

THE BOARD OF EDUCATION OF CHARLES COUNTY  
PENSION PLAN\*



SEPTEMBER 2008  
(with Amendments through 2011)

\*For Operations, Maintenance, Food Service and certain technical scale employees

BOARD OF EDUCATION OF CHARLES COUNTY PENSION PLAN

ACCEPTANCE OF AMENDED AND RESTATED PLAN

The Employer hereby accepts the provisions of the amended and restated Plan attached hereto, and agrees to be bound thereby, by causing its duly authorized officer to execute this agreement and its corporate seal to be hereto affixed and attested, on this 9 day of Sept., 2008.

BOARD OF EDUCATION OF CHARLES COUNTY

By: 

Title: Superintendent

WITNESS:



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#### BOARD OF EDUCATION OF CHARLES COUNTY PENSION PLAN (Hereinafter called the Plan)

Except as otherwise specifically provided herein, this  
amended and restated Plan is effective July 1, 2007.

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## SECTION I - DEFINITIONS

The terms defined in this Section shall have the same meaning shown unless the context requires otherwise; singular nouns may include the plural and the masculine gender may include the feminine.

- 1.01 ACCRUED BENEFIT. "Accrued Benefit" means the Participant's earned Normal Retirement benefit under the Plan on any date. The monthly amount of a Participant's Accrued Benefit is equal to the monthly benefit determined in accordance with the formula described in Paragraph 3.01 which would be payable to the Participant on his Normal Retirement Date based on his Continuous Service completed as of the date of determination.
- 1.02 ACTUARIAL EQUIVALENT. "Actuarial Equivalent" means a benefit of equivalent value, as determined using the mortality table listed in Exhibit A and an interest rate of 7%.
- 1.03 ACTUARY. "Actuary" means the person or firm which agrees with the Employer to make the mathematical determination, based on an approved actuarial cost method, and appropriate funding assumptions, on which the Employer based its contributions to the Plan.
- 1.04 AGE. "Age" means the age of a person at his last birthday.
- 1.05 AVERAGE MONTHLY EARNINGS. "Average Monthly Earnings" means  $1/36^{\text{th}}$  of the Participant's total monthly Earnings received during the 3 Plan Years of his greatest compensation prior to his Retirement Date or any earlier date on which he becomes entitled to an immediate or deferred benefit under the Plan. If the Participant has completed less than 3 years of service, his Average Monthly Earnings shall be equal to the average of his Earnings received for the actual months of service completed.
- 1.06 CONTINUOUS SERVICE. "Continuous Service" means the sum of (1), (2), and (3), where:
  - (1) is all unbroken service of an Employee prior to his Retirement Date, and shall be computed in years and with full months computed as a fraction of a year. Partial months will be disregarded. Continuous service will be broken by an absence from full-time permanent employment with the Employer other than an absence due to:
    - (a) Paid vacations and holidays;
    - (b) Lay-off for a period not in excess of 6 months;
    - (c) Leave of absence;
    - (d) An absence due to Qualified Military Service, provided the Participant returns to work within the time prescribed by law after discharge from such military service.

- (2) is, with respect to each former Participant who is re-hired and who did not elect the cash refund option at his prior Termination of Employment, or who had elected the cash option but has repaid to the Plan the full amount of his distribution with interest in accordance with paragraph 2.04, all Continuous Service credited to such Participant as of his prior Termination of Employment.
- (3) is unused sick leave of an Employee which is to be utilized as credit for years of Continuous Service with the Employer. Each 22 days of unused sick leave equals one month of Continuous Service. Less than 22 days of unused sick leave will not provide any additional Continuous Service.

If the Participant's Continuous Service is broken for any reason other than as specified above, or if the Participant remains absent beyond the end of the period during which such absence will be considered as not having broken his Continuous Service, or if the Participant is transferred to a class of Employees not eligible to participate hereunder, such Participant's employment will be deemed to have terminated as of the last working day prior to such absence or transfer.

If a Participant requests, and is eligible, to transfer service credit from another Maryland state or local retirement or pension system in accordance with the terms of Section 37 of the Maryland State Personnel and Pensions Code, such service will be credited as "Continuous Service" under the Plan for purposes of calculating benefits to the extent required by Maryland state law.

Service prior to the Effective Date will not be considered Continuous Service.

1.07 [RESERVED].

1.08 **DISABILITY RETIREMENT DATE.** The "Disability Retirement Date" of a Participant is the first day of the month which is 6 months subsequent to the date the Participant retires from active employment of the Employer because he is Permanently and Totally Disabled.

1.09 **EARNINGS.** "Earnings" means the basic compensation received from the Employer for services rendered exclusive of overtime payments, bonuses and all other forms of extra compensation.

Annual Earnings shall not exceed the limitation under Code Section 401(a)(17)(B). The limitation amount for a calendar year applies to the determination period beginning in such calendar year. If a determination period consists of fewer than 12 months, the applicable annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

If a Participant's current Accrued Benefit is based on annual Earnings for a previous year that exceeded \$230,000, his Accrued Benefit under the Plan shall not be less than the greater of (a) or (b) below, where:

(a) is his Accrued Benefit determined under the benefit formula in effect for the Plan Year beginning on or after the effective date of this limitation as applied to the Participant's total years of Continuous Service, and

(b) is the sum of (i) plus (ii) below.

(i) his Accrued Benefit as of the last day of the last Plan Year beginning before the effective date of this limitation, determined as if the Participant had terminated employment on such date, or actual date of termination if earlier. (However, the assumption that an active Participant had terminated shall apply solely with respect to determining the amount of the benefit under this paragraph (b), and shall not affect his vesting or attainment of other rights under the Plan.) Such benefit shall be determined without regard to any amendment adopted after such date, except amendments effective before such date in accordance with Code section 401(b), and corrective amendments permitted under Treasury Reg. 1.401(a)(4)-11(g).

(ii) his Accrued Benefit determined under the benefit formula applicable for the Plan Year beginning on or after the effective date of this limitation, applied to his years of Continuous Service completed in Plan Years beginning on and after such effective date.

If Earnings for any prior determination period are taken into account in determining an Employee's benefits accruing in the current Plan Year, his Earnings for such prior period are subject to the applicable annual compensation limit in effect for that prior period under Code section 401(a)(17).

1.10 EFFECTIVE DATE. The "Effective Date" of the Plan means July 1, 1970.

1.11 EMPLOYEE. "Employee" means any individual in the employ of the Employer who is employed in the category of operations, maintenance, food service or technical scale (except for such employees who currently participate in the State of Maryland Retirement System), and is covered under the Negotiated Agreement Between Charles County Board of Education and The Federation of State, County and Municipal Employees Council 67, and such other individuals who are employed in any other category or classification that is not eligible for participation in any Maryland State Retirement System.

1.12 EMPLOYER. The term "Employer" means the Board of Education of Charles County.

The term "Employer" shall also be construed to include any successor business organization or any other business organization which, with the consent of the Employer, shall assume the obligations of this Plan with respect to its Employees and any predecessor employer which has maintained this Plan.

1.13 [RESERVED]

1.14 [RESERVED]

- 1.15 INTERNAL REVENUE CODE. “Internal Revenue Code” or “Code” means the Internal Revenue Code of 1986 as amended, and any future Internal Revenue Code or similar laws.
- 1.16 LEAVE OF ABSENCE. “Leave of Absence” means the absence of a Participant on leave granted in writing by the Employer because of education, family obligation, sickness, or injury, which continues for not more than 1 year. All Participants under similar circumstances will be treated alike.
- 1.17 NONFORFEITABLE ACCRUED BENEFIT. “Nonforfeitable Accrued Benefit” means, on any date, the amount of the Participant’s Accrued Benefit for which he has satisfied all of the conditions required of him under the provisions of the Plan to establish entitlement to the benefit, except the submission of a formal application, retirement or completion of the required waiting period. A Participant’s right to his Normal Retirement Benefit is nonforfeitable as of the first day of the month preceding his Normal Retirement Date.
- 1.18 NORMAL RETIREMENT DATE. “Normal Retirement Date” means the first day of the month coincident with or next following the earlier of (1) the date the Participant attains age 60, or (2) the date the Participant completes 30 years of Continuous Service.
- Effective for any Participant hired on or after July 1, 2008, “Normal Retirement Date” means the first day of the month coincident with or next following the earlier of (1) the date the Participant attains age 60 and completes 5 years of Continuous Service, or (2) the date the Participant completes 30 years of Continuous Service.
- 1.19 PARTICIPANT. “Participant” means any Employee who has met all of the requirements for participation in the Plan.
- 1.20 PERMANENTLY AND TOTALLY DISABLED. “Permanently and Totally Disabled” means the inability to engage in any gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or had lasted, or can be expected to last, for a continuous period of not less than 12 months. A determination that a Participant is Permanently and Totally Disabled under the Plan shall be conditioned upon the Participant receiving disability benefits from the Social Security Administration. A Participant who has applied for disability benefits under the Social Security Act will be deemed eligible for such benefits pending disposition of his application by the Social Security Administration.
- 1.21 PLAN ANNIVERSARY. “Plan Anniversary” means July 1 of every year.
- 1.22 PLAN YEAR. “Plan Year” means a 12 consecutive month period beginning on any July 1.
- 1.23 PRESENT VALUE OF NONFORFEITABLE ACCRUED BENEFIT. “Present Value of Nonforfeitable Accrued Benefit” means the current single sum value of such benefit as determined by the Actuary, based on the actuarial assumptions described in Paragraph 3.01 or 4.02, whichever is applicable.

