND INCOMPETENTS:** If the Committee shall receive satisfactory evidence that a Participant, Surviving Spouse or Beneficiary who is entitled to receive any benefit under the Plan is, at the time when such benefit becomes available, a minor, or is physically unable or mentally incompetent to receive such benefit and to give a valid release therefore, and that another person or an institution is then maintaining or has custody of such Participant, Surviving Spouse or Beneficiary, and that no guardian, committee or other representative of the estate of such Participant, Surviving Spouse or Beneficiary shall have been duly appointed by a Court of competent jurisdiction, the Committee may authorize payment of such benefit otherwise payable to such Participant, Surviving Spouse, or Beneficiary to such other person or institution. Any payments so made under the direction of the Committee shall be a valid and complete discharge for the payment of such benefit.
- 11.03 MISSTATEMENT IN APPLICATION FOR BENEFITS:** If a Participant or Beneficiary in any application or response to the Committee makes any statement which is erroneous or omits any material facts or fails before receiving his first payment to correct any information that he previously incorrectly furnished to the Committee for its records, the amount of his benefits shall be adjusted on the basis of the facts, and the amount of any overpayment or underpayment theretofore made to such Participant shall be deducted from or added to his next succeeding payments as the Committee shall direct. In the event the Plan makes an overpayment or underpayment through no fault of the Participant or Beneficiary, the Plan shall be permitted to adjust prospectively the amount of the Participant's or Beneficiary's benefits as the Committee shall direct.
- 11.04 MISSING PERSONS:** If the Committee is unable to locate any individual or Beneficiary entitled to benefits under the Plan at his last known address as it appears on the records of the Employer, then after a reasonable and diligent search using one or more of the search methods described below, the Accrued Retirement Benefit of such individual shall be deemed forfeited on or after the end of the 12-consecutive month period following such individual's Normal Retirement Date or death.

Permissible search methods include one or more of the following methods: (i) provide a distribution notice to the missing individual or Beneficiary at his last known address by certified or registered mail; (ii) check with other employee benefit plans of the Employer that may have more up-to-date information regarding the individual's whereabouts; (iii) identify and contact the individual's designated Beneficiary; or (iv) use a commercial locator service, credit reporting agencies, the Internet, or other general search method. With respect to search methods (ii) and (iii) above, if the Committee encounters privacy concerns, the Committee may request that the Employer or other Plan fiduciary (under (ii)), or the designated Beneficiary (under (iii)), contact the individual or forward a letter requesting that the individual contact the Trustees.

In addition, if a check issued to any individual or Beneficiary remains uncashed for a period exceeding 180 days, the check shall be considered a "stale-dated" check and the Plan shall follow the diligent search procedures under this Section 11.04 to locate such individual or Beneficiary and such amounts shall be reissued or deemed forfeited, as applicable.

If an individual or Beneficiary who has incurred a forfeiture of his benefit under the provisions of this Section makes a claim for his benefit at a later date, but prior to the Plan's termination, his benefit shall be restored and will once again be payable to him.

11.05 INALIENABILITY OF BENEFITS: No benefit which shall be payable under this Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, garnishment, encumbrance, or change, or to any legal processes, suits, or judgments, and any attempt to do so shall be void.

11.06 PLAN MERGER OR CONSOLIDATION: There shall be no merger or consolidation of the Plan with, or transfer of assets or liabilities to, any other plan qualified under Section 401(a) of the Internal Revenue Code, unless each Participant (if the Plan then terminated) is entitled to a benefit immediately after any such merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before such merger, consolidations, or transfer (if the Plan had then terminated).

Any such merger, consolidation, or transfer shall be accomplished in accordance with any applicable regulations of the Internal Revenue Service. To the extent that such regulations do not require the conditions outlined in the preceding paragraph, the provisions of such paragraph shall not apply.

ARTICLE 12: GENERAL PROVISIONS

12.01 MODIFICATION OR DISCONTINUANCE OF THE PLAN: The Board expects and intends to maintain the Plan in force indefinitely, but necessarily reserves the right at any time or times, in accordance with the existing Board procedures, to modify or amend, terminate, or partially terminate the Plan in all or in part; provided, however, that the Board shall have no power to modify or amend the Plan in the manner as would cause or permit any portion of such corpus or income of the Funds to be diverted to purposes other than for the exclusive benefit of the Plan Participants and their beneficiaries or as would cause or permit any portion of such corpus or income to revert to, or become the property of, the Employer until all liabilities under the Plan are satisfied. The duties and liabilities of the Committee hereunder shall not be increased without the Committee's written consent. No such amendment (including a change in the definition of Actuarial Equivalent under Section 1.01), shall have the effect of retroactively changing or depriving Plan Participants of benefits already accrued under the Plan. Furthermore, no change or amendment shall be effective unless the Plan as so changed or amended shall be for the exclusive benefit of the Participants, Spouses, and Beneficiaries.

