

**AMENDMENT NO. 10
TO THE
RULES AND REGULATIONS
OF THE
EIGHTH DISTRICT ELECTRICAL PENSION FUND**

WHEREAS, the Rules and Regulations of the Eighth District Electrical Pension Fund, revised and restated April 1, 2014, provides that the Plan may be amended by the Board of Trustees from time to time; and

WHEREAS, it is the desire of the Trustees to amend the Plan Document to make clarifications;

NOW, THEREFORE, BE IT RESOLVED that the Plan shall be amended as follows:

I. Effective April 1, 2021, Section 9.16(a) shall be deleted in its entirety and replaced with the following:

(a) Recoupment of Overpayments.

The Trustees shall have the right to recover by all legal and equitable means any amounts paid to anyone in error, plus interest on same, and the right to recover by all legal and equitable means any amounts paid to which the recipient was not rightfully entitled under the terms of this Plan, plus interest on same. Methods of recovery include, but are not limited to, (1) the right to adjust future payments actuarially, (2) to recoup such amounts from any future benefits to be paid to or on behalf of the Participant, Pensioner, or Beneficiary and the right to recoup such amounts from any benefits to be paid to or on behalf of any survivors of the Participant, Pensioner, or Beneficiary; (3) lump sum payments; (4) level installment payment agreements with a sixty-month maximum. Nothing in this provision shall prohibit the Trustees from taking additional action related to the recovery of overpayments from a Participant, Beneficiary, Alternate Payee, or another other person who erroneously received amounts paid in error, including the right to file suit or the pursuit of other legal action for the recovery of such overpayments.

* * *

All other terms and conditions of the Plan shall remain in full force and effect.

Executed this 25th day of June, 2021.


Chair


Secretary

**AMENDMENT NO. 11
TO THE
RULES AND REGULATIONS
OF THE
EIGHTH DISTRICT ELECTRICAL PENSION FUND**

WHEREAS, the Rules and Regulations of the Eighth District Electrical Pension Fund, revised and restated April 1, 2014, provides that the Plan may be amended by the Board of Trustees from time to time; and

WHEREAS, it is the desire of the Trustees to amend and clarify the Plan;

NOW, THEREFORE, BE IT RESOLVED that the Plan shall be amended and clarified effective July 1, 2021, as follows:

Article 1, Section 1.14 shall be amended to read as follows:

1.14 Employer or Contributing Employer. “Employer” or “Contributing Employer” means:

- a. An employer who is a member of or is represented in collective bargaining by the Association and who is bound by a Collective Bargaining Agreement with the Union providing for the making of payments to the Trust Fund with respect to Employees performing work covered by the Collective Bargaining Agreement.
- b. An employer who is not a member of, nor represented in collective bargaining by, the Association, but who has duly executed or is bound by a Collective Bargaining Agreement with the Union providing for the making of payments to the Trust Fund with respect to Employees performing work by the Collective Bargaining Agreement.
- c. An employer who has entered into an agreement with the Board providing for the making of payments to the Trust Fund with respect to its Employees performing work not covered by a Collective Bargaining Agreement with the Union.
- d. The Union, Association, or Joint Apprenticeship Training Committee, which for the purposes of making the required Contributions into the Fund, shall be considered as the Employer of the Employees of the Union, Association or Joint Apprenticeship Training Committee for whom the Union, Association or Joint Apprenticeship Training Committee makes contributions to the Trust Fund.

Employers or Contributing Employers, as described in this Section 1.14 shall, by making of payments to the Trust Fund pursuant to a collective bargaining agreement or other agreement that specifically provides for making of Contributions to the Trust Fund, be deemed to have accepted and shall be bound by the Trust Agreement.

Article 9, Section 9.08 is amended to read as follows:

9.08 Retired or Retirement:

- a. Before Normal Retirement Age. To be “Retired” for the purposes of receiving an Early, Service, or Deferred Retirement Benefit prior to Normal Retirement Age, a Participant:

- i. Must completely terminate his or her employment relationship with any and all Contributing Employers, and have a present intent to refrain from returning to work for any Contributing Employer; and
 - ii. Must not be engaged in work in Prohibited Employment that leads to a Suspension of Benefits under Section 9.10(a).
- b. After Normal Retirement Age. To be “Retired” on or After Normal Retirement Age, a Participant must not be engaged in Prohibited Employment that results in a Suspension of Pension Benefits under Section 9.10(b).

However, the rule in this Section 9.08(b) does not apply to a Participant that has attained his Required Beginning Date. Thus, if a Participant has attained his Required Beginning Date, he may receive benefits from the Plan regardless of whether or not he works in employment described in Section 9.09(b).