- 1.24 QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code section 414(u).
- 1.25 RETIREMENT DATE. The “Retirement Date” of each Participant shall be his Normal Retirement Date unless an election of an “Early Retirement Date” or “Late Retirement Date” is in effect with respect to him, in which event his Retirement Date shall be his Early Retirement Date, or his Late Retirement Date.
- 1.26 TERMINATION OF EMPLOYMENT. “Termination of Employment” means the Employee’s separation from service of the Employer other than by reason of death, disability, or retirement.



## SECTION II - PARTICIPATION

2.01 ELIGIBILITY. Each Employee who was a Participant on June 30, 2007 shall continue to participate in this Plan as amended and restated. Each other Employee will be eligible to become a Participant on the first Entry Date thereafter upon which he meets the requirements set forth below. For this purpose, "Entry Date" means the first day of each month.

- (a) He is a full-time, permanent Employee regularly employed for at least 4 hours daily and for at least 10 months in any one year.
- (b) He has completed a salary reduction agreement authorizing the Employer to reduce his compensation by two percent (2%) (until changed by the Employer) and contribute this amount to the Plan; this contribution shall be "picked up" and paid by the Employer to the Plan on the Participant's behalf and treated as an Employer contribution in accordance with section 414(h) of the Code. Eligible Employees shall not have the option of choosing to receive such contributions in cash. The Employer reserves the right to change the rate, by amendment, on an annual basis for the upcoming Plan Year. Any salary reduction agreement shall become effective on the first day of the first payroll period which begins at least 15 days after an appropriate form is received by the Plan Administrator, and shall remain in effect for the duration of the Employee's employment, provided he continues to meet the requirements of paragraph (a) above. Any contributions made in accordance with this paragraph shall not be distributed to the Participant until the Participant's Retirement, death, or Termination of Employment.

Participants shall be 100% vested in salary reduction contributions at all times. In accordance with section 414(h) of the Code, salary reduction contributions under this paragraph (b) shall not be included in the Participant's W-2 earnings for federal income tax purposes at the time of contribution. Each Employee who meets the requirements of paragraph (a) above shall be required as a condition of employment to complete such a salary reduction agreement.

A Participant shall become fully vested in the remainder of his benefit (the Employer-provided benefit) upon completion of 5 years of Continuous Service.

2.02 [RESERVED]

2.03 TERMINATION OF PARTICIPATION. A Participant's participation in the Plan shall terminate on the date he no longer meets the requirements set forth in sub-paragraph (a) of Paragraph 2.01 above.

Any Participant whose employment is terminated with the Employer, and who is immediately thereafter employed by another Maryland state or local government employer, may, in limited circumstances, be eligible to transfer service credit accrued under this Plan to any other Maryland State or local retirement or pension system in which he participates to the extent provided in the Annotated Code of Maryland.

- 2.04 RE-ELIGIBLE EMPLOYEE. Any former Employee or Participant who again becomes eligible will become a Participant upon meeting the requirements in Paragraph 2.01. Any monthly retirement annuity payments otherwise payable to an Employee shall cease during the period of re-employment.

Each former Participant who elected a cash refund option may elect to receive credit for the period of Continuous Service completed as of his prior Termination of Employment by repaying to the Plan the full amount of his distribution with 4% interest per annum, compounded annually, within 2 years of his resumption of service covered by the Plan.

There shall be no duplication of benefits upon re-employment and the maximum monthly benefit payable to each re-eligible Participant for all periods of Service will not exceed that which would be payable if all such periods of service had been completed without interruption.

- 2.05 CONTRIBUTIONS. Employee contributions shall be “picked up” by the Employer under Code Section 414(h), as described in Section 2.01(b) of the Plan.

- 2.06 INTEREST. Contributions described in paragraph 2.05 and 2.01(b) above shall be credited with interest at the rate of 4% per annum, compounded annually, from the July 1 next following the date such contributions are made to the first day of the month in which the earliest of the following occurs:

- (a) the date the contributions are withdrawn and paid in cash to the Participant as a result of his Termination of Employment,
- (b) the date of the Participant’s death, or
- (c) the Participant’s Retirement Date.

### SECTION III - BENEFITS

Except as specifically provided elsewhere in the Plan to the contrary, benefits payable to a Participant who retired, terminated his employment, or died prior to July 1, 2007 shall be determined in accordance with the Plan as in effect prior to that date, and benefits payable to any other Participant shall be determined as follows:

- 3.01 **NORMAL RETIREMENT BENEFIT.** Each Participant who retires on his Normal Retirement Date will receive a monthly retirement benefit commencing on such date. The amount of his monthly benefit will be equal to 1½% of his Average Monthly Earnings multiplied by his years of Continuous Service.

Notwithstanding anything herein to the contrary, effective July 1, 2006, the amount of the monthly benefit for each Participant retiring on his Normal Retirement Date will be equal to 1½% of his Average Monthly Earnings multiplied by his Years of Continuous Service through July 1, 1998, plus 1.8% of his Average Monthly Earnings multiplied by his Years of Continuous Service after July 1, 1998.

- 3.02 **EARLY RETIREMENT DATE.** A Participant who has both attained Age 50 and completed 5 years of Continuous Service may retire on the first day of any month after satisfying such requirements and prior to his Normal Retirement Date, which date shall be his Early Retirement Date. The monthly amount of retirement annuity commencing to the Participant on his Early Retirement Date shall be equal to the monthly amount of his Accrued Benefit determined based on his Continuous Service as of his Early Retirement Date, and actuarially reduced by multiplying it by the applicable percentage below.

#### EARLY RETIREMENT PERCENTAGES

<u>Age</u>	<u>Early Retirement Percentage</u>
50	45%
51	52%
52	61%
53	72%
54	85%
55 +	100%

- 3.03 **PERMANENT AND TOTAL DISABILITY BENEFIT.** A Participant who retires from the employ of the Employer after he has both reached age 50 and completed 5 years of Continuous Service because he is Permanently and Totally Disabled will be eligible to receive monthly disability payments commencing on his Disability Retirement Date. The amount of his monthly disability payments will be equal to his Accrued Benefit determined as of his Disability Retirement Date, multiplied by the applicable actuarial reduction percentage from the table below.

Such monthly disability payments shall continue until the first to occur of the Participant's death, recovery to the extent that the Participant is no longer Permanently and Totally Disabled, or the Participant's Normal Retirement Date. On the Participant's Normal Retirement Date, he shall be entitled to a Normal Retirement Benefit computed in accordance with Paragraph 3.01.

DISABILITY RETIREMENT PERCENTAGES

<u>Age at Disability Retirement Date</u>	<u>Disability Retirement Percentage</u>
50	45%
51	52%
52	61%
53	72%
54	85%
55	100%
56	100%
57	100%
58	100%
59	100%
60	100%

3.04 LATE RETIREMENT BENEFIT. If a Participant's retirement is deferred in accordance with the employment policies of the Employer to a Late Retirement Date, which may be the first day of any month after his Normal Retirement Date, his retirement annuity payments will commence to him on his Late Retirement Date in an amount determined in accordance with Paragraph 3.01 based on his Continuous Service and Average Monthly Earnings on his Late Retirement Date, but increased because payments will be made for a shorter period than if the Participant had retired at his Normal Retirement Date. For Participants who attained age 55 or 30 Years of Continuous Service prior to July 1, 2007, the increased late retirement benefit will be equal to the greater of (1) the sum of (a) plus (b) plus (c) below, or (2) (d) below. For all other Participants, the late retirement benefit will be equal to (d) below.

- (a) The product of the Participant's Accrued Benefit on his Normal Retirement Date and the applicable actuarial percentage from the table below determined based on the Participant's actual age on his Late Retirement Date and his age, nearest birthday, on his Normal Retirement Date.
- (b) The sum of the product of (i) and (ii) below computed as of each anniversary of his Normal Retirement Date after his Normal Retirement Date and prior to his Late Retirement Date, where:
  - (i) is the excess, if any, of the amount of the monthly retirement benefit payment determined on such anniversary over the amount of his monthly

retirement benefit payment determined on the preceding anniversary (or on the first anniversary, the Normal Retirement Date), and

- (ii) is the applicable percentage from the table below based on the Participant's actual age on his Late Retirement Date and his age, nearest birthday, on the anniversary as of which each such product is computed.
- (c) An amount equal to the excess, if any, of the monthly amount of the Accrued Benefit on the Late Retirement Date over the monthly amount of the Accrued Benefit determined on the preceding anniversary of the Participant's Normal Retirement Date.

