

**CITY OF NEW ORLEANS
EMPLOYEES' RETIREMENT SYSTEM
ADMINISTRATIVE PROCEDURES
DROP Suspension and Termination**

No.: 2006-2

Effective Date: November 9, 2006

Subject: DROP Suspension upon Involuntary Termination

Related Ordinance: No. 114-231, Deferred retirement

These Administrative Procedures (the "Procedures") are made by the Board of Trustees (the "Board") of the City of New Orleans Employees' Retirement System (the "System") in accordance with the provisions of Section 114-86 of the Code of Ordinances, which affords to the Board the authority to administer the System and to make effective the provisions thereof. Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the System, and the masculine gender includes the feminine. Unless otherwise indicated, "Section" as used herein shall refer to sections of Article III of the Code of Ordinances. This Procedure is intended to form of part of the System and to govern the interpretation and construction of the related ordinance named above.

1. Definitions:

For purposes of these Procedures, the following capitalized terms shall have the meanings ascribed to them below:

"Date of Rehire" means the date the Former DROP Participant is rehired by an Employer.

"Date of Termination" means the effective date of the Former DROP Participant's Involuntary Termination.

"Employer" means an employer who participates in the System.

"Former DROP Participant" means a DROP Participant who incurred an Involuntary Termination before the expiration of his Original DROP Period.

"Involuntary Termination" means a layoff or a termination of employment that is not classified by the Employer as a voluntary retirement, quit, or resignation, but rather is classified as an involuntary termination.

"Maximum Period of Suspension" means the period beginning as of the Date of Termination and ending on the fifth anniversary of the Date of Termination.

"Original DROP Period" means the period, not exceeding five years, which the DROP Participant set forth in his DROP election as the period of his participation in DROP.

"Termination Period" means the period commencing as of the day next following the Date of Termination and ending on the Date of Rehire.

“Voluntary Termination” means a termination of employment before expiration of the Original DROP Period that is not an Involuntary Termination.

2. Purpose:

These Procedures are established to address the ability of a Former DROP Participant to resume his participation in DROP under his original DROP election in the event the Former DROP Participant incurs an Involuntary Termination before the completion of his Original DROP Period. The Procedures are made in consideration of the following:

- a. The System is intended to be a qualified employee benefit plan and to comply with the applicable provisions of Section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”).
- b. The System is intended to provide definitely determinable benefits in accordance with the requirements of the Code applicable to defined benefit plans.
- c. Pursuant to its authority under Sections 114-161 and 114-99, the Board hereby sets forth the rules and requirements for the suspension of a DROP election upon Involuntary Termination.

3. Background:

Section 114.231 does not specifically address the treatment of a DROP election for a DROP participant who incurs an Involuntary Termination before the end of his Original DROP Period, and who is subsequently rehired. Section 114.231, presently provides in part:

- a. A DROP participant may participate in DROP only once. Section 114.231(d).
- b. The duration of participation in DROP shall not exceed five years. Section 114.231(c).
- c. Upon termination of employment at the end of the specified period of participation, a participant in the program shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account, or he may elect any other method of payment if approved by the Board. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree. Section 114.231(h).
- d. If a participant terminates employment prior to the end of the specified period of participation he shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account balance, or he may elect any other method of payment if approved by the Board. The monthly benefits that were paid into the fund during the period of participation shall begin being paid to the retiree. Section 114.231(i).
- e. If employment is not terminated at the end of the period specified for participation, payments into the account shall cease and no further interest shall be earned or credited to the individual account in the fund for the duration of employment past the end of the period specified for participation. Payment from the account shall not be made until employment is terminated; nor shall the monthly benefits being paid into the fund during the period of participation be payable to the individual until he terminates employment.

Upon termination of employment a member shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus interest earned by the individual account, or a true annuity based upon his account balance, or he may elect any other method of payment if approved by the Board. Section 114.231(j).

- f. If an employee becomes disabled after the period of participation in the plan but while still an employee and his employment is terminated because he is disabled, he shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account balance, or he may elect any other method of payment if approved by the Board. The monthly benefits that were paid into the fund during the period of participation shall begin being paid to the retiree. Section 114.231(k).

4. Procedures:

Now, therefore, consistent with the foregoing provisions of Section 114.231, the Board establishes the following interpretive rules and procedures with respect to a DROP participant's termination of employment before expiration of the Original Drop Period:

- a. **Voluntarily Termination before the End of the Drop Period.** If a DROP Participant terminates employment due to a Voluntary Termination, his DROP election shall terminate effective as of the date of such Voluntary Termination.
- b. **Involuntary Termination before the End of the DROP Period.**
 - i. If a Former DROP Participant is rehired by an Employer before expiration of the Maximum Period of Suspension, then such Former DROP Participant shall resume participation under his DROP election subject to the following terms and conditions:
 - A. The Former DROP Participant shall not have made an Option 4 election;
 - B. The DROP election shall be deemed as suspended during the Former DROP Participant's Termination Period;
 - C. Effective from the Date of Termination, the Former Drop Participant may elect a distribution from his DROP account, and shall commence receipt of his monthly retirement benefit;
 - D. The Termination Period shall not count against the Former Drop Participant's Original DROP Period;
 - E. The sum of the Former DROP Participant's period of DROP participation before the Date of Termination and the Former DROP Participant's period of participation in DROP following the Date of Rehire shall not exceed the Original DROP Period;
 - F. Distributions from the DROP account, if any, and payment of the monthly retirement benefit to the Former DROP Participant shall cease effective as of the Date of Rehire;
 - G. Payments to the DROP account shall resume after the Date of Rehire in the same monthly retirement benefit amount as in effect for the Former DROP Participant before the Date of Termination, and the Former

DROP Participant's DROP account shall earn interest as provided under Section 114.231(f);

- H. To the extent that the Former DROP Participant took a distribution from his DROP account, the Former DROP Participant shall not be required to repay such amount to his DROP account as a pre-condition of the resumption of DROP participation;
 - I. If the rehired Former DROP Participant continues in employment following completion of his Original DROP Period, then he may resume membership in the System as permitted under Section 114.231(d); and
 - J. Neither payments from the DROP account nor the monthly retirement benefit shall resume until such Former DROP Participant again terminates employment.
- ii. If a Former DROP Participant is not rehired by an Employer before expiration of the Maximum Period of Suspension, then his DROP election shall terminate effective as of the expiration of the Maximum Period of Suspension.

THESE ADMINISTRATIVE PROCEDURES were adopted and approved by the Board on November 9, 2006, and may be amended, restated or repealed as determined by the Board in its sole discretion.