

City of Omaha Employees Retirement System
Policies & Procedures Governing
Overpayment or Underpayment of Retirement Benefits

The Board of Trustees (“Board”) of the City of Omaha Employees Retirement System (“COERS”) has a fiduciary obligation to the retirement system to protect fund assets and maintain the integrity of the fund, for the benefit of Members and Retirees of COERS.

Members and Retirees have a right to accurate pension benefit payments. Except as determined by a court of law or this Board pursuant to this policy, no Retiree has the right to receive or retain retirement benefits that exceed the amounts to which the Retiree is entitled, and no Retiree should be deprived of any benefit payment that he or she is entitled to receive. Subject to all applicable laws, it shall be COERS policy to make every reasonable effort to recover from a Retiree the amount of any overpayment of benefits and remit to a Retiree the amount of any underpayment of benefits, consistent with this policy and the procedures established by the Board.

In the event of any inconsistency between applicable law and these Policies and Procedures, the law shall take precedence.

Overpayment to Retirees

- 1) “Overpayment” shall mean a payment of money by COERS that results in a Retiree receiving a higher payment than the Retiree is entitled to under the provisions of Omaha City Code Chapter 22 Article II Employees’ Retirement System or any applicable labor bargaining agreement.
- 2) COERS shall take all reasonable steps to recover the full amount of all overpayments subject to the provisions of this policy and applicable law.
- 3) COERS will recover overpayments either by a lump sum payment from the Retiree or by offsetting the amount to be recovered against future benefits, over a period of time as determined by the Board, unless the Board, in its discretion and because of legal or practical considerations, determines that another process is warranted.
- 4) The Board adopts the following procedures for accomplishing the recovery of overpaid benefits:
 - A. Upon discovery of an overpayment, the City of Omaha Human Resources Department shall send a letter, on behalf of COERS, by certified mail, return receipt requested, or by express delivery service, to the Retiree

advising the Retiree of the overpayment, the amount of the overpayment, and a limited opportunity to repay the overpayment in full

- B. If the Retiree cannot repay an overpayment in full the following two (2) options will be provided to them:
- Option 1 – equal installments over the same length of time that the overpayments occurred reflected as a reduction of their monthly benefit.
- OR**
- Option 2 – reduction of monthly benefit to zero until the overpayment is paid in full.
- ii. The letter and agreement to repay excess benefits will provide that Option 2 will go into effect by default if a written response from the Retiree is not received within 30 days following the date the letter was delivered.
- iii. A Retiree who cannot repay the full amount of the overpayment within 30 days after the date of receiving notice and chooses option 1 or 2 must enter into an agreement with COERS to have the overpayment offset against future monthly benefit payments or death benefits, if any, and authorize any unpaid balance as a first priority claim in the recipients estate.
- C. If the amount of the overpayment is \$5,000 or more, City of Omaha Human Resources will attempt to contact the Retiree by phone to schedule a meeting to discuss the contents of the letter before the letter is sent out for delivery.
- D. The Board may direct that all legal remedies are pursued to collect overpayments including making a claim on an estate or trust, if appropriate.
- E. The City of Omaha Finance Department’s Payroll Division will maintain a permanent record of all amounts of overpayments and the repayment to COERS of those overpayments.

Underpayment to Retirees

- 1) When COERS has underpaid benefits, the Retiree shall be entitled to a prospective adjustment to his or her retirement benefits necessary to correct the underpayment, as well as a lump sum payment for all past underpayments
 - a. If a Retiree who was underpaid benefits has died prior to payment of the lump sum amount due, the Beneficiary must contact the City of Omaha Human Resources Department and provide documentation of entitlement

of benefit. A refund of underpayment will not be issued unless the City has been contacted by a Beneficiary.

- 2) Underpayments of \$5 or less will only be refunded at the request of the Retiree.

The effective date of this policy as adopted by the City of Omaha Employees Retirement Board of Trustees is August 18, 2010.

Mary Beckenhauer
Secretary

Buster Brown
Chairman