LATE RETIREMENT PERCENTAGES

		<u>r=1</u>									
		Age nearest birthday on normal retirement date or the anniversary as of which each product is computed									
		<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>65</u>	<u>66</u>	<u>67</u>	<u>68</u>	<u>69</u>
Actual age at Late Retirement Date	61	109.2	----	----	----	----	----	----	----	----	----
	62	119.3	109.3	----	----	----	----	----	----	----	----
	63	130.6	119.7	109.5	----	----	----	----	----	----	----
	64	143.2	131.1	120.0	109.6	----	----	----	----	----	----
	65	157.2	144.0	131.7	120.4	109.8	----	----	----	----	----
	66	172.8	158.3	144.8	132.3	120.8	110.0	----	----	----	----
	67	190.4	174.4	159.6	145.8	133.0	121.2	110.2	----	----	----
	68	210.1	192.5	176.1	160.9	146.8	133.7	121.6	110.4	----	----
	69	232.4	212.9	194.8	178.0	162.4	147.9	134.5	122.1	110.7	----
	70	257.6	236.0	215.9	197.3	180.0	164.0	149.1	135.4	122.7	110.9

		<u>r=2</u>									
		Age nearest birthday on normal retirement date or the anniversary as of which each product is computed									
		<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>65</u>	<u>66</u>	<u>67</u>	<u>68</u>	<u>69</u>
Actual age at Late Retirement Date	61	109.2	----	----	----	----	----	----	----	----	----
	62	119.2	109.3	----	----	----	----	----	----	----	----
	63	130.4	119.5	109.5	----	----	----	----	----	----	----
	64	142.8	130.9	119.9	109.6	----	----	----	----	----	----
	65	156.5	143.5	134.1	120.2	109.8	----	----	----	----	----
	66	171.8	157.6	144.4	132.0	120.6	110.0	----	----	----	----
	67	188.9	173.3	158.8	145.2	132.7	121.0	110.2	----	----	----
	68	210.3	190.9	174.9	160.0	146.2	133.4	121.4	110.4	----	----
	69	232.6	213.1	193.0	176.6	161.4	147.2	134.1	121.9	110.6	----
	70	257.8	236.2	216.1	195.2	178.5	162.8	148.3	134.9	122.4	110.9

	<u>r=3</u> Age nearest birthday on normal retirement date or the anniversary as of which each product is computed									
	<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>65</u>	<u>66</u>	<u>67</u>	<u>68</u>	<u>69</u>
Actual age at Late Retirement Date	61	109.2	----	----	----	----	----	----	----	----
	62	119.1	109.3	----	----	----	----	----	----	----
	63	130.1	119.4	109.4	----	----	----	----	----	----
	64	142.3	130.6	119.7	109.6	----	----	----	----	----
	65	156.7	143.0	131.1	120.1	109.8	----	----	----	----
	66	172.1	157.8	143.8	131.7	120.4	109.9	----	----	----
	67	189.2	173.5	159.0	144.6	132.3	120.8	110.1	----	----
	68	208.3	191.1	175.2	160.3	145.5	132.9	121.2	110.4	----
	69	229.8	210.9	193.3	176.9	161.7	146.4	133.6	121.7	110.6
	70	253.9	233.0	213.6	195.6	178.8	163.2	147.4	134.3	122.1
										110.8

Factors not illustrated will be computed using the Actuarial Equivalent assumptions from Exhibit A. 'r' is rounded to the nearest whole number.

- (d) The amount determined in accordance with Paragraph 3.01, multiplied by the Late Retirement Percentage specified below:

<u>Actual Age at Late Retirement Date</u>	<u>Late Retirement Percentage</u>
61	110%
62	120%
63	130%
64	140%
65 +	150%

### 3.05 PRERETIREMENT SPOUSE DEATH BENEFITS - Elective option for active Participants

A married active Participant may elect at any time prior to the earliest of Termination of Employment or Retirement Date to have a death benefit in effect under this paragraph if he dies on or after his earliest possible Retirement Date and before his actual Retirement Date.

If any married Participant dies after attaining eligibility for his earliest possible Retirement Date but before his actual Retirement Date, and the Participant was married to his spouse for at least the one year period ending on the date of his death, and the Participant has elected this pre-retirement survivor benefit, then the Participant's surviving spouse will receive a monthly retirement benefit equal to the benefit that would have been payable if the Participant had retired on the day before his death after having elected an immediate benefit, actuarially adjusted in accordance with paragraph 3.02,

payable under the 50% contingent annuitant form of payment with his spouse as his contingent annuitant in accordance with Section 4.02. The amount of such 50% continuation shall be payable monthly for the life of such spouse. The first payment shall be payable as of the first day of the month following the date of the Participant's death.

Any single lump sum death benefit amount determined under Paragraph 3.06 in excess of the cost of this spouse benefit, will be paid in a single lump sum to the Participant's beneficiary.

Not less than 90 days before the Participant becomes eligible to elect this option, the Employer shall furnish the Participant a written notification describing the option and the availability of a written, non-technical explanation of the terms of this option and its financial effects.

If the Participant elects this option and later retires, his retirement benefit as calculated in accordance with paragraph 3.01, 3.02, or 3.04, as the case may be, will be reduced by ½% for each year during which this option is in effect for the Participant.

- 3.06 DEATH BENEFITS. Except as may be provided under any optional form of annuity elected by the Participant, upon a Participant's death, his beneficiary (or estate, if there is no beneficiary or the beneficiary does not survive him) will be entitled to a refund of the contributions described in paragraphs 2.05 and 2.01(b), with interest, to the first day of the month in which the earliest of his death or Retirement Date occurred, reduced by the sum of any monthly retirement payments the Participant may have received prior to his death.

### 3.07 DISTRIBUTION REQUIREMENTS.

(a) General Rules.

- (1) Effective Date. This section shall be effective for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (2) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the Plan.
- (3) Requirements of Treasury Regulations Incorporated. All distributions required under this section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code.
- (4) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this section, other than paragraph (3), 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 (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution.

- (1) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.
- (2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
  - (A) If the Participant's surviving spouse is the Participant's sole designated beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.
  - (B) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, the Participant's entire interest will be distributed to the designated Beneficiary will by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to either the Participant or the surviving spouse begin, this provision will apply as if the surviving spouse were the participant.
  - (C) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
  - (D) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this section (b)(2), other than (b)(2)(A), will apply as if the surviving spouse were the Participant.

For purpose of this section (b)(2) and section (e), distributions are considered to begin on the Participant's required beginning date (or, if section (b)(2)(D) applies, the date distributions are required to begin to the surviving spouse under section (b)(2)(A). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section (b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections (c), (d), and (e). If the Participant's



interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and Treasury regulations. Any part of the Participant'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 Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(c) Determination of Amount to be Distributed Each Year.

(1) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in section (d) or (e);
- (C) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (D) payments will either be nonincreasing or increase only as follows:
  - (i) by an annual percentage increase that does not exceed the annual percentage increase in a cost of living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
  - (ii) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in section (d) dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Code Section 414(p);
  - (iii) to provide cash refunds of employee contributions upon the Participant's death; or
  - (iv) to pay increased benefits that result from a Plan amendment.

(2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under section (b)(2)(A)) 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. Payment

intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant'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 Participant's required beginning date.

- (3) Additional Accruals after First Distribution Calendar Year. Any additional benefits accruing to the Participant 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 amount accrues.

(d) Requirements for Annuity Distributions that Commence during Participant's Lifetime.

- (1) Joint Life Annuities Where the Beneficiary is not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary and a period certain annuity, the requirement of the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- (2) Period Certain Annuities. Unless the Participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this section A4(b), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

(e) Requirements for Annuity Distributions where Participant Dies Before Date Distributions Begin.

- (1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in section (b)(2)(A) or (B), over the life of the designated beneficiary or over a period certain not exceeding:
  - (A) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
  - (B) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section AS will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to section (b)(2)(A).

(f) Definitions.

- (1) Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4 of the Treasury regulations.
- (2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to section A2(b).

(3) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(4) Required beginning date. The date specified in section 4.02 of the Plan.

3.08 **TERMINATION OF EMPLOYMENT.** A Participant, upon Termination of Employment, shall be entitled to elect, in lieu of any other benefit under the Plan, either Option A or Option B below. Each Participant is fully vested at all times in his contributions with interest as described in paragraphs 2.01(b) and 2.05. A Participant becomes fully vested in the remainder of his Accrued Benefit (his Employer-provided benefit) upon completion of 5 years of Continuous Service; prior to completion of 5 years of Continuous Service, he is 0% vested in that amount.

Option A - Cash Refund. Under this option, the Participant will receive a refund of contributions described in Paragraphs 2.05 and 2.01(b), with interest thereon (as described in Section 2.06) to the first day of the month in which Termination of Employment occurs.

Option B - Deferred Annuity. This option is only available if as of his Termination of Employment, the Participant has completed 5 or more years of Continuous Service. Under this option, the Participant will receive a monthly annuity, commencing at Normal Retirement, equal to the amount computed in accordance with Paragraph 3.01, but based upon the Participant's Years of Continuous Service completed prior to Termination of Employment.

If within 90 days of his Termination of Employment a Participant has not elected Option A above, he shall be deemed conclusively to have elected Option B above.

If at some later date the Participant elects a refund of contributions described in Paragraphs 2.05 and 2.01(b) (plus interest thereon), the refund will be made in lieu of all other benefits under the Plan.

3.09 **CONSUMER PRICE INDEX MONTHLY INCOME BENEFIT.** Each retired Participant, subject to the following provisions, shall be entitled to an adjustment to his retirement benefit.