Article 9, Section 9.09 is clarified to read as follows:

9.09 Prohibited Employment:

- a. Before Normal Retirement Age. Before Normal Retirement Age, a Pensioner is engaged in Prohibited Employment if he works in employment in Covered Employment or any employment (or self-employment) anywhere for wages or profit in the electrical industry, or in the industry the Pensioner was employed in while (s)he was an Active Employee in the Plan
- b. After Normal Retirement Age. After Normal Retirement Age, a Pensioner is engaged in Prohibited Employment if (s)he works forty (40) hours or more for a non-Contributing Employer (i.e. an employer that is not an Employer or Contributing Employer) in employment:
 - 1. In an industry in which the Employee covered by the Plan was employed and accrued benefit under the Plan as a result of such employment when the payment of pension benefits to the Participant commenced or would have commenced had the Participant not remained in or returned to employment;
 - 2. In work which requires, directly or indirectly, the same skills used by the Participant at any time while he was employed under the Plan; and
 - 3. In the Geographical Area covered by the Plan when payment of pension benefits to the Participant commenced had the Participant not remained in or returned to employment.
- c. Exceptions to the Prohibited Employment Definitions. It shall not be Prohibited Employment for a Pensioner to engage in the following types of work after commencement of a Retirement Benefit:
 - 1. Any and all employment beginning on or after the Participant’s Required Beginning Date
 - 2. Work as an instructor for an IBEW/NECA apprenticeship program or IBEW sponsored training trust.
 - 3. Work as an Electrical Inspector

Article 9, Section 9.10 Suspension of Pension Payments, is clarified to read as follows:

9.10 Suspension of Pension Payments

a. **Before Normal Retirement Age**

1. **General Suspension of Benefits Rules Before Normal Retirement Age:**

- i. If, in any calendar year, a Pensioner employed in Prohibited Employment as described in Section 9.09(a) earns, through work in Covered Employment with a Contributing Employer, the maximum amount which then current laws and regulations allow Social Security recipients, who are not yet full retirement age, to earn without loss of Social Security benefits (“Maximum Social Security Allowance for Early Retirees”), his pension payments shall be suspended for each calendar month thereafter in which he performs Prohibited Employment, so long as proper notice was given to the Plan in accordance with Sections 9.10(c)(2) and 9.10(c)(3).
- ii. Unless 9.10(a)(2) applies, if, in any calendar year, a Pensioner employed in Prohibited Employment for which no contributions are made to the Plan, either because the work is not Covered Employment with a Contributing Employer or because the Pensioner is employed by a non-Contributing Employer, his pension payments shall be suspended for each calendar month thereafter in which he performs such Prohibited Employment for which no contributions are made to the Plan, so long as proper notice was given to the Plan in accordance with Sections 9.10(c)(2) and 9.10(c)(3).

2. **Special Rule for Pensioner Engaged in Prohibited Employment Before Normal Retirement Age for a Non-Contributing Employer for Benefits Accrued after January 1, 2009.** In the event a Pensioner is employed in Prohibited Employment within the geographic jurisdiction of any IBEW Local Union in the United States of America as otherwise described in Section 9.09(a) by a non-Contributing Employer, benefits accrued on and after January 1, 2009 shall be suspended for each and every month until the calendar month following the month in which the Pensioner attains Normal Retirement Age. Benefits accrued prior to January 1, 2009 will be subject to the rules found in 9.10(a)(1)(ii).

3. **Special Rule for Pensioner Engaged in Prohibited Employment for a Contributing Employer, effective July 1, 2021 through March 31, 2022.** Effective July 1, 2021 through March 31, 2022, all Pensioners that return to work in Prohibited Employment as described in Section 9.09(a) for a Contributing Employer may earn the Maximum Social Security Allowance for Early Retirees in a calendar year before his pension payments will be suspended. Once the Pensioner who is working for a Contributing Employer earns the Maximum Social Security Allowance for Early Retirees, his pension payments shall be suspended for each calendar month thereafter in which he performs Prohibited Employment, so long as proper notice described in Sections 9.10(c)(2) and 9.10(c)(3) were given to the Plan.

