



Board Administration Policy

Required Minimum Distributions – IRC 401(a)(9)

I. Purpose

This policy reaffirms and clarifies the existing practices of the Association with respect to the limit on minimum distribution requirements under Internal Revenue Code section 401(a)(9) and Treasury regulations issued thereunder.

II. General Rules

A. Reasonable Good Faith Interpretation of Code

In accordance with section 823 of the Pension Protection Act of 2006 (“PPA”), this policy is promulgated in accordance with a reasonable good faith interpretation of Code section 401(a)(9), and the Treasury regulations thereunder, as applicable to a governmental plan within the meaning of Code section 414(d). For purposes of Code section 401(a)(9), Code means the Code and applicable Treasury regulations as they apply under a reasonable good faith interpretation of section 401(a)(9).

B. Elections Under TEFRA § 242(b)(2)

Notwithstanding the other requirements of this policy to the contrary, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act.

III. Definitions

Capitalized terms used in this policy are defined below.

A. Annuity Starting Date

“Annuity Starting Date” means the first day of the first period for which a retirement benefit is payable as a Required Minimum Distribution (RMD) Annuity or, in the case of a retirement benefit not payable in the form of an RMD Annuity, the first day on which all events have occurred which entitle the Member to payment.

B. Designated Beneficiary

“Designated Beneficiary” means the individual who is designated by the Member (or the Member’s surviving Spouse) as the beneficiary of the Member’s interest under the Association and who is also the designated beneficiary under Code section 401(a)(9) and section 1.401(a)(9)-4 of the Treasury regulations. Accordingly, entities other than individuals, such as the Member’s estate or a trust, cannot be a Designated Beneficiary of a Member’s interest in the Association. However, the individuals who are beneficiaries under a designated trust shall be treated as Designated Beneficiaries for purposes of determining the distribution period under this policy and Code

section 401(a)(9) if all of the applicable requirements of Treasury regulation section 1.401(a)(9)-4, Q&A-5(b) are met. If all of such applicable requirements are not met, then the distribution of the Member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

C. Distribution Calendar Year

"Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section VI.A herein.

D. Required Beginning Date

"Required Beginning Date," means April 1 of the calendar year following the later of the calendar year in which the Member attains age 72 (or age 70½ if the Member attained age 70½ prior to January 1, 2020) or the calendar year in which the Member retires.

E. RMD Annuity

"RMD Annuity" means, for purposes of the required minimum distribution rules in Code section 401(a)(9), a distribution form providing for periodic payments for a specified period of time. "RMD Annuity" for purposes of this policy does not mean "annuity" as defined in the County Employees' Retirement Law, but instead means a retirement benefit that is payable by the Association.

F. Spouse

Effective June 26, 2013, consistent with Federal tax rules, the term "Spouse" means a person who is lawfully married under California law, including marriages recognized under California Family Code section 308 that were entered into in another jurisdiction (another state, the District of Columbia, a United States territory or a foreign jurisdiction) which also include marriages of same-sex individuals that were validly entered into in another jurisdiction whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a jurisdiction that does not recognize the validity of same-sex marriage. In accordance with Federal tax rules, the term "Spouse" does not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under the law of another jurisdiction that is not denominated as a marriage under the laws of that state (whether opposite-sex or same-sex relationships).

IV. Time and Manner of Distribution

A. Required Beginning Date

The Member's entire interest will be distributed, or begin to be distributed, no

later than the Member's Required Beginning Date.

B. Form of Distribution

1. Periodic and Other Forms of Payments

A Member's entire interest in the Association shall be distributed in the form of RMD Annuity payments that meet the requirements of Section IV.B.2 or in the form of a single sum or an insurance company annuity contract that meets the requirements of Section IV.B.3.a. Payments may be made in a combination of these forms of payment and may include lump sum withdrawals of Member contributions or death benefits as provided in the CERL provided that these forms comply with a reasonable good faith interpretation of Code section 401(a)(9).

2. General Rules Regarding RMD Annuities

If the Member's interest is to be paid in the form of an RMD Annuity, the RMD Annuity must meet the following requirements:

a. Periodic

RMD Annuities must be paid over equal payment intervals, which intervals may not be longer than one year.

b. Distribution Period

RMD Annuities will be paid over the life or lives of the Member and a beneficiary or over a period certain that does not exceed the maximum length of the period described in Sections V or VI herein.

c. Increases

RMD Annuities may not increase over time except in accordance with the rules in Section VII.A

d. Change in Period Paid

The period over which an RMD Annuity is paid can be changed only in accordance with Q&A-13 of section 1.401(a)(9)-6 of the Treasury regulations.

e. Commencement

Payment of the RMD Annuity must start no later than the Required Beginning Date.