(a) Definitions

1. "Consumer Price Index" means the Consumer Price Index for all Urban Wage Earners and Clerical Workers published periodically by the Bureau of Labor Statistics of the United States Department of Labor.
2. "Plan Change Date" means July 1 of each year prior to the death of the Participant.
3. "Qualified Participant" means a Participant who retired from active employment with the Employer on a Normal, Early, or Late Retirement Date with an immediate annuity payable upon such retirement from active

employment, and who has been receiving a Basic Monthly Retirement Benefit for at least one year.

4. “Basic Monthly Retirement Benefit” means the series of income payments payable to a Participant hereunder, prior to any adjustment for Consumer Price Index experience but after any adjustment for an optional form of annuity.
5. “Total Monthly Retirement Benefit” means the sum of the Basic Monthly Retirement Benefit and any Consumer Price Index Monthly Benefit payable to a Participant hereunder.
6. “Consumer Price Index Adjustment Date” means each Plan Change Date prior to the Participant’s death, if the Consumer Price Index determined for the third month preceding the month in which the Plan Change Date occurred is greater than the Consumer Price Index determined for the third month before the month in which occurred the most recent prior Plan Change Date that resulted in a benefit adjustment under the Plan.

(b) Consumer Price Index Monthly Benefit

1. Each Qualified Participant shall be eligible to receive a supplemental Consumer Price Index Monthly Benefit commencing on the first Plan Change Date such benefit becomes payable under sub-paragraph (b)2 below. The Consumer Price Index Monthly Benefit shall be subject to subparagraphs (b)2 and (c) throughout the lifetime of the Participant and under the Annuity Option in effect for the Participant.
2. The Total Monthly Retirement Benefit payable to each Qualified Participant on and after each Consumer Price Index Adjustment Date coincident with or following the date he becomes a Qualified Participant, subject to sub-paragraph (c) below, shall be equal to the product of (i) times (ii) below, where:
  - (i) is the Participant’s Total Monthly Retirement Benefit payable immediately before the most recent Consumer Price Index Adjustment Date, and
  - (ii) is a fraction, the numerator of which is equal to the Consumer Price Index determined for the third month immediately preceding the month in which the current Consumer Price Index Adjustment Date occurred, and the denominator of which equals the Consumer Price Index determined for the third month preceding the month in which occurred the most recent Plan Change Date on which Consumer Price Index Monthly Benefits were adjusted hereunder.

However, in no event will the Total Monthly Retirement Benefit payable after such adjustment be less than the Total Monthly Retirement Benefit payable prior to the adjustment.

(c) Maximum Consumer Price Index Annual Adjustment Limits

The increase in the Consumer Price Index Monthly Benefit on any Consumer Price Index Adjustment Date shall not exceed 3 percent of the Total Monthly Retirement Benefit payable to each Qualified Participant immediately prior to such date. The maximum accumulated Consumer Price Index Monthly Benefit payable to any Participant shall not exceed 150% of the Basic Monthly Retirement Benefit.

Any Consumer Price Index Monthly Benefit shall be payable throughout the lifetime of the Participant under the Annuity Option in effect for the Participant on his Retirement Date. Upon the death of the Participant, no further increases shall apply. The election of any optional form of retirement annuity provided under Section IV of the Plan will also apply to any Consumer Price Index Monthly Benefit.

(d) Amendment and Termination of Consumer Price Index Monthly Benefit

The Employer may, if and to the extent negotiated and permitted under the Collective Bargaining Agreement, amend or terminate the Consumer Price Index Monthly Benefit portion of the Plan. Upon termination, no further Consumer Price Index Monthly Benefit payments shall be due or payable to any Participant. Such amendment or termination of the Consumer Price Index Monthly Benefit shall not affect the amount of Basic Monthly Retirement Benefit payable under the Plan.

## SECTION IV - ANNUITY SETTLEMENTS

### 4.01 NORMAL FORM OF ANNUITY.

Under the normal form of annuity, the Participant will receive monthly retirement payments throughout his lifetime with a death benefit as described in paragraph 3.06.

### 4.02 OPTIONAL FORMS OF ANNUITY

In lieu of the normal form of annuity, the Participant may elect to receive his monthly benefit under one of the following annuity options by filing written notice of such election with the Employer prior to his Normal Retirement Date. Any optional form of benefit available under the Plan shall be the actuarial equivalent of the normal form of annuity described in Section 4.01, determined in accordance with Exhibit A.

Distributions to a Participant must commence no later than the first day of April following the calendar year in which the later of termination of employment or age 70 1/2 occurs.

Distributions under the Plan shall comply with the requirements of Code section 401(a)(9) and the regulations thereunder as applicable to state and local government plans, including the incidental death benefit requirements under Code section 401(a)(9)(G), and such requirements shall override any other provision of the Plan.

The Plan may purchase an annuity contract to provide Plan benefits, provided such annuity contract complies with the requirements of the Plan.

### MINIMUM OPTIONAL RETIREMENT BENEFIT.

Notwithstanding anything stated in this Section IV to the contrary, the benefit determined for each Employee who was a Participant in the Plan on the day preceding the date this restated Plan is adopted under any of the following annuity options shall not be less than the annuity option benefits determined for him on such date in accordance with the provisions of the Plan and the optional percentage factors in effect on such date.

### ANNUITY OPTION - CONTINGENT ANNUITANT OPTION.

Under this option, a Participant may designate any natural person as his contingent annuitant. Retirement annuity payments, actuarially adjusted, will be payable to the Participant commencing on his Retirement Date and upon his death 100%, 66 2/3%, or 50% (whichever is specified in his request) of the adjusted retirement annuity payments will be continued to his contingent annuitant, if still living. No further retirement annuity payments nor any death benefits are payable after the deaths of both the Participant and his contingent annuitant. If either the Participant or his contingent annuitant dies prior to the Participant's Normal Retirement Date, this option will be inoperative. If either the Participant or his contingent annuitant dies on or after the Participant's Normal Retirement Date, but prior to his Retirement Date, this option will remain in effect and retirement annuity payments will be payable to the survivor as follows:

- (a) If the Participant is the survivor, retirement annuity payments, adjusted as if his contingent annuitant were still living, will commence on the Participant's Retirement Date.
- (b) If the contingent annuitant is the survivor, 100%, 66 2/3%, or 50%, whichever is applicable, of the retirement annuity payments, adjusted as if they had commenced to the Participant on the first day of the month coincident with or next following the date of his death, will commence to the contingent annuitant on that date.

#### ANNUITY OPTION - LIFE ANNUITY WITH 120 MONTHLY PAYMENTS CERTAIN.

Under this option, the Participant will receive retirement annuity payments, actuarially adjusted commencing on his Retirement Date and payable throughout his lifetime, but with 120 monthly payments certain. If the Participant dies on or after his Retirement Date, but before all his payments certain have been paid, the remainder of such 120 monthly retirement annuity payments will be continued to the Participant's beneficiary, if such beneficiary is a natural person, and upon the death of such beneficiary before all remaining payments certain have been paid, the then present value of any remaining unpaid payments certain, computed as of the date of death of such beneficiary and discounted at the interest rate specified in Appendix A, will be paid in one sum to the estate of the beneficiary. If the Participant's beneficiary is not a natural person, or if the Participant had so elected, a lump sum payment equal to the present value of the unpaid payments certain, computed as of the date of the death of the Participant and discounted at the interest rate specified in Appendix A, will be paid to the beneficiary in lieu of the continuation of payments. If the Participant dies prior to his Retirement Date his election of this option will be inoperative.

#### 4.03 DIRECT ROLLOVERS.

A distributee (regardless of whether such distributee's vested Accrued Benefit exceeds the cash-out amount under "Small Benefits" in Paragraph 3.01) may elect, at the time and in the manner prescribed by the Employer, to have any portion of an eligible rollover distribution rolled over directly to an eligible retirement plan specified by the distributee.

An eligible rollover distribution is any distribution of all or a portion of the balance payable to a distributee, except that an eligible rollover distribution does not include:

- (a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually, for the life or life expectancy of the distributee or the joint lives or life expectancies of the distributee and his designated beneficiary, or for a specified period of ten years or more;
- (b) Any distribution to the extent such distribution is required under Code section 401(a)(9); and



- (c) The portion of any distributions that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

For this purpose, “eligible retirement plan” means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), an eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, or a qualified trust described in Code section 401(a), any of which accepts the distributee’s eligible rollover distribution. This definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code. For purposes of this paragraph, “distributee” includes an employee or former employee, such individual’s surviving spouse, or such employee’s or former employee’s spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code section 414(p). A “direct rollover” is a payment by the Plan to the eligible retirement plan specified by the distributee.

## SECTION V - AMENDMENT

- 5.01 Subject to applicable rules and regulations, the right is reserved to the Employer to amend its Plan at any time and from time to time and all parties or any person claiming any interest hereunder shall bound thereby. Any such amendment shall be effective when signed by an officer duly authorized by the Board of Directors or other governing body of the Employer.

