DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Amendments to Chapters 14-56 and 14-59
Hawaii Administrative Rules

June 26, 2001

SUMMARY

1. §§14-56-2 and 14-56-6 are amended.

2. §§14-59-1, 14-59-4, 14-59-19, and 14-59-31 are amended.

§14-56-2 Definitions. ***

"Separation from service" shall have the same meaning as provided in section 402(d)(4)(A)(iii) of the Code, and shall include, but not be limited to, termination, retirement, or death. [Eff 4/26/97; am AUG -4 2001] (Auth: HRS §88F-3) (Imp: HRS §§88F-1 to 88F-3)

§14-56-6 Plan document. The plan document, approved by the board on March 6, 2001, is hereby incorporated by reference into these rules. Should the plan document conflict with chapter 88F or the Code, chapter 88F or the Code shall prevail. [Eff 4/26/97; am AUG -4 2001] (Auth: HRS §88F-3) (Imp: HRS §88F-3)

§14-59-1 Eligibility requirements. ***

(b) Employees excluded under this plan are those employees who are: members of the State of Hawaii ERS; mandatorily excluded from social security coverage under the Social Security Act, as amended; excluded by written agreement with the Social Security Administration under section 218 of the Social Security Act, as amended; excluded under the Code; or excluded under any other state or federal law. These excluded employees include, but are not limited to, the following:

(1) Substitute teachers in the department of education;
(2) Students regularly attending classes in the educational institutions in which they are working;
(3) Employees hired temporarily to handle disaster emergencies, such as fires, floods, storms, earthquakes, hurricanes, etc.;
(4) Election officials and workers who are paid less than the threshold amount mandated by law (i.e., one thousand one hundred dollars in calendar year 2001);
(5) Persons hired through programs to relieve unemployment, such as services of welfare recipients performed in return for assistance payments because the primary intent of such programs is to provide assistance to the needy;
(6) Persons who are members of the ERS of the State of Hawaii, and are receiving benefits from the ERS or who are eligible to retire under ERS guidelines without early retirement penalties;
(7) Patients or inmates working in a hospital, home, or other institution;
(8) Nonresident aliens holding F-1, J-1, M-1, or Q-1 visas;
(9) Persons who are in multiple positions with the State, at least one of which makes the employee a member of the State ERS and that membership meets the minimum level of

§14-59-4 Designation of beneficiary. A participant shall designate in writing a beneficiary or beneficiaries, who shall receive the participant's benefits in the event of the participant's death. In the event a beneficiary has not been designated, the designated beneficiary is no longer living, or the designated beneficiary is unable to be located, amounts deferred or remaining amounts deferred shall be payable in the following order:

(1) The surviving spouse;
(2) If there is no surviving spouse, then natural or adopted children, in equal shares;
(3) If there are no natural or adopted children, then the parents, in equal shares;
(4) If there are no parents, then brothers and sisters in equal shares;
(5) If there are no brothers or sisters, then stepchildren, in equal shares;
(6) If there are no stepchildren, then the participant's estate. [Eff 4/26/97; am AUG -4 2001] (Auth: HRS §88F-3) (Imp: HRS §88F-3)

§14-59-19 No contributions for one year. If no contributions on behalf of a participant are received by the investment provider for a period of one year, the investment provider shall mail a written request to the last known address of the participant to ascertain whether a separation from service has occurred. The written request shall be mailed at least once each plan year, as determined by the board, unless the participant received a similar written request in a prior plan year. Upon the participant's submission of appropriate documentation and verification of a separation from service, the investment provider shall process a distribution within sixty days thereafter. [Eff 4/26/97; am AUG -4 2001] (Auth: HRS §88F-3) (Imp: HRS §88F-3)

§14-59-31 Transfers to another eligible plan. Pursuant to section 457(e)(10) of the Code, when a participant separates from service or loses eligibility to participate in the plan, the participant may elect to transfer the amounts deferred into any other plan established under section 457 of the Code and which provides for plan-to-plan transfers. The participant shall notify the investment provider of the desire to exercise a plan-to-plan transfer after separation from service or loss of eligibility to participate in the plan. The participant shall also complete any documentation required by the investment provider. The transfer shall be made as soon as practicable thereafter. [Eff 4/26/97; am AUG -4 2001] (Auth: HRS §88F-3) (Imp: HRS §88F-3)

DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT

Amendments to chapters 14-56 and 14-59, Hawaii Administrative Rules, on the Summary page dated June 26, 2001, were adopted on June 26, 2001, following a public hearing held on June 26, 2001, after public notice was given in the MidWeek and the Honolulu Advertiser, on May 21, 2001.

These amendments shall take effect ten days after filing with the Office of the Lieutenant Governor.

DAVIS K. YOGI
Director
Department of Human Resources Development

APPROVED AS TO FORM:

Deputy Attorney General

BENJAMIN J. CAYETANO
Governor
State of Hawaii

Date: 7/24/01

JUL 25 2001

Filed

'01 JUL 25 P1:55