

# NDPERS BOARD MEETING

# Agenda

**Bismarck Location:**  
ND Association of Counties  
1661 Capitol Way  
**Fargo Location:**  
BCBS, 4510 13<sup>th</sup> Ave SW

**September 19, 2013**

**Time: 8:30 AM**

## **I. MINUTES**

A. August 22, 2013

## **II. RETIREMENT**

- A. Defined Contribution Plan/TIAA-CREF Survey – Sparb/TIAA-CREF (Information)
- B. Defined Contribution Implementation Update – Deb (Information)
- C. State Hybrid Plans – Sparb (Information)
- D. Defined Benefit Report – Sparb (Information)
- E. 457 Companion Plan and 401(a) Plan 2<sup>nd</sup> Quarter Reports – Bryan (Information)

## **III. GROUP INSURANCE**

- A. BCBS Quarterly Executive Summary- BCBS (Information)
- B. Affordable Care Act Shared Responsibility Provision – Sparb (Information)
- C. Affordable Care Act Notice – Kathy (Information)
- D. HIPAA Compliance Changes – Deb (Board Action)
- E. Medicare Part D Risk Scores – Sparb (Information)
- F. Flu Shot Program – Rebecca (Information)
- G. Wellness Fair Update – Rebecca (Information)
- H. Retiree Wellness Fair Update – Stacy/Rebecca (Information)

## **IV. FLEX COMP**

- A. Flex Comp Survey – Sparb/Kathy (Information)
- B. Flex Comp Participation – Sparb (Information)
- C. Other Employer-Sponsored Voluntary Insurance Products – Kathy (Board Action)

## **V. MISCELLANEOUS**

- A. Administrative Rules – Deb (Board Action)
- B. PERS Update – Sharon (Information)
- C. Audit Committee Minutes – (Information)
- D. Group Health Insurance Appeal Case #141 – Kathy (Board Action)

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Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.



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# Memorandum

**TO:** PERS Board

**FROM:** Sparb

**DATE:** September 10, 2013

**SUBJECT:** Defined Contribution Plan Survey

At the last meeting we discussed the DC plan survey including the responses relating to TIAA-CREF, our existing provider (Attachment 1 are those questions and comments for your reference). As part of our action plan to respond, it was decided to share the information with TIAA-CREF and invite them to a Board meeting to gain their perspective on the results and to discuss how they intended to respond to the concerns presented. TIAA-CREF will be at the September meeting. Attachment 2 is part of the information they intend to discuss with us.

In addition, at the last meeting we decided to ask the same questions relating to TIAA-CREF to a sample of our Companion Plan members to see if their answers were similar to the DC members. Since both programs use the same services from TIAA-CREF the thought was to see if the perspective of the Defined Contribution plan members and the Companion Plan members was the same. It was noted in reviewing the DC survey results that the high negative responses about participating in the DC plan may have influenced the responses relating to TIAA-CREF. Sending the same questions to the Companion Plan members that are not in the DC plan will test that observation. Attachment 3 is the survey. Please note that we used this opportunity to also ask a question relating to the recovery plan for the PERS retirement plan. We should have the responses for your review at the October or November Board meeting.

Also since the last meeting we have met with TIAA-CREF to review the responses.

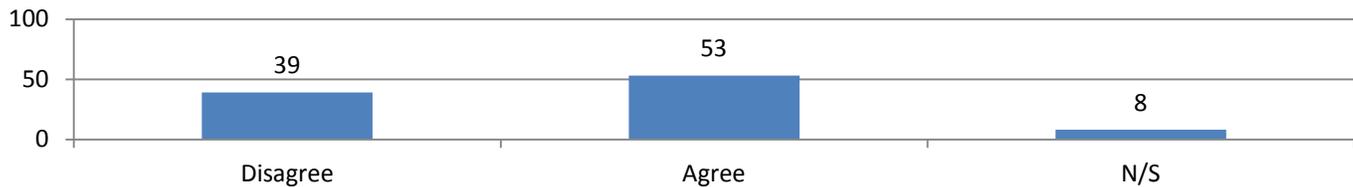
You will also note that we added an additional question at the end of the survey to get a feel from the membership about how we should go forward with the last quarter of the recovery plan.

