

20:16:17:38. Minimum distribution requirements. ~~Benefit payments under this plan must begin by the later of April 1 of the calendar year following the year in which the participant reaches age 70½ or retires. The participant's entire interest in the plan shall be distributed over the life of the participant or the lives of the participant and a designated beneficiary over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and the designated beneficiary. If a participant dies after distribution of benefits has begun, the remaining portion of the participant's interest shall be distributed at least as rapidly as under the method of distribution prior to the member's death. If a participant dies before distribution of benefits has begun, the entire interest of the participant shall be distributed within five years after the participant's death. The five-year payment requirement does not apply to any portion of the participant's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within one year after the date of the participant's death. The five-year payment requirement does not apply to any portion of the participant's interest that is payable to a surviving spouse payable over the life or life expectancy of the spouse that begins no later than the date the participant would have reached age 70½.~~ Benefit payments under this plan shall follow the minimum distribution rules of § 401(a)(9) of the Internal Revenue Code, as the code is defined in § 3-12C-101, and as set forth in §§ 3-12C-1901 to 3-12C-1905, inclusive.

Source: 28 SDR 109, effective February 11, 2002; 36 SDR 207, effective July 1, 2010; 40 SDR 197, effective May 27, 2014; 45 SDR 142, effective July 1, 2019.

General Authority: SDCL 3-12C-1647.

Law Implemented: SDCL 3-12C-1643, 3-12C-1644.

20:16:17:39. Limitation on benefits. ~~Benefits for a participant may not exceed the maximum specified under § 415 of the Internal Revenue Code for governmental plans. This section does not constitute an election under § 415(b)(10)(C) of the Internal Revenue Code.~~ Benefit payments under

this plan shall follow the annual benefit limitations of § 415(b)(1)(A) of the Internal Revenue Code, as the code is defined in § 3-12C-101, and as set forth in §§ 3-12C-1801 to 3-12C-1817, inclusive.

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20:16:19:40. Minimum distribution requirements ~~Benefit payments under the plan must begin by the later of April 1 of the calendar year following the year in which the participant reaches age 70½ or retires. The participant's entire interest in the plan shall be distributed over the life of the participant or the lives of the participant and a designated beneficiary over a period not extending beyond the life expectancy of the participant or the life expectancy of the participant and the designated beneficiary. If a participant dies after distribution of benefits has begun, the remaining portion of the participant's interest shall be distributed at least as rapidly as under the method of distribution prior to the member's death. If a participant dies before distribution of benefits has begun, the entire interest of the participant shall be distributed within five years after the 194 participant's death. The five-year payment requirement does not apply to any portion of the~~

~~participant's interest that is payable to a designated beneficiary over the life or life expectancy of the beneficiary and that begins within one year after the date of the participant's death. The five-year payment requirement does not apply to any portion of the participant's interest that is payable to a surviving spouse payable over the life or life expectancy of the spouse that begins no later than the date the participant would have reached age 70½.~~ Benefit payments shall follow the minimum distribution rules of § 401(a)(9) of the Internal Revenue Code, as the code is defined in § 3-12C-101, and as set forth in §§ 3-12C-1901 to 3-12C-1905, inclusive.

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General Authority: SDCL 3-12C-1647.

Law Implemented: SDCL 3-12C-1643, 3-12C-1644.

20:16:19:41. Limitation on benefits. ~~Benefits for a participant may not exceed the maximum specified under § 415 of the Internal Revenue Code for governmental plans. This section does not constitute an election under § 415(b)(10)(C) of the Internal Revenue Code.~~ Benefit payments under this plan shall follow the annual benefit limitations of § 415(b)(1)(A) of the Internal Revenue Code, as the code is defined in § 3-12C-101, and as set forth in §§ 3-12C-1801 to 3-12C-1817, inclusive.

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General Authority: SDCL 3-12C-1647.

Law Implemented: SDCL 3-12C-1643, 3-12C-1644.