## SECTION VI - TERMINATION OF PLAN

- 6.01 While the Employer hopes and expects to continue the Plan indefinitely and every effort has been made to arrange the Plan so that it will meet future conditions insofar as they can be foreseen, the Employer, subject to prior approval of the Internal Revenue Service and the Federal Department of Labor when required, reserves the right to terminate the Plan at any time. Except as provided below, or as may be required under the Employee Retirement Income Security Act of 1974, in the event of a termination or partial termination of this Plan each affected Participant's Accrued Benefit shall be fully vested and nonforfeitable to the extent funded. Each Participant affected by the termination or partial termination shall have recourse only to the assets then held by the Plan. No funds previously contributed to the Plan shall revert to the Employer or to any person other than said affected Participants upon a termination of this Plan unless all actuarial liabilities of the Plan have been satisfied, in which case surplus amounts may be returned to the Employer.
- 6.02 In the event of termination or partial termination of the Plan, the assets of the Plan then available to provide benefits shall be applied as of the date of such termination, subject to the prior approval of the Internal Revenue Service, when required, in accordance with the following order of priority:
- (a) First, to provide, a retirement annuity for each Participant who had attained his Normal Retirement Date no later than the date of termination in an amount equal to the benefit to which he would have been entitled under the Plan if his Retirement Date had been the Plan termination date.
  - (b) Second, to provide a retirement annuity for each Participant who was eligible to elect an early retirement under the Plan on or before the Plan termination date, and for whom a retirement annuity had not been purchased in an amount equal to the benefit to which the Participant would have been entitled under the Plan if he had elected an early retirement commencing on the Plan termination date.
  - (c) Third, to provide a retirement annuity for each other Participant commencing on his Normal Retirement Date in an amount equal to the Participant's Accrued Benefit determined as of the Plan termination date.

Notwithstanding anything in this Section to the contrary, in the event of partial termination of the Plan, this Section shall be applicable only to those Participants and their beneficiaries affected by the partial termination.

If the assets of the Plan are insufficient to provide the full benefits in any of the classifications described above, the assets shall be allocated pro-rata among all Participants and other beneficiaries in the affected class on the basis of the present value as of the Plan's termination date of their respective benefits.

## SECTION VII - CONTRIBUTIONS

- 7.01 The Employer intends to pay all of the Plan costs (in excess of Participant contributions) that the Actuary determines to be necessary to maintain the Plan as a qualified plan under the Code and regulations issued thereunder. The Employer will also employ an enrolled actuary to be responsible for the preparation of actuarial statements required by applicable laws and regulations.

Plan assets and income may not be diverted or used for other than the exclusive benefit of Plan participants and beneficiaries, except for surplus amounts due to erroneous actuarial computations, in which event such surplus amounts shall be returned to the Employer upon satisfaction of all actuarial liabilities of the Plan.

## SECTION VIII - APPLICATION OF CREDITS AND FORFEITURES

- 8.01 All dividends, interest in excess of the assumed interest rate, benefit forfeitures, experience rating credits or Employer surrender or cancellation credits will be applied, as soon as possible, to reduce the Employer's contribution under the Plan. Only upon termination of the Plan or complete discontinuance of the Employer's contribution may such forfeitures be applied to increase benefits under the Plan.

## SECTION IX – [RESERVED]

## SECTION X - CERTAIN COURT ORDERS

- 10.01 Distributions pursuant to a qualified domestic relations order under Code Section 414(p) or other domestic relations order with which the Employer determines the Plan is required to comply, and distributions pursuant to certain judgments and settlements under Code Section 401(a)(13)(C) are permitted.

## SECTION XI - PENSION COMMITTEE

- 11.01 The Pension Committee shall be composed of not less than three (3) individuals appointed by the Superintendent of Schools to serve for such time as shall be determined by the Superintendent.

The Pension Committee may appoint a Secretary who need not be a member of the Committee and who shall keep a record of the proceedings of the Committee.

The Pension Committee shall have discretion and authority to interpret this Plan and to determine the eligibility and benefits of Participants and beneficiaries pursuant to the provisions of the Plan. On all such matters, the decision of a majority of the then members of the Pension Committee shall govern and be binding upon the Employer, Participants, and beneficiaries. The Pension Committee need not call or hold any meeting for the purpose of rendering decisions but such decisions may be evidenced by a written document signed by the members. The Pension Committee shall have the power and authority to appoint any one or more of its members or their representatives to sign documents, forms or other instruments on behalf of the committee.

The Pension Committee shall not be entitled to any compensation for its services hereunder, but the Employer agrees to reimburse the committee for any and all necessary expenses incurred by it. The Employer agrees to indemnify the Pension Committee and any member thereof against all liability occasioned by any act or omission to act if such act or omission is in good faith. The Employer shall be entitled to defend or maintain either in its own name or in the name of the Pension Committee or any member thereof any suit or litigation arising hereunder with respect to the Committee, or any member thereof, and may employ the Employer's counsel.

## SECTION XII - EARLY TERMINATION RULE

- 12.01 In the event of plan termination, the benefit of any highly compensated active or former employee is limited to a benefit that is nondiscriminatory under Code section 401(a)(4).

Benefits distributed to any of the 25 most highly compensated active and former nonexcludable highly compensated employees (within the meaning of Code section 414(q)) with the highest compensation in the current or any prior plan year are restricted, such that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the Employee under a single life annuity that is the actuarial equivalent of the sum of such Employee's Accrued Benefit and his other benefits under the Plan, plus the amount of any payments such Employee is entitled to receive under a Social Security Supplement.

The preceding paragraph shall not apply if any of the following requirements are satisfied: (a) after payment of such benefit to or on behalf of such Employee, the value of Plan assets equals or exceeds 110% of the value of current liabilities, as defined in Code section 412(1)(7); or (b) the value of such benefit is less than 1% of current liabilities before distribution; or (c) the value of the Plan benefits payable to such Employee does not exceed the amount described in Code section 411(a)(11)(A) at the applicable time; or (d) upon Plan termination, such Employee receives a benefit that is nondiscriminatory under Code section 401(a)(4).

For purposes of this Section XII, such benefit includes, among other benefits, loans in excess of the amount set forth in Code section 72(p)(2)(A), any periodic income, any withdrawal values payable to a living employee or former employee, and any death benefits not provided for by insurance on the Employee's (or former Employee's) life.

- 12.02 Notwithstanding the above, a plan distribution that would otherwise exceed the limitations described above may be made, provided the Participant provides the Plan adequate security to guarantee any repayment of the Restricted Amount upon Plan termination. For this purpose, "Restricted Amount" means the excess of the accumulated amount of distributions to an Employee over the accumulated amount of the payments that would have been paid under: a straight life annuity that is the actuarial equivalent of the Employee's Accrued Benefit and other benefits to which the Employee is entitled under the Plan (other than a Social Security supplement, plus the amount of any payments that the Employee is entitled to receive under a Social Security supplement. The "accumulated amount" is the amount of a payment increased by a reasonable amount of interest from the date the payment was made (or would have been made) until the date for the determination of the Restricted Amount.

Prior to receipt of distribution of a Restricted Amount, the Participant must agree in writing that upon distribution he will do one of the following: (A) deposit in escrow property having a fair market value equal to at least 125% of the Restricted Amount; or (B) post a bond equal to at least 100% of the Restricted Amount; such bond must be furnished by an insurance company, bonding company, or other surety approved by the U.S. Treasury Department as an acceptable surety for federal bonds; or (C) secure his

repayment obligation by means of a bank letter of credit in an amount equal to at least 100% of the Restricted Amount.

The Participant shall not be required to maintain security in excess of 125% (or in the case of option (B) or (C) above, 100%) of the Restricted Amount at any time. In the case of option (A) above, if the market value of the property in escrow falls below 110% of the Restricted Amount, the Employee shall be required to deposit additional property to bring the market value of the property held by the depositary up to 125% of the Restricted Amount.

Except as provided above in the case of security exceeding the required amount, a depositary may not return to the Participant any property held under an agreement, other than amounts in excess of 125% of the Restricted Amount, and a surety or bank may not release any liability on a bond or letter of credit unless the Plan Administrator certifies to such depositary, surety, or bank that the Participant or his estate is no longer obligated to repay any amount under the agreement. The Plan Administrator will make such a certification if at any time after the distribution commences, either the value of the Plan's assets equals or exceeds 110% of the value of current liabilities, or the value of the Participant's future nonrestricted limit constitutes less than 1.0% of the value of current liabilities, or less than the amount described in Code section 411(a)(11)(A) at the applicable time; or the Plan has terminated and the Participant's benefit is nondiscriminatory. Such a certification terminates the agreement between the Participant and the Plan Administrator.

### SECTION XIII - RESTRICTION OF BENEFITS (CODE SECTION 415)

13.01 Notwithstanding anything in the Plan to the contrary, in no event at any time in a Limitation Year shall the sum of the projected annual normal retirement benefits or adjusted Late Retirement benefits, if applicable, provided to any Participant attributable to Employer Contributions under Section III of this Plan and under any other qualified defined benefit pension plan maintained by the Employer or by a Controlled or Affiliated Company described in Paragraph 13.05 below exceed the limit in Section 415 of the Code: the greater of (a) or (b) below:

- (a) \$10,000, applicable only if the Employer or Affiliated Company has not at any time maintained a defined contribution plan, a welfare benefit plan as defined in Code section 419(e), or an individual medical account as defined in Code Section 415(1)(2), under which the Employee participated, or
- (b) \$185,000, subject to any cost of living adjustment prescribed by the Secretary of Treasury under Code section 415(d), applied in such manner as the Secretary shall prescribe. Such adjusted limits will apply to limitation years ending within the calendar year of the date of adjustment.