12.02 DISTRIBUTION OF ASSETS OF RETIREMENT FUND: In the event of termination or partial termination of retirement benefits under the Plan, the rights of affected Participants to benefits accrued to the date of any such termination or partial termination (hereinafter designated the "Termination Date") to the extent then funded shall become fully vested and nonforfeitable, and the assets in the Retirement Fund held for the benefit of such persons shall be applied in the following order of priority, with all persons in each class being entitled to their respective proportionate shares based upon the value of their benefits at the time of application subject to the further requirements of this Section 12.02.

FIRST MAJOR PRIORITY: Provision to Participants whose benefits are in a pay status as of the Termination Date.

SECOND MAJOR PRIORITY: Provision to Participants for Plan benefits which could have been in pay status as of the Termination Date, if the affected Participants had elected retirement.

THIRD MAJOR PRIORITY: Provisions to Participants for all other accrued vested benefits to the Termination Date to which they may be entitled or contingently entitled to under the Plan.

FOURTH MAJOR PRIORITY: Provision to Participants for all other accrued benefits to the Termination Date to which they may be entitled or contingently entitled. For purposes of this Section 12.02, present values of benefits shall be determined using the applicable factors specified in regulations issued by the Pension Benefit Guaranty Corporation or commercial insurance company rates.

The Committee may, in its discretion, give effect to the provisions of the foregoing paragraphs by the purchase of annuities, by continuing the Fund in existence and making provisions thereunder for pension benefits, or by immediate distribution from the Fund. If, after satisfaction of all liabilities of the Retirement Fund with respect to Participants under the Plan, there is a balance remaining due to actuarial error or other cause, such balance shall be allocated to Plan Participants.

12.03 DISTRIBUTION OF ASSETS OF DISABILITY FUND: In the event of termination of disability benefits under the Plan in entirety or partially with respect to a group of Employees by the Employer, provision shall be made to purchase commercial insurance contracts, to the extent assets are available in the Disability Fund, for affected Participants who are receiving Disability Income Benefits. The Board may allocate any residual assets to provide additional retirement benefits or return such assets to Plan Participants, in a uniform and non-discriminatory manner.

12.04 PLAN SUBJECT TO TAX APPROVAL: The adoption of the Plan and any trust or trusts established, any custodial accounts established, and any annuity contracts or insurance contracts

entered into incident hereto, as they apply to the Employer, are expressly subject to the condition that they shall be approved and qualified by the Internal Revenue Service as meeting the requirements of the Internal Revenue Code and regulations issued thereunder.

- 12.05 NOTICES:** Any notice, application, instruction, designation or other form of communication required to be given or submitted by any Participant shall be written in English and shall be in such form as is prescribed from time to time by the Committee and shall be sent by first-class mail or delivered in person to the Director. Any notice, statement, report or other communication from the Plan Administrator to any Participant shall be deemed to have been duly delivered when given to such person, transmitted or otherwise sent electronically with the individual's agreement, or mailed first class to such person at the Participant's address last appearing on the records of the Plan. Each person entitled to receive a payment under the Plan shall file according to the requirements of this document the person's complete mailing address and any subsequent changes. If the Plan Administrator shall be in doubt on whether payments are being received by the person entitled, the Plan Administrator may, by registered mail addressed to such person's last known address, notify such person that all future payments will be withheld until such person submits to the Plan Administrator the proper mailing address and such other information the Plan Administrator may reasonably request.
- 12.06 NO WAIVER OR ESTOPPEL:** No term, condition or provision of this Plan shall be deemed to have been waived, and there shall be no estoppel against the enforcement of any provision of this Plan, except by written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated therein, and each such waiver shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or for any act other than the one specifically waived.
- 12.07 GOVERNING LAW:** To the extent not preempted by federal law, the Plan and all provisions thereof shall be governed by the laws of the State of Georgia.
- 12.08 RESTRICTION ON VENUE:** A Participant or Beneficiary shall only bring an action in connection with the Plan in either the Gwinnett Judicial Circuit of the Ninth (9th) Superior Court District of Georgia, or in the United States District Court in the Northern District of Georgia, where the Plan Administrator is located.
- 12.09 HEADINGS:** The titles in this Plan are inserted for convenience of reference; they constitute no part of this Plan, and are not to be considered in the construction hereof.
- 12.10 CONSTRUCTION:** Whenever any words are used in this Plan in the singular form, they shall be construed as though they were also in the plural form in all situations where they would so apply, and wherever any words are used in this Plan in the plural form, they shall be construed as though they were also used in the singular form in all situations where they would so apply. When any words are used in the masculine or feminine gender, they shall be construed as though they were used in the neutral gender in all situations where they would so apply.
- 12.11 SEVERABILITY:** If any provision of this Plan shall be held invalid or unenforceable, such invalidity or non-enforceability shall not affect any other provision, and this Plan shall be construed and enforced as if such provision had not been included.