3. Other Forms

a. Annuity Contract

If the Member's interest is distributed in the form of an annuity contract purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9).

b. Individual Account

Any part of the Member's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of Code section 401(a)(9) that apply to individual accounts.

C. Amount Required to be Distributed by Required Beginning Date and Later Payment Intervals

The amount that must be distributed on or before the Member's Required Beginning Date 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. All of the Member'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 Member's Required Beginning Date. If the Member dies before distributions begin, the same rules apply with reference to the date distributions are required to begin under Section VI.A, paragraphs 1 or 2.

V. RMD Annuity Distributions Beginning During Member's Life

The following rules must be met to comply with the requirements of the Code and this policy for RMD Annuities that begin during the Member's lifetime.

A. Single Life RMD Annuity

An RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime only, with no benefits paid to any other person, meets the requirements of the Code and this policy.

B. Joint and Survivor RMD Annuity – Death of Member after Benefits Begin

If Member dies after RMD Annuity payments have commenced to the Member, then distributions must continue to be made over the remaining period over which distributions commenced in accordance with the schedule of payments made to the Member. Reasonable delay for administration may occur, but in this case payments that should have been made in accordance with the original payment schedule must be made with the first resumed payment.

C. Joint and Survivor RMD Annuity With Spouse as the Sole Beneficiary

An RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime and the lifetime of the Member's surviving Spouse, with no benefits paid to any other person, meets the requirements of the Code and this policy regardless of the difference in age of the Member and the Member's Spouse.

D. Joint and Survivor RMD Annuity When the Sole Beneficiary Is Not the Member's Spouse

1. Limit on Percentage of Member's RMD Annuity Paid to Non-Spouse Beneficiary

The survivor annuity percentage of an RMD Annuity that begins no later than the Required Beginning Date and is paid for the Member's lifetime and the lifetime of a beneficiary other than the Member's surviving Spouse must not at any time exceed the applicable percentage of the RMD Annuity payment during the Member's lifetime, using the table set forth in Treasury regulation section 1.401(a)(9)-6, Q&A-2(c)(2), as determined in the manner described in Q&A-2(c)(1). This Treasury Regulation requires that the RMD Annuity payable to the Member's beneficiary after the Member's death not exceed the percentage of the RMD Annuity payable to the Member during the Member's life specified in the table if the adjusted age difference between the Member and the beneficiary is more than 10 years.

2. Rule Regarding Children of Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a survivor benefit is payable to a surviving child of the Member for a limited period of time (such as until the child reaches the age of 22), the survivor benefit shall be treated as payable solely to the surviving Spouse of the Member.

3. Rule Regarding Other Beneficiaries

Solely to the extent required by Code section 401(a)(9) and under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(c) and taking into account the vested rights in retirement benefits created by the California Constitution, if a survivor benefit is payable to a person other than a surviving Spouse of the Member (or surviving child under paragraph 2 of this subsection D), the survivor's allowance may not exceed the percentage of the Member's benefit established under the Applicable Percentage Table in Q&A-2 of Treasury regulations section 1.401(a)(9)-6 for the calendar year that contains the Annuity Starting Date. If the Member is younger than age 70 in that year, then the age difference used in the Table is reduced by the number of years that the Member is younger than age 70 on the Member's birthday for that calendar year. If the Member is unable to elect Option 2 as result of a limitation under the Applicable Percentage Table, the Member will be allowed to elect an alternate allowance under Option 4, which will provide an actuarially equivalent benefit based on the highest survivor's allowance permissible under the Applicable Percentage Table payable to the Designated Beneficiary.

- E. Period Certain RMD Annuity

1. Spouse Is the Sole Beneficiary

If the Member's sole beneficiary is the Member's surviving Spouse, and the form of distribution is a period certain with no life annuity, the period certain

may not exceed the joint life and last survivor expectancy of the Member and Spouse as determined in accordance with the Joint and Last Survivor Table set forth in section 1.401(a)(9)–9, Q&A-3, of the Treasury Regulations, using the Member’s and Spouse’s ages as of the Member’s and Spouse’s birthdays in the calendar year that contains the Annuity Starting Date.