In the case of an Participant who was a Participant on October 2, 1973, the maximum benefit shall not be less than his benefit determined in accordance with the provisions of the Plan existing on such date, except that it shall be assumed that the Employee's salary rate on such date remained unchanged until retirement or earlier termination of employment; however, in no event shall the maximum determined under this method exceed 100% of the Employee's annual salary rate on such date.

Provided, however, if the Participant was a Participant in a plan in existence on July 1, 1982 and the Employee's current Accrued Benefit under the Plan at the close of the last Limitation Year beginning before January 1, 1983 or on September 30, 1983 if later exceeds the limitation Section 8.01(b) above, then for purposes of Section 8.01(b), the limitations of such Section with respect to such Employee shall be equal to such current Accrued Benefit.

If a Participant was a Participant in this Plan prior to the first day of the first Limitation Year beginning after 1999, and the Plan met the requirements of Code section 415 as in effect prior to that date, a Participant's maximum limitation shall not be less than his Accrued Benefit determined immediately prior to said date, without regard to any Plan amendment adopted after such date and without regard to cost of living adjustments under Code section 415(d).

The limitation under Code Section 415 with respect to the old law benefit shall be determined in accordance with the Plan as in effect prior to this restatement, provided the Plan met the requirements of Code Section 415 as in effect with respect to plans of state and local government entities on December 7, 1994. The amount of the old law benefit shall not increase due to any amendment or cost of living increase in the Code section 415 limit after the freeze date, or due to any benefit accruals occurring after the freeze

date. If the Plan was adopted and in effect before December 8, 1994, determinations made under Code Section 415(b)(2)(E) that are made after December 7, 1994 and before the final implementation date shall be made with respect to a Participant's old law benefit on the basis of Code Section 415(b)(2)(E) as in effect on December 7, 1994 and the terms of the Plan's previous restatement identified above, but only if the Plan met the requirements of Code Section 415 as in effect on December 7, 1994. All benefit accruals occurring on or after the final implementation date shall be subject to Code Section 415 as amended under the General Agreement on Tariffs and Trade and the Small Business Job Protection Act of 1996.

For purposes of this section, "old law benefit" means all amounts accrued as of the last day of the last Limitation Year beginning before January 1, 2000, which shall be the "freeze date" as defined for purposes of Revenue Ruling 98-1. The "final implementation date" as defined under Revenue Ruling 98-1 is the first day of the first Limitation Year beginning after 1999.

For purposes of this Section a Participant's projected annual benefit shall be equal to the annual benefit to which such Participant would be entitled under the terms of the defined benefit plan in which he is a Participant based on the assumptions that he continues employment until his Normal Retirement Date, that his compensation continues at the same rate as in effect in the Limitation Year under consideration until his Normal Retirement Date (or current age if later) and that all other relevant factors used to determine benefits under the Plan remain constant as of current Limitation Year for all future Limitation Years.

- 13.02 If the benefit under the Plan is other than a straight life annuity the annual benefit provided under the Plan for purposes of applying the limitations of Paragraph 13.01 shall be adjusted to an equivalent benefit in the form of a straight life annuity.

Such actuarially equivalent straight life annuity is the greater of the annuity benefit computed based on (i) the interest rate and mortality table in effect under the Plan for adjusting benefits in the same form, or (ii) 5% interest and the 1983 Group Annuity Mortality Table (or such other mortality table as shall be prescribed by the Secretary of the Treasury under Internal Revenue Code section 417(e)(3)(A)).

In determining the actuarially equivalent straight life annuity for a benefit form other than a nondecreasing annuity payable for a period of not less than the life of the Participant (or, in the case of a qualified preretirement survivor annuity, the life of the surviving spouse), or decreases during the life of the Participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the annual benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements of qualified disability payments (as defined in Code section 401(a)(11)), the annual rate of interest on 30 year Treasury securities published by the Secretary of the Treasury for the second month prior to the Plan Anniversary of the Plan Year in which such distribution is made will be substituted for 5% in the preceding sentence.



No actuarial adjustment is required for (a) the value of a qualified joint and survivor annuity, (b) benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits) and (c) the value of post-retirement cost of living increases made in accordance with Code Section 415(d) and Treasury reg. 1.415-3(c)(2)(iii). The annual benefit does not include any benefit attributable to employee contributions or rollover contributions, or assets transferred from a qualified plan that was not maintained by the Employer.

### 13.03

- (a) If a Participant's benefit commences prior to the date the Participant reaches age 62, the defined benefit dollar limitation (reduced under Section 13.04 if applicable) shall be adjusted so that it is the actuarial equivalent to the maximum benefit beginning at age 62 "Actuarial equivalent" shall mean the lesser of the benefit determined based on (i) the interest and mortality table (or other tabular factor) then in effect for determining early retirement equivalence under the plan, or (ii) 5% interest and the 1983 Group Annuity Mortality Table (or such other mortality table as shall be prescribed by the Secretary of the Treasury under Internal Revenue Code section 417(e)(3)(A)) at the applicable time. Any decrease in the adjusted dollar limitation under this paragraph (b) shall not reflect any mortality decrement to the extent that benefits will not be forfeited on the Participant's death.
- (b) If a Participant's benefit commences after the date the Participant reaches age 65, the dollar limitation shall be adjusted to the actuarial equivalent of the dollar limit at age 65. Such equivalent shall be the lesser of the benefit determined based on (i) the interest and mortality table (or other tabular factor) then in effect for determining late retirement equivalence under the Plan, or (ii) 5% interest and the 1983 Group Annuity Mortality Table (or such other mortality table as shall be prescribed by the Secretary of the Treasury under Internal Revenue Code section 417(e)(3)(A)).

### 13.04 In the case of an Employee who has less than 10 Years of Participation in the Plan, the dollar limitation referred to in Section 13.01(a) is reduced by one-tenth for each year by which a Participant's Years of Participation in the Plan are less than 10.

For purposes of this Paragraph, a Participant shall be credited with a Year of Participation (or fraction thereof) for each Plan Year during which he met the Plan eligibility requirements on at least one day, if and to the extent that he receives Credited Service for purposes of benefit accrual during such year. A Participant who is permanently and totally disabled within the meaning of Code section 415(c)(3)(C)(i) for an accrual computation period shall receive a year of participation for such period, for purposes of this Section XIII.

For a Participant to receive a year or partial year of participation for purposes of this Section XIII in an accrual computation period, the Plan must be established no later than the last day of such period. In no event will more than one year of participation be credited for any 12 month period.

If the Participant has completed less than 10 Years of Service with the Employer, the limitation described in Sections 13.01(a) shall be reduced by one tenth for each year by which his Years of Service are less than ten. For purposes of this paragraph, Year of Service means each Limitation Year in which an Employee completes at least 1,000 Hours Service.

In no event will reductions under this Paragraph 13.04 decrease the maximum limitations described in Paragraph 13.01 to less than one tenth of the applicable limitation determined without regard to this Paragraph 13.04.

Notwithstanding anything in this paragraph 13.04 to the contrary, to the extent permitted under Code Section 415(b)(2)(I) and any regulations thereunder, the reductions for service or participation of less than 10 years shall not apply with respect to survivor and disability benefits.

- 13.05 If the Employer is part of a controlled group or affiliated service group, as defined in Code Section 414(b), (c), (m), or (o) and regulations thereunder (except that for the purposes of this Section, in the case parent-subsidary controlled group “control” means more than 50% ownership), all employers, trades or businesses in such group(s) shall be considered a single employer for the purposes of applying the limitations of this Section. If the Employer or a member of the control group has maintained or is maintaining another qualified defined benefit pension plan under which an Employee participated, the maximum annual pension payable under this Section XIII will apply on a pro-rata basis between or among all such plans.
- 13.06 For purposes of this Section XIII the term “Compensation” means compensation under Code section 415(c)(3).

For purposes of applying the limitations of this Section, Compensation for a Plan Year is the Compensation actually paid or made available during such year.

- (b) Defined benefit dollar limitation. The “defined benefit dollar limitation” is \$185,000, as adjusted, effective January 1 of each year, under section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies.

Maximum permissible benefit: The “maximum permissible benefit” is the defined benefit dollar limitation (adjusted where required, as provided in (a) and if applicable, in (b) or (c) below).

- (a) If the participant has fewer than 10 years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the plan and (ii) the denominator of which is 10.