- b. After Normal Retirement Age. If, in any calendar year, a Pensioner is employed in Prohibited Employment described in Section 9.09(b), his pension benefits shall be suspended for each calendar month in which he works in Prohibited Employment described in Section 9.09(b), so long as proper notice described in Sections 9.10(c)(2) and 9.10(c)(3) were given to the Plan.
- c. Notices
 1. Plan Notice Upon Commencement of Pension Payments. Upon commencement of pension payments, the Plan shall notify the Pensioner of the Plan rules governing the suspension of benefits. If benefits have been suspended, new notification shall, upon resumption of benefits, be given to the Participant if there has been any material changes in the suspension rules or the identity of the industries or area covered by the Plan.
 2. Notice Pensioner Must Provide to the Plan upon Commencement of Work After Retirement.
 - i. General Notice Requirement. A Pensioner shall notify the Plan in writing within twenty-one (21) days after starting work of a type that is or may be Prohibited Employment as defined in Section 9.09 (without regard to the number of hours of such work that (s)he will be doing).
 - ii. Consequences of Failure to Give Notice of Return to Work Before Normal Retirement Age. If a Pensioner becomes engaged in Prohibited Employment Before Normal Retirement Age as defined in Section 9.09(a), and does not provide the Notice required in 9.10(c)(i), his pension may be suspended by the Board for an additional period of six (6) months over and above any period of time his benefits would be suspended as specified in 9.10(a)(1) and (3).
 - iii. Consequence of Failure to Give Plan Notice of Return to Work After Normal Retirement Age. If a Pensioner has worked in Prohibited Employment in any month and has failed to give timely notice to the Plan of such employment, the Plan shall presume that the Pensioner worked at least forty (40) hours in such month and any subsequent month before the Pensioner gives notice to the Plan that he ceased Prohibited Employment. The Participant shall have the right to overcome this presumption by establishing that such work was not in Prohibited Employment.
 - iv. Determination of Prohibited Employment. A Participant may ask the Plan whether particular employment is considered Prohibited Employment that may lead to a Suspension of Benefits. The Plan shall provide the Participant with its determination.
 3. Pensioner Must Provide Notice after Prohibited Employment ends. A Pensioner whose pension has been suspended shall notify the Plan when Prohibited Employment has ended. The Board shall have the right to withhold benefit payments until such notice is filed with the Plan.

4. Notice From Plan at the Time of Suspension and Review Process. The Plan shall inform a Participant of any suspension of benefits by notice given by personal delivery or first class mail during the first calendar month in which benefits are suspended. The Notice shall include a description of the specific reasons for the suspension, copy of the relevant provisions of the Plan, and a statement of the procedure for securing a review of the suspension. In addition, the notice shall describe the procedure for the Participant to notify the Plan when his Prohibited Employment ends. If the Plan intends to recover prior overpayments by offset as described in Section 9.10(e)(3), the suspension notice shall explain the offset procedure and identify the amount expected to be recovered, and the periods of employment to which they relate.
 5. Annual Reminder Notice from the Plan to all Pensioners. The Plan shall inform all Pensioners at least once every twelve (12) months of the applicable reemployment notification and verification requirements, as well as the presumptions that the Plan may apply as set forth in this Section 9.10(c).
 6. Verification or Information that the Plan May Require Pensioners to Provide. A Participant, as a condition to receiving future benefit payments, may be required to certify or provide factual information to the Plan sufficient to establish that any employment does not constitute Prohibited Employment that leads to a Suspension of Benefits. Failure to provide such certification or information in a timely manner may result in further pension payments being withheld by the Plan. Such certification may be required at such times and in such manner as the Board of Trustees determines is reasonable. If benefits have been withheld for any period for which the Pensioner provides the required certification or information that establishes he was not engaged in Prohibited Employment for which his benefits may be suspended, all such withheld payments shall be made at the next regularly scheduled time for benefit payments after the Pensioner submitted the certification or information to the Plan.
- d. Review. A Participant is entitled to a review of a determination suspending his benefits by written request filed within ninety (90) days of receiving such Notice of Suspension. The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be Prohibited Employment.
 - e. Resumption of Benefit Payments and Offset Rules.
 1. Prior to Normal Retirement Age. In the event that a Pensioner's benefits are suspended as described in Section 9.10(a)(1)(i),(ii) or Section 9.10(a)(3), subject to the offset rules in 9.10(e)(3), pension payments shall resume for the month after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit were suspended, provided the proper notice was given to the Plan in accordance

with Section 9.10(c)(2) and 9.10(c)(3). This waiting period shall not apply to a Disability Pensioner that was engaged in Prohibited Employment that lead to a suspension of benefits, but subsequently Retires and resumes his Pension.

2. After Normal Retirement Age. Subject to the offset rules in 9.10(e)(3), Pension payments shall resume for the month after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit were suspended, provided the Participant has complied with the notification requirements in Section 9.10(c)(3).
3. Offset Rules. Overpayments attributable to payments made for any month or months for which the Participant was engaged in Prohibited Employment that resulted in a Suspension of Benefits under Section 9.10(a) or 9.10(b) shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension as follows:
 - i. Participant Attained Normal Retirement Age. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed twenty-five percent (25%) of the pension amount, except that the Plan may withhold up to one-hundred percent (100%) of the first pension payment made upon resumption of benefits after a suspension.
 - ii. Participant Before Normal Retirement Age. A Participant who resumes Retirement before Normal Retirement Age shall have one-hundred percent (100%) of his benefit withheld until the amount of overpayments are recovered or, if earlier, until he reaches Normal Retirement Age, at which time the rules in paragraph (e)(3)(i) above apply.
 - iii. If a Pensioner dies before overpayments have been recovered, deductions shall be made from the benefits payable to his Beneficiary or Surviving Spouse, subject to the above percentage limitations on the rate of deduction in paragraphs (e)(3)(i) and (ii) above.

* * *

All other terms and conditions of the Plan shall remain in full force and effect.

Executed this 25th day of June, 2021.


Chair


Secretary