62:01:02:10. Preparation and expiration of a contract to purchase credited service. If a member chooses to purchase credited service pursuant to SDCL 3-12C-504, ~~3-12C-508~~, 3-12C-509, or 3-12C-511, system staff shall prepare a contract for the purchase and shall mail the contract to the member for the member's signature. The contract shall include provisions outlining the amount of credited

service to be purchased, the duration of the contract, the total cost of the purchase, and the number and amount and timeliness of payments. If the member does not sign, date, and return the contract to the system within 45 days from the date it is mailed, the contract expires.

Source: 35 SDR 82, effective October 22, 2008; 45 SDR 142, effective July 1, 2019.

General Authority: SDCL 3-12C-211.

Law Implemented: SDCL 3-12C-504, ~~3-12C-508~~, 3-12C-509, 3-12C-511.

62:01:03:02.01. Certification when retired member becomes reemployed -- Penalty. If a retired member becomes reemployed by the same employer unit the member retired from within one year after the member's retirement, the system may require both the member and the employer unit to certify that:

(1) The member's termination was a complete severance of employment and the member has been separated from service for three consecutive calendar months as outlined in SDCL 3-12C-1401;

(2) All standard hiring and employment procedures of the employer unit were followed in the reemployment process; and

(3) No prior agreement to reemploy the member, either overt or covert, existed between the member and the employer unit or any officer of the employer unit.

An employer unit's chief executive officer or the officer's agent or the chair of the employer's governing commission or board shall provide the certification on behalf of the employer unit. The system shall provide forms for the member's and the employer unit's certifications. An intentionally false certification provides grounds for legal recourse pursuant to SDCL 22-29-9.1.

Source: 36 SDR 21, effective August 17, 2009; SL 2016, ch 31, § 66, effective July 1, 2016; 45 SDR 142, effective July 1, 2019.

General Authority: SDCL 3-12C-211.

Law Implemented: SDCL 3-12C-101, 3-12C-1401, 22-29-9.1.

62:01:08:03. Applicability of limits. If a member has been credited with less than 10 years of credited service, the maximum annual retirement benefit shall be reduced by multiplying the maximum annual pension by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is 10.

The limits in § 62:01:08:01 apply to a straight life annuity with no ancillary benefits and to an annuity that constitutes a qualified joint and survivor annuity, provided payment begins between ages 62 and 65. The limits, however, do not apply to any portion of a benefit resulting from required member contributions made on an after-tax basis. If payment begins before age 62, the limits shall be reduced so that they are actuarially equivalent to such a benefit beginning at age 62. For police or fire fighters who are members of the system, the limit may not be reduced for retirement before age 62, regardless of retirement age, provided that the member has completed at least 15 years of credited service. ~~If payment begins after age 65, the limit is the actuarial equivalent of a \$160,000 annual benefit, as indexed pursuant to § 415(d)(1) of the Internal Revenue Code, commencing at age 65. If a member's benefit is limited by the maximum annual retirement benefit, the member may be eligible for a benefit as determined by SDCL 3-12C-1805.~~ The interest assumption for purposes of determining actuarial equivalency under this section is ~~the interest rate otherwise used for purposes of computing optional forms of income payable under the system, but the rate may not be less than 5 percent annually if benefits begin before age 62 and may not exceed 5 percent annually if benefits begin after age 65~~ five percent annually and the mortality assumption is the Applicable Mortality Table under § (417)(e)(3) of the Internal Revenue Code, as the code is defined in § 3-12C-101.

Source: 14 SDR 57, effective October 18, 1987; 24 SDR 160, effective May 24, 1998; 28 SDR 111, effective February 14, 2002; 33 SDR 212, effective June 4, 2007; 39 SDR 227, effective July 1, 2013; SL 2017, ch 27, § 45, effective July 1, 2017; 45 SDR 142, effective July 1, 2019.

General Authority: SDCL 3-12C-711.

Law Implemented: SDCL 3-12C-711.