- (b) If the benefit of a Participant begins prior to age 62, the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age 62 (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in section XIII of the plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.
- (c) If the benefit of a participant begins after the participant attains age 65, the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age 65 (adjusted under (a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in section XIII of the plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

The annual compensation of each participant taken into account in determining benefit accruals in any Plan Year, shall not exceed \$230,000. Annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan (the determination period). The \$230,000 limit on annual compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

- 13.07 For the purpose of this Section XIII the Limitation Year for any Employer is a calendar year, unless the Employer, by written resolution, adopted a different 12-month period as his Limitation Year, in accordance with applicable laws and regulations.
- 13.08 Any benefit payments which commenced within three years of the date of termination of Plan which in the aggregate, exceeded the sum of:

- A. the monthly income payments which such Participant could have received as a life annuity between his Retirement Date and date of termination of Plan, during each 12-month period within such 3-year period, plus
- B. the excess, if any, for each of the consecutive 12-month periods of the actual payments made to the Participant, not in excess of \$10,000, for each such 12-month period, over the sum of the monthly income payments which could have been paid under Paragraph A above, plus
- C. the present value of the total monthly Plan benefit which could have been provided for such Participant in accordance with Section 6.01(b) as of the date of Termination of Plan,

except for payments made after or on account of the death of a Participant or to a Participant who is disabled, are subject to repayment to the Plan.

- 13.09 Notwithstanding any other Plan provision to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under Code section 415(b)(2)(B), (C) or (D) of the Code, for distributions with Annuity Starting Dates on or after December 31, 2002, is the table prescribed in Rev. Rul. 2001-62.

#### SECTION XIV – TRUST AGREEMENT

- 14.01 Notwithstanding anything else herein to the contrary, the assets of the Plan may be held and invested pursuant to a trust agreement which qualifies under sections 401(a) and 501(a) of the Code. The Employer may enter into a trust agreement and select a trustee for the Plan. Benefits payable hereunder may be paid directly from the trust or from annuity contracts.

## SECTION XV – INVESTMENT COMMITTEE

- 15.01 The Superintendent of Schools or such individual or individuals as he or she may designate (the Superintendent of Schools or any such individual or individuals hereinafter referred to as the “Investment Committee”) shall be responsible for adopting an investment policy with respect to the assets of the Plan and selecting investment managers and investment advisors who shall be responsible for the investment of Plan assets consistent with the investment policy. The Investment Committee, pursuant to this Section 15.01, shall exercise duties hereunder in accordance with Section 15-114 of the Estates and Trusts Article of the Annotated Code of Maryland (2001).

Any Employee of the Employer to whom responsibility is delegated under this Section 15.01 shall be required to accept such delegation as a condition of his or her employment with the Employer. All actions taken by such Employee pursuant to this delegation shall be considered to have been taken within the scope of his or her employment.

## SECTION XVI – INDEMNIFICATION OF PENSION COMMITTEE AND INVESTMENT COMMITTEE MEMBERS

16.01 Notwithstanding anything herein to the contrary, the Employer shall indemnify every individual who is a member of the Pension Committee or the Investment Committee who is or may become party to any action, suit or proceeding, including administrative and investigative proceedings, by reason of service as a member of such committee, for claims up to \$100,000, subject to the conditions and standards stated in this Article.

16.02 Conditions and Standards for Indemnification.

- (a) The Employer shall not indemnify any individual who is a member of the Pension Committee or Investment Committee for any loss resulting from the individual's malice or gross negligence as determined in all cases in accordance with Section 5-518 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland (2001).
- (b) If the Employer indemnifies a member of the Pension Committee or the Investment Committee under this Section, the Employer shall indemnify the individual for expenses when the member incurs the expense, including, but not limited to:
  - (1) Reasonable attorney fees;
  - (2) Judgments;
  - (3) Damages;
  - (4) Fines; and
  - (5) Settlements.

Provided, however, that any indemnification for expenses shall be limited to only such expenses related to the portion of liability indemnified pursuant to this Section.

- (d) The termination or settlement of any suit, action or proceeding by an individual who is a member of the Pension Committee or the Investment Committee does not, by itself, create a presumption that such individual is not entitled to indemnification hereunder.
- (e) The Employer shall provide insurance for each individual who is a member of the Pension Committee or the Investment Committee for any liability asserted against or incurred by the member with respect to service on such committee for which indemnification is provided hereunder. Premiums for any insurance shall not be

paid with assets of the Plan. The Employer may self-insure for this purpose, wholly or partly.



EXHIBIT A  
Board of Education of Charles County Pension Plan  
Actuarial Equivalence

The following assumptions will be used to determine actuarial equivalence under this pension plan:

Mortality Table:

Age	Probability of Death	Age	Probability of Death	Age	Probability of Death
15	0.000325	47	0.001715	79	0.033816
16	0.000325	48	0.001932	80	0.036981
17	0.000325	49	0.002183	81	0.040489
18	0.000325	50	0.002471	82	0.044306
19	0.000325	51	0.002790	83	0.048400
20	0.000333	52	0.003138	84	0.052740
21	0.000343	53	0.003513	85	0.057294
22	0.000353	54	0.003909	86	0.062019
23	0.000365	55	0.004324	87	0.068931
24	0.000377	56	0.004755	88	0.076452
25	0.000392	57	0.005200	89	0.084610
26	0.000408	58	0.005567	90	0.093686
27	0.000424	59	0.005936	91	0.103638
28	0.000444	60	0.006315	92	0.112669
29	0.000464	61	0.006720	93	0.122456
30	0.000488	62	0.007157	94	0.133109
31	0.000513	63	0.007657	95	0.144519
32	0.000542	64	0.008239	96	0.156640
33	0.000572	65	0.008918	97	0.171552
34	0.000607	66	0.009717	98	0.189505
35	0.000645	67	0.010653	99	0.209840
36	0.000687	68	0.011744	100	0.229916
37	0.000734	69	0.013006	101	0.252586
38	0.000785	70	0.014443	102	0.272460
39	0.000860	71	0.016027	103	0.294646
40	0.000907	72	0.017855	104	0.319185
41	0.000966	73	0.019805	105	0.341086
42	0.001039	74	0.021850	106	0.365052
43	0.001128	75	0.023984	107	0.393102
44	0.001238	76	0.026276	108	0.427255
45	0.001370	77	0.028521	109	0.469531
46	0.001527	78	0.031012	110	0.521945

This is the 1983 GAM Mortality Table for males. Rates are projected using Scale H. No projection is used for ages 15 through 53. The rate for age 54 is projected one year using Scale H, the rate for 55 is projected 2 years, 56 is projected 3 years, etc. Mortality rates are set back four years. The same rates are used for males and females.

Interest Rate: 7.00%

**AMENDMENT NO. 1  
TO THE  
BOARD OF EDUCATION OF CHARLES COUNTY PENSION PLAN**

WHEREAS, the Board of Education of Charles County (the "Board") maintains the Board of Education of Charles County Pension Plan as amended and restated effective as of July 1, 2007 (the "Plan"); and

WHEREAS, the Internal Revenue Service, in response to the Board's submission for a determination letter on the Plan's qualification filed July 2, 2010, has requested, as a condition of issuing a favorable determination letter, that the Board adopt certain amendments to the Plan, and the Board wishes to adopt those amendments in compliance with the Internal Revenue Service's request.

NOW THEREFORE, the Plan is hereby amended as follows:

1. Effective for limitation years beginning on or after July 1, 2007, the following is added as 13.07 of the Plan:

13.07 Effective for limitation years beginning on or after July 1, 2007, notwithstanding anything herein to the contrary, the Plan rules on benefit limitations shall in all respects be consistent with the requirements of section 415 of the Code and related regulations, as modified for governmental plans, which are hereby incorporated and made a part of the Plan by this reference.

2. Effective July 1, 2007, Section IX of the Plan is amended to read as follows:

**SECTION IX – PLAN QUALIFICATION**



This Plan is a governmental plan and intends to satisfy Code section 401(a) by meeting the requirements of Code section 414(d).

3. In all other respects the Plan, as amended herein, is hereby ratified and confirmed.

IN WITNESS WHEREOF, this Amendment has been executed on behalf of the Board by the undersigned duly authorized member of the Board.

BOARD OF EDUCATION OF  
CHARLES COUNTY

Date: 7/18/11

By:   
Title: 

**AMENDMENT NO. 2  
TO THE  
BOARD OF EDUCATION OF CHARLES COUNTY PENSION PLAN**

WHEREAS, the Board of Education of Charles County (the "Board") maintains the Board of Education of Charles County Pension Plan as amended and restated effective as of July 1, 2007 (the "Plan"); and

WHEREAS, the Board wishes to adopt amendments to comply with the requirements of the Heroes Earnings Assistance and Relief Tax Act of 2008, the Worker, Retiree, and Employer Recovery Act of 2008, the Pension Protection Act of 2006 and to update the Plan for changes negotiated with the Federation of the State, County and Municipal Employees Council 67.

NOW THEREFORE, the Plan is hereby amended as follows:

1. Effective July 1, 2011, Section 1.18 is amended by adding the following new paragraph to the end thereof:

Notwithstanding any provision of the Plan to the contrary, effective for any Participant hired on or after July 1, 2011, "Normal Retirement Date" means the first day of the month coincident with or next following the earlier of (1) the date the Participant attains age 60 and completes 10 years of Continuous Service, or (2) the date the Participant completes 30 years of Continuous Service.

2. Effective July 1, 2011, Section 2.01 of the Plan is amended to read as follows:

2.01 ELIGIBILITY. Each Employee who was a Participant on June 30, 2011 shall continue to participate in this Plan as amended and restated. Each other Employee will be eligible to become a Participant on the first Entry Date thereafter upon which he meets the requirements set forth below. For this purpose, "Entry Date" means the first day of each month.