2. Spouse Is not the Sole Beneficiary

When the Member’s surviving Spouse is not the sole beneficiary then the period certain may not exceed the period established under the Uniform Lifetime Table in Q&A-2 of Treasury regulations section 1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Member is younger than age 70 in that year, then the distribution period for the Member is the distribution period for age 70 increased by the difference between 70 and the age of the Member in the year of the Annuity Starting Date. Also see below regarding Designated Beneficiaries.

3. Rule Regarding Children of Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, the period certain distribution rules shall not apply to survivor benefits payable to children of the Member but the rules of section V.D above shall apply.

4. Rule Regarding Other Beneficiaries

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a period certain survivor benefit is payable to a person other than a surviving Spouse of the Member, then the present value (if any) of any benefit that would be in excess of the amount that can be paid in accordance with such regulation shall be paid to such person in a lump sum payment no later than one year after such person becomes entitled to a survivor benefit.

VI. Distributions When Member Dies before Benefits Begin

If a Member dies before distributions begin, distributions after the death of the Member must meet the following requirements:

A. When Distributions Must Begin

1. Spouse is the Sole Designated Beneficiary

If the Member’s sole Designated Beneficiary is the Member’s surviving Spouse, then, except as provided in paragraph 5 of this Section [VIA](#), distributions to the surviving Spouse must begin by December 31 of the calendar year immediately following the calendar year in which the Member died or, if later, by December 31 of the calendar year in which the Member would have reached age 72 (or age 70½ if the Member attained age 70½ prior to January 1, 2020).

2. Spouse is not the Sole Designated Beneficiary

If the Member's sole Designated Beneficiary is not the Member's surviving Spouse, then, except as provided in paragraph 5 of this Section VI.A, distributions to the Designated Beneficiary must begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

3. No Designated Beneficiary

If there is no Designated Beneficiary as of September 30 of the year following the year of the Member's death, then distributions of the Member's entire interest must be completed by December 31 of the calendar year that contains the fifth anniversary of the Member's death.

4. Death of Surviving Spouse Who Is the Sole Designated Beneficiary

If the Member's surviving Spouse is the Member's sole Designated Beneficiary and the surviving Spouse dies after the Member but before distributions to the surviving Spouse are required to begin, then this Section VI.A, other than Section VI.A.1, applies as if the surviving Spouse were the Member.

5. Election of Five Year Rule

A Designated Beneficiary may elect, at the time and in the manner determined by the Association, to have the five year rule of Section VI.A.3 apply, but solely to the extent that the Designated Beneficiary may elect, under the CERL, a benefit which will be paid in the required time period.

B. When Distributions Are Considered to Begin

For purposes of this Section VI, unless Section VI.A.4 applies, distributions are considered to begin on the Member's Required Beginning Date. If Section VI.A.4 applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section VI.A.1. If distributions under an RMD Annuity meeting the requirements of this policy commence to the Member before the Member's Required Beginning Date (or to the Member's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section VI.A.1), the date distributions are considered to begin is the date distributions actually commence.

C. Length of Distribution Period

1. Member Is Survived by a Designated Beneficiary

a. General Rule

If a Designated Beneficiary survives the Member, the Member's entire interest in the Association shall be distributed over the life of the Designated Beneficiary or over a period certain that does not exceed the period specified in paragraph C.1.b below.

b. Period Certain

The period certain in paragraph C.1.a above may not exceed the Designated Beneficiary's life expectancy determined using the Single Life Table in Treasury regulations section 1.401(a)(9)-9, Q&A-1. If the Annuity Starting Date is in the first Distribution Calendar Year, the life expectancy shall be determined using the Designated Beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death. If the Annuity Starting Date is before the first Distribution Calendar Year, then the life expectancy is determined using the Designated Beneficiary's age in the calendar year that contains the Annuity Starting Date.

2. No Designated Beneficiary

If there is no Designated Beneficiary as of the September 30 of the year following the year of the Member's death, distribution of the Member's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

3. Death of Surviving Spouse before Distributions to Spouse Begin

If the Member's surviving Spouse is the Member's sole Designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section VI.C shall apply as if the surviving Spouse were the Member, except that the time that distributions are required to begin is determined without regard to Section VI.A.1.