# NDPERS Defined Contribution 401(a) Plan Survey – 85 Responses (31%)

1. Are you satisfied with the investment funds available?	48% Yes 48% No
2. Are you satisfied with the availability of plan information?	45% Yes 51% No
3. Are you confident that you are on the right track for retirement?	29% Yes 68% No
4. Do you feel that you made the right decision to move to the Defined Contribution 401(a) plan from the Defined Benefit Pension Plan?	13% Yes 65% No 22% Unknown
5. If given the option, would you elect to drop the D.C. plan and rejoin the Defined Benefit Plan?	80% Yes 13% No
6. Have you ever met with a TIAA-CREF investment advisor?	39% Yes 61% No
7. Do you use an investment advisor or financial planner (other than TIAA-CREF) to help you with your investment decisions?	59% Yes 39% No

## TIAA-CREF Questions

	Strongly disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree	N/S
8. I am satisfied with the decision to change providers to TIAA-CREF.	24	9	6	22	25	6	8



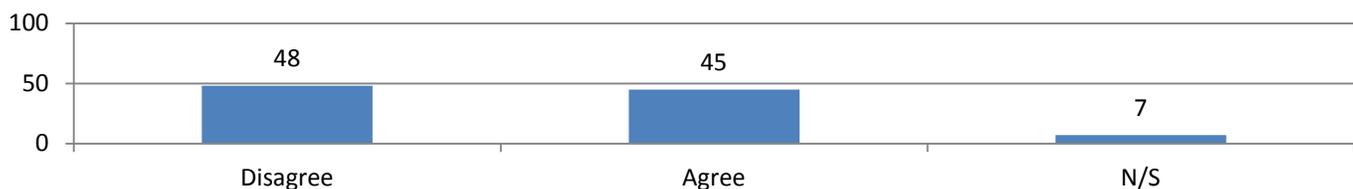
The transfer from TIAA-CREF from Fidelity was performed in an unprofessional manner.

I wish you would return to Fidelity!

PERS going to CREF was a mistake. Fidelity was much better.

TIAA-CREF may be cheaper for the State, but not for the former employee!!

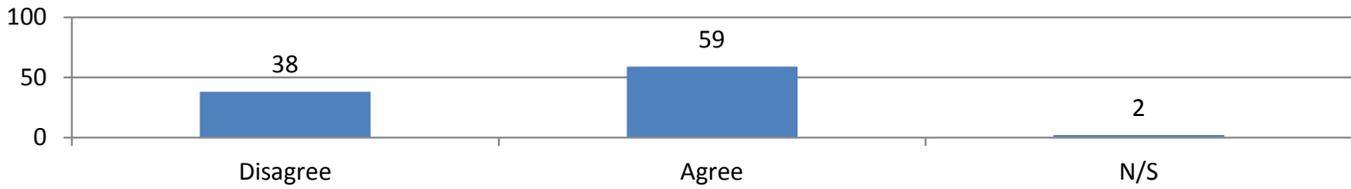
9. I am satisfied with the investment education and advice given by TIAA-CREF.	24	15	9	18	26	1	7
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Advisors provided by TIAA-CREF are a joke. They don't give advice – they asked me what I should invest in – aren't they the experts??

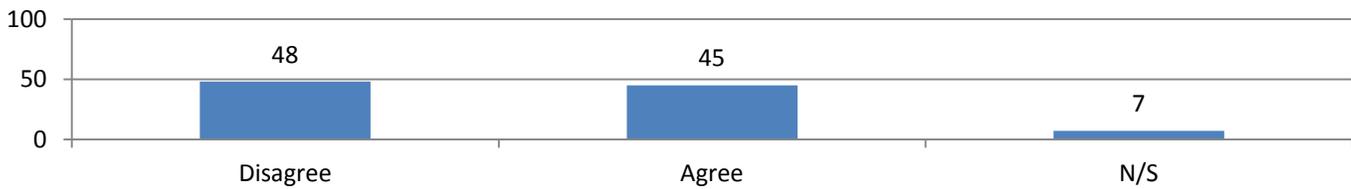
I am retired and used to work as a stockbroker. I am totally not impressed with TIAA-CREF. Their advice & investment choices are very limited and their fees are more than I was paying before.

10. I am satisfied with the web services and quarterly statements provided by TIAA-CREF. 21 8 9 21 33 5 2



I'd like to see my statement what I've put in and the return since the inception of my plan. Back all 11 yrs. Total Contributions Total Returns

11. I am satisfied with the availability of counselors and advisors from TIAA-CREF. 25 9 14 22 19 4 7



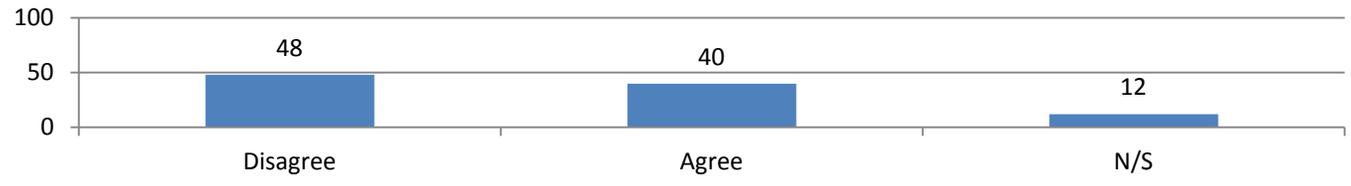
I scheduled an appt with TIAA-CREF advisor and they didn't show. I had to reschedule and he didn't know anything about my plan.