- (a) He is a full-time, permanent Employee regularly employed for at least 4 hours daily and for at least 10 months in any one year.
- (b) He has completed an enrollment form. By enrolling in the Plan, the Participant authorizes the Employer to reduce his compensation by five percent (5%) (until changed by the Employer) and contribute this amount to the Plan; this contribution shall be "picked up" and paid by the Employer to the Plan on the Participant's behalf and treated as an Employer contribution in accordance with section 414(h) of the Code. Eligible Employees shall not have the option of choosing to receive such contributions in cash. The Employer reserves the right to change the rate, by amendment, on an annual basis for the upcoming Plan Year. Salary reductions shall begin on the first day of the first payroll period which begins at least 15 days after the completed enrollment form is received by the Plan Administrator, and shall remain in effect for the duration of the Employee's employment, provided he continues to meet the requirements of paragraph (a) above. Any contributions made in accordance with this paragraph shall not be



distributed to the Participant until the Participant's Retirement, death, or Termination of Employment.

Participants shall be 100% vested in salary reduction contributions at all times. In accordance with section 414(h) of the Code, salary reduction contributions under this paragraph (b) shall not be included in the Participant's W-2 earnings for federal income tax purposes at the time of contribution. Each Employee who meets the requirements of paragraph (a) above shall be required as a condition of employment to make salary reduction contributions.

A Participant shall become fully vested in the remainder of his benefit (the Employer-provided benefit) upon completion of 5 years of Continuous Service (10 years of Continuous Service for any Participant hired on or after July 1, 2011).

3. Effective July 1, 2010, Section 3.01 is amended by adding the following new paragraph to the end thereof:

Notwithstanding anything herein to the contrary, effective July 1, 2010, the amount of the monthly benefit for each Participant retiring on his Normal Retirement Date, other than a Participant who attained age 55 or 30 years of Continuous Service prior to July 1, 2007, will be equal to 1½% of his Average Monthly Earnings multiplied by his Years of Continuous Service through July 1, 1998, plus 2% of his Average Monthly Earnings multiplied by his Years of Continuous Service after July 1, 1998.

4. Effective July 1, 2011, the first sentence of Section 3.02 is amended to read as follows:

A Participant who has both attained Age 50 and completed 5 years of Continuous Service (10 years of Continuous Service for any Participant hired on or after July 1, 2011) may retire on the first day of any month after satisfying such requirements and prior to his Normal Retirement Date, which date shall be his Early Retirement Date.

5. Effective July 1, 2010, Section 3.04(d) is amended to read as follows:

(d) The amount determined in accordance with Paragraph 3.01, multiplied by the Late Retirement Percentage specified below:

<u>Actual Age at Late Retirement Date</u>	<u>Late Retirement Percentage</u>
61-64	100%
65+	150%

6. Effective July 1, 2011, Section 3.04(d) is deleted and the introductory paragraph of Section 3.04 is amended to read as follows:

3.04 LATE RETIREMENT BENEFIT. If a Participant's retirement is deferred in accordance with the employment policies of the Employer to a Late Retirement Date, which may be the first day of any month after his Normal Retirement Date, his retirement annuity payments will commence to him on his Late Retirement Date in an amount determined in accordance with Paragraph 3.01 based on his Continuous Service and Average Monthly Earnings on his Late Retirement Date. For Participants who attained age 55 or 30 Years of Continuous Service prior to July 1, 2007, payments will be increased and will be equal to the sum of (a) plus (b) plus (c) below. For all other Participants, there will be no increased Late Retirement Benefit.

7. Effective July 1, 2010, a new Section 3.05A is added to the Plan as follows:

3.05A SPECIAL PRE-RETIREMENT SPOUSE DEATH BENEFIT. If any married active Participant dies during approved work hours and within the scope of CCPS employment, the pre-retirement spouse death benefit provisions of Section 3.05 will apply without regard to whether the Participant elected such benefit under Section 3.05.

8. Effective July 1, 2011, Section 3.08 is amended to read as follows:

3.08 TERMINATION OF EMPLOYMENT. A Participant, upon Termination of Employment, shall be entitled to elect, in lieu of any other benefit under the Plan, either Option A or Option B below. Each Participant is fully vested at all times in his contributions with interest as described in paragraphs 2.01(b) and 2.05. A Participant becomes fully vested in the remainder of his Accrued Benefit (his Employer-provided benefit) upon completion of 5 years of Continuous Service (10 years for any Participant hired on or after July 1, 2011); prior to completion of 5 years of Continuous Service (10 years of Continuous Service for any Participant hired on or after July 1, 2011) he is 0% vested in that amount.

Option A - Cash Refund. Under this option, the Participant will receive a refund of contributions described in Paragraphs 2.05 and 2.01(b), with interest thereon (as described in Section 2.06) to the first day of the month in which Termination of Employment occurs.

Option B - Deferred Annuity. This option is only available if as of his Termination of Employment, the Participant has completed 5 or more years of Continuous Service (10 years for any Participant hired on or after July 1, 2011). Under this option, the Participant will receive a monthly annuity, commencing at Normal Retirement, equal to the amount computed in accordance with Paragraph 3.01, but based upon the Participant's Years of Continuous Service completed prior to Termination of Employment.

If within 90 days of his Termination of Employment, a Participant has not elected Option A above, he shall be deemed conclusively to have elected Option B above.

If at some later date the Participant elects a refund of contributions described in Paragraphs 2.05 and 2.01(b) (plus interest thereon), the refund will be made in lieu of all other benefits under the Plan.



9. Effective July 1, 2011, Section 3.09(a)6 is amended to read as follows:

6. "Consumer Price Index Adjustment Date" means each Plan Change Date prior to the Participant's death, if the Consumer Price Index determined as the average of the 12 months ending with the April preceding the month in which the Plan Change Date occurred is greater than the Consumer Price Index determined as the average of the 12 months ending with the April prior to the most recent prior Plan Change Date that resulted in a benefit adjustment under the Plan.

10. Effective January 1, 2008, the last paragraph of Section 4.03 is amended to read as follows:

For this purpose, "eligible retirement plan" means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), an eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, a qualified trust described in Code section 401(a), or a Roth individual retirement account described in Code section 408A (but only if the requirements of Code section 408A, including any income limitations, are met), any of which accepts the distributee's eligible rollover distribution. This definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code. For purposes of this paragraph, "distribute" includes an employee or former employee, such individual's surviving spouse, or such employee's or former employee's spouse or former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code section 414(p). A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

11. Effective January 1, 2010, a new paragraph is added to the end of Section 4.03 to read as follows:

With respect to a non-spouse beneficiary who is an individual or which is a trust described in Code section 402(c)(11)(B), the Plan may, in accordance with Code section 402(c)(11), make a distribution to an individual retirement plan described in clause (i) or (ii) of Code section 402(c)(8)(B) established for the purposes of receiving the distribution on behalf of the beneficiary, in accordance with the provisions of this Section 4.03 of the Plan.

12. Effective January 1, 2007, the following Addendum A, as attached hereto, is added to the Plan.

13. In all other respects the Plan, as amended herein, is hereby ratified and confirmed.

IN WITNESS WHEREOF, this Amendment has been executed on behalf of the Board by the undersigned duly authorized member of the Board.

BOARD OF EDUCATION OF  
CHARLES COUNTY

Date: November 29 2011. By: James R. [Signature]  
Title: Superintendent - Charles Co.



## **Addendum A. Special Military Service Addendum**

1. **Purpose, Superseding Provision.** The purpose of this Special Military Service Addendum ("Addendum") is to provide for certain benefits for active Participants who are called to qualified military service (as defined in Section 414(u) of the Code) on or after January 1, 2007. This Addendum forms a part of the Plan and its terms shall supersede other provisions of the Plan to the extent such other provisions are inconsistent with this Addendum.
2. **Military Service Participants.** Any active Participant described in paragraph 1 above shall be termed a "Military Service Participant" for that Plan Year and shall be eligible to receive the benefits set forth herein.
3. **Vesting Upon Death.** A Military Service Participant who dies while he is a Participant and engaged in qualified military service on or after January 1, 2007 shall be fully vested in the value of his benefit as of the date of his death.
4. **Military Service Survivor Benefits.** Notwithstanding any other provision of the Plan and to the extent required by Section 401(a)(37) of the Code and any guidance issued thereunder, in the case of a Participant who dies after December 31, 2006 while performing qualified military service (as defined in Section 414(u) of the Code), the survivors of such Participant shall be entitled to any additional benefits (other than benefit accruals related to the period of such qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death.
5. **Employee.** To the extent required by Section 414(u)(12) of the Code, an individual who is receiving a differential wage payment (within the meaning of Section 414(u)(12)(D) of the Code) shall be treated as an Employee.
6. **Compensation.** For purposes of the Restriction of Benefits set forth in Section XIII of the Plan, differential wage payments shall be treated as Compensation. For purposes of the preceding sentence, the term differential wage payment means any payment which is made by the Employer to a Participant with respect to any period during which the Participant is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty, to the extent such payments do not exceed the amounts the Participant would have received if such Participant had continued to perform services for the Employer rather than entering military service.