VII. Special Rules

A. RMD Annuity Payment Increases

RMD Annuity payments will either not increase over time or increase only as follows:

1. Cost of Living Adjustments

a. Annual COLA Increases

RMD Annuity payments may increase by an annual percentage that does not exceed the percentage increase in an eligible cost-of-living index, as defined in Q&A-14(b) of section 1.401(a)(9)-6 of the Treasury regulations, for a 12-month period ending in the year during which the increase occurs or a prior year.

b. Cumulative COLA Increases

RMD Annuity payments may increase by a percentage increase that occurs at specified times and does not exceed the cumulative total of annual percentage increases in an eligible cost-of-living index, as defined in the preceding paragraph since the Annuity Starting Date, or if later, the date of the most recent percentage increase.

c. Additional COLA Increases

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b) and taking into account the vested rights in retirement benefits created by the California Constitution, RMD Annuity payments may increase by a percentage or amount that is determined by the Association, in accordance with the CERL, to represent an appropriate amount to take account of cost of living increases affecting retirees or beneficiaries.

2. "Pop-Ups"

RMD Annuity Payments may increase to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit, but only if there is no longer a survivor benefit because the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member's beneficiary pursuant to a domestic relations order under applicable state law.

3. Plan Amendment

Benefits may increase if they result from an amendment to, or interpretation of, the CERL, PEPR, or any other applicable law governing benefits for Members or from an ordinance, resolution or regulation pursuant to such law.

4. Other Benefits

Benefits may increase (i) to the extent increases are permitted in accordance with paragraph (c) or (d) of Q&A-14 of section 1.401(a)(9)-6 of the Treasury regulations dealing with additional permitted increases for annuity payments under annuity contracts purchased from an insurance company and additional permitted increases for annuity payments from a qualified trust; (ii) pursuant to section 31691.1 of the CERL; and (ii) pursuant to sections 31681.1 et. seq., and 31739 et. seq. of the CERL.

B. Additional Accruals after First Distribution Calendar Year

Any additional benefits accruing to the Member 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 benefit accrues.

C. Domestic Relations Orders

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if Article 8.4 of the CERL applies (relating to the establishment of separate accounts under domestic relations orders), then both the Member and the Member's former Spouse shall be deemed to be separate Members of the Association for purposes of this policy and Code section 401(a)(9).

D. Reciprocal Member

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, if a deferred Member is a current employee and a member of another retirement system with which the Association has reciprocity under California law, then for purposes of determining the Required Beginning Date under the Association the Member shall be treated as a current employee of the Association and as such, as if he or she had not retired, even if he or she has attained age 70½.

E. Public Safety Member Killed in Line of Duty

Under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(b), and taking into account the vested rights in retirement benefits created by the California Constitution, any additional retirement benefits paid under CERL section 31787.5 to the surviving Spouse of a public safety Member killed in the line of duty shall not be limited by Code section 401(a)(9) because they shall be treated as incidental death benefits.

F. Rollovers

Amounts that are required minimum distributions cannot be rolled over to another qualified retirement plan or other tax-favored vehicle. The amount that cannot be rolled over shall be determined in accordance with Treasury regulations section 1.402(c)-2, Q&A-7.

G. Payments to Surviving Child Treated as Made to Surviving Spouse

Solely to the extent required by Code section 401(a)(9) and under a good faith interpretation of the Code and Treasury regulations section 1.401(a)(9)-6, Q&A-2(c) and taking into account the vested rights in retirement benefits created by the California Constitution, for purposes of Code section 401(a)(9) and is policy, payments to a Member's surviving child in accordance with the requirements of Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations shall be treated as if such payments had been made to the Member's surviving Spouse to the extent the payments become payable to the surviving Spouse upon the child's attainment of the age of majority, as determined in accordance with Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations, or upon the occurrence of such other event specified in Q&A-15 of section 1.401(a)(9)-6 of the Treasury regulations, or as otherwise specified in IRS guidance under Code section 401(a)(9).

VIII. This policy is intended to be in accordance with the Internal Revenue Code (Code) and the applicable Treasury regulations. To the extent there is a conflict between this policy and the Code and Treasury regulations, the applicable federal law will govern.

IX. Policy Review

Staff shall review this Policy at least once every three years to ensure that it remains relevant, appropriate, and in compliance. Any revisions or amendments to this policy must be approved by the Board of Retirement in accordance with the bylaws.

X. History

- 01/01/2015 Effective Date of Bylaw Section 25
- 03/20/2018 Bylaw Section 25 Converted to Board Policy and Board of Supervisors approved Bylaws
- 07/06/2018 Staff updated format
- 09/11/2018 Annual review, deleted Article 5.5 reference
- 04/12/2019 Policy Review section amended to at least once every three years
- 04/10/2020 Policy amended to reflect federal law increasing RMD to 72
- 07/09/2021 Minor edits by tax counsel

Certification of Board Adoption:


Clerk of the Board

07/09/2021

Date