62:03:05:04. Beginning of distribution. Distribution of deferrals to a participant shall begin no earlier than 30 days following the participant's severance from employment with a participating employer. Any irrevocable election of a benefit commencement date made by a participant or a beneficiary prior to January 1, 2002, and any defaulted distribution other than a defaulted distribution to an annuity option are revocable as of January 1, 2002. No distribution to an independent contractor of a participating employer may begin until one year after the date on which all contracts with any participating employer have expired. Notwithstanding the foregoing, distributions of deferrals must begin no later than the latter of April 1 of the calendar year following the calendar year in which the participant reaches 70½ years of age or April 1 of the calendar year following the calendar year of retirement.

~~Beneficiary distributions under the plan must begin and subsequent payments must be made no later than the required beginning date and subsequent distribution dates under § 401(a)(9) of the code, as follows:~~

~~(1) The beginning date for distributions to nonspousal beneficiaries must be no later than December 31 of the calendar year immediately following the calendar year in which the participant dies. However, if the 5-year distribution rule of § 401(a)(9)(B)(ii) is used, the entire distribution must be made as of December 31 of the calendar year which contains the fifth anniversary of the date of the participant's death;~~

~~(2) The beginning date for distributions to spousal beneficiaries must be no later than December 31 of the calendar year immediately following the calendar year in which the participant dies or December 31 of the calendar year in which the participant would have reached age 70½. 72 be made in accordance with SDCL 3-13-58 to 3-13-63, inclusive.~~

Source: 14 SDR 57, effective October 18, 1987; 15 SDR 100, effective January 8, 1989; 24 SDR 160, effective May 24, 1998; 28 SDR 111, effective February 14, 2002.

General Authority: SDCL 3-13-54.

Law Implemented: SDCL 3-13-54.

62:03:05:06. Unforeseeable emergency. If a participant suffers an unforeseeable emergency, the participant may request an immediate distribution of all or part of the participant's deferrals. The request shall be made through an application to the third-party administrator. If the ~~executive director~~ third-party administrator approves the request, the distribution shall be made to the extent necessary to satisfy the need, including payment of federal income tax withholding, if necessary. If the ~~executive director~~ third-party administrator denies the request, the participant may appeal the denial ~~pursuant to the appeal procedures outlined in SDCL 3-12C-213 and in ARSD chapter 62:04:06~~ by giving notice of intention to appeal within 30 days after the date of the ~~executive director's written~~ notice of denial. ~~The appeal shall be conducted in accordance with SDCL chapter 4-26.~~ No distribution may be made to the extent that the unforeseeable emergency may be relieved through reimbursement or compensation by insurance or otherwise, by liquidation of the participant's assets to the extent that the liquidation does not cause severe financial hardship, or by discontinuation of deferrals under the plan. The need to send a participant's child to college, divorce proceedings, or the desire to purchase a home are not considered unforeseeable emergencies. Any amount that is distributed on account of an unforeseeable emergency is not an eligible rollover distribution and the participant may not elect to have any portion of the distribution paid directly to an eligible retirement plan.

The provisions of this section do not apply if a distribution may be made pursuant to § 62:03:05:07.

Source: 14 SDR 57, effective October 18, 1987; 24 SDR 160, effective May 24, 1998; 28 SDR 111, effective February 14, 2002; 33 SDR 212, effective June 4, 2007; 39 SDR 227, effective July 1, 2013; SL 2017, ch 27, § 45, effective July 1, 2017; 45 SDR 142, effective July 1, 2019.

General Authority: SDCL 3-13-54.

Law Implemented: SDCL 3-13-54.

CHAPTER 62:04:03

DISTRIBUTIONS

Section

62:04:03:01 Direct rollovers.

62:04:03:02 ~~Distributions deemed reasonable and made in good faith under federal law~~
Repealed.

62:04:03:02. Distributions deemed reasonable and made in good faith under federal law.

~~Pursuant to Internal Revenue Service Treasury Regulation 1.401(a)(9)-1, any distribution under SDCL 3-13A-22 or SDCL 3-13A-23 is deemed to be reasonable and made in good faith under § 401(a)(9) of the Internal Revenue Code~~ Repealed.

Source: 37 SDR 214, effective May 30, 2011; 39 SDR 227, effective July 1, 2013.

General Authority: SDCL 3-13A-4.

Law Implemented: SDCL 3-13A-1, 3-13A-10, 3-13A-22, 3-13A-23.