ARTICLE 13: CLAIMS PROCEDURE

- 13.01 CLAIMS PROCEDURE:** All claims for benefits under the Plan shall be determined according to this Article 13, except for determinations as to whether a Participant meets the definition of Disability, which shall be determined according to Section 8.05.

Claims for benefits under the Plan shall be filed on forms to be supplied by the Plan Administrator. Within thirty (30) days after the claim is filed, written notice of the disposition of the claim shall be furnished by the Director to the claimant. In the event the claim is denied, the Director shall provide the Claimant, in writing, with the reasons for the denial, citations to pertinent provisions of the Plan relied upon by the Director in making its decision, a description of any additional material or information necessary for the claimant to perfect the claim, an explanation of why such material or information is required, and an explanation as to how the claimant can appeal the denial of the claim.

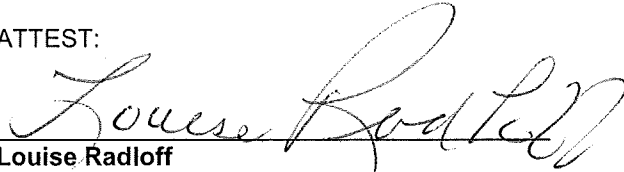
- 13.02 CLAIMS REVIEW:** Within sixty (60) days after notice of the denial of a claim, any person claiming retirement benefits or death benefits under the Plan may request a review of such denial by filing notice in writing with the Committee on a form provided by the Plan Administrator. The Committee shall promptly notify the Board of a request for a review. The Board shall decide whether it or the Committee shall handle the review and shall so notify the Committee and the claimant. The claimant shall also be advised that in conjunction with such review he may review pertinent documents and submit issues and comments in writing. The Committee (or the Board, as the case may be), in its discretion, may hold a full hearing of the issues presented by the claimant if a majority of the Committee (or Board) members vote for such a hearing. Within sixty (60) days after receipt of a request for review, or within one hundred twenty (120) days if a hearing is held, the claimant shall be advised of the disposition of his claim. This decision shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. All such decisions by the Committee (or the Board) will be final, conclusive, and binding upon the Employer and the claimant and his beneficiaries.

- 13.03 EXHAUSTION OF REMEDIES:** No legal action for benefits under the Plan (including Disability benefits) may be brought unless, and until, the person claiming retirement or death benefits under the Plan has exhausted his remedies under this Article 13. Any such legal action must be brought by the Claimant in the United States District Court in the Northern District of Georgia, within the three (3)-year period following the date that he exhausted his remedies under this Article 13.

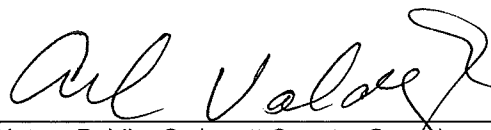
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Board of Education of Gwinnett County Public Schools has caused this Plan to be executed on its behalf by its duly authorized officer this 18th day of June, 2020.

ATTEST:



Louise Radloff
Chairman, Board of Education
Gwinnett County Public Schools



Notary Public, Gwinnett County, Georgia
My Commission Expires: 2/4/2023



APPENDIX A

Applicable Factor Table

<u>Age</u>	<u>Factor</u>	<u>Age</u>	<u>Factor</u>	<u>Age</u>	<u>Factor</u>	<u>Age</u>	<u>Factor</u>
65	1.0000	60	.6581	55	.4532	50	.3228
64	.9158	59	.6089	54	.4224	49	.3026
63	.8406	58	.5642	53	.3942	48	.2839
62	.7732	57	.5237	52	.3684	47	.2666
61	.7127	56	.4868	51	.3446	46	.2506

Factors for non-integral ages shall be determined by interpolation.

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