Talked to TIAA-CREF advisor on phone. Attempted to meet, but appt difficult.

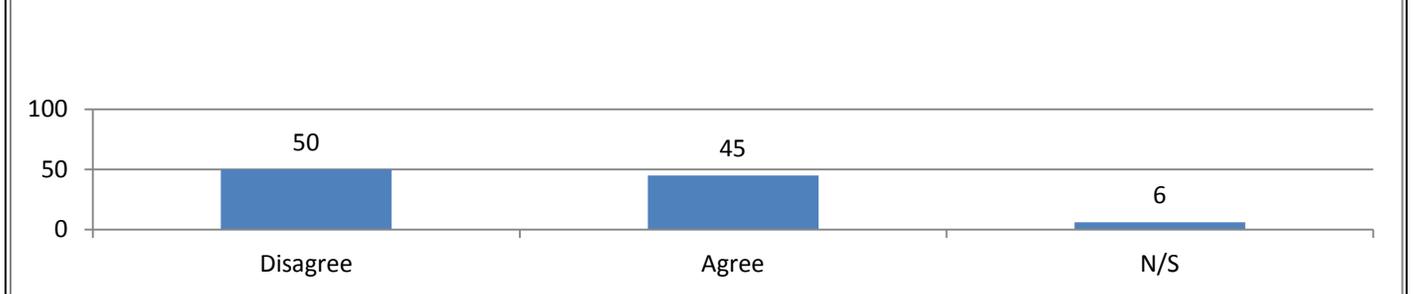
Tried to set up meeting with representative – full – received email same day – appointments were full.

Next to impossible to schedule a face to face session. I did not have this problem before.

12. I am satisfied with the brokerage window for investing in other mutual funds. 25 8 15 25 14 1 12



13. I would recommend TIAA-CREF to other employees. 24 18 8 24 19 2 6



TIAA has been very good in meetings.

## Demographics:

<b>23. Years of Service with the state</b>	<b>24. Age at last birthday</b>	<b>25. Marital Status</b>
11% <10, 23% 10-14, 23% 15-19, 29% 20+, 4% N/S 17.2 Years average	11% <40, 45% 40-49, 33% 50-59, 9% 60+, 2% N/S 48.6 Years average	14% Single 82% Married 3% N/S
<b>26. Please circle your current monthly salary range?</b> 6% <\$2,000    20% \$2,000-\$3,999    35% \$4,000-\$5,999    29% \$6,000+    9% N/S		



Financial Services

TIAA  
CREF

# TIAA-CREF Plan Outcome Assessment

Prepared for North Dakota  
Public Employees Retirement System

September 2013



An approach to optimizing  
plan effectiveness and  
driving employees'  
retirement readiness

## Discussion Topics

TIAA-CREF reviewed North Dakota Public Employees Retirement System retirement plan to measure the retirement income replacement ratio of actively contributing plan participants. Today we will examine:

- Your plan's retirement income replacement ratio
- How your plan compares to a benchmark
- Next steps to help enhance your plan and participant outcomes

**This Plan Outcome Assessment uses the actual salary and/or compensation data the institution provided to TIAA-CREF.**

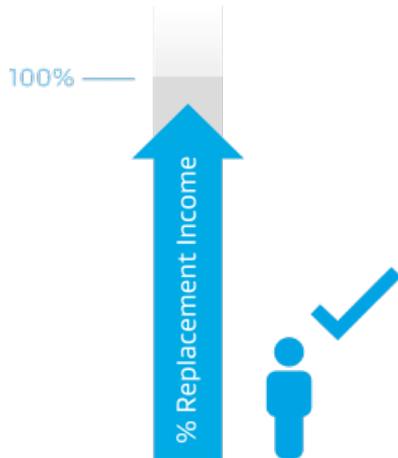
## Plan and Participant Retirement Readiness Ratios Are Linked

**The higher the plan’s average retirement income replacement ratio, the greater the overall preparedness of plan participants for retirement.**

Using the TIAA-CREF advice engine, each plan participant’s retirement readiness was calculated to determine how “ready” individuals are for replacing income in retirement.

- On track to replace more than 80% of after-tax income in retirement
- On track to replace 50%-79% of after-tax income in retirement
- On track to replace less than 50% of after-tax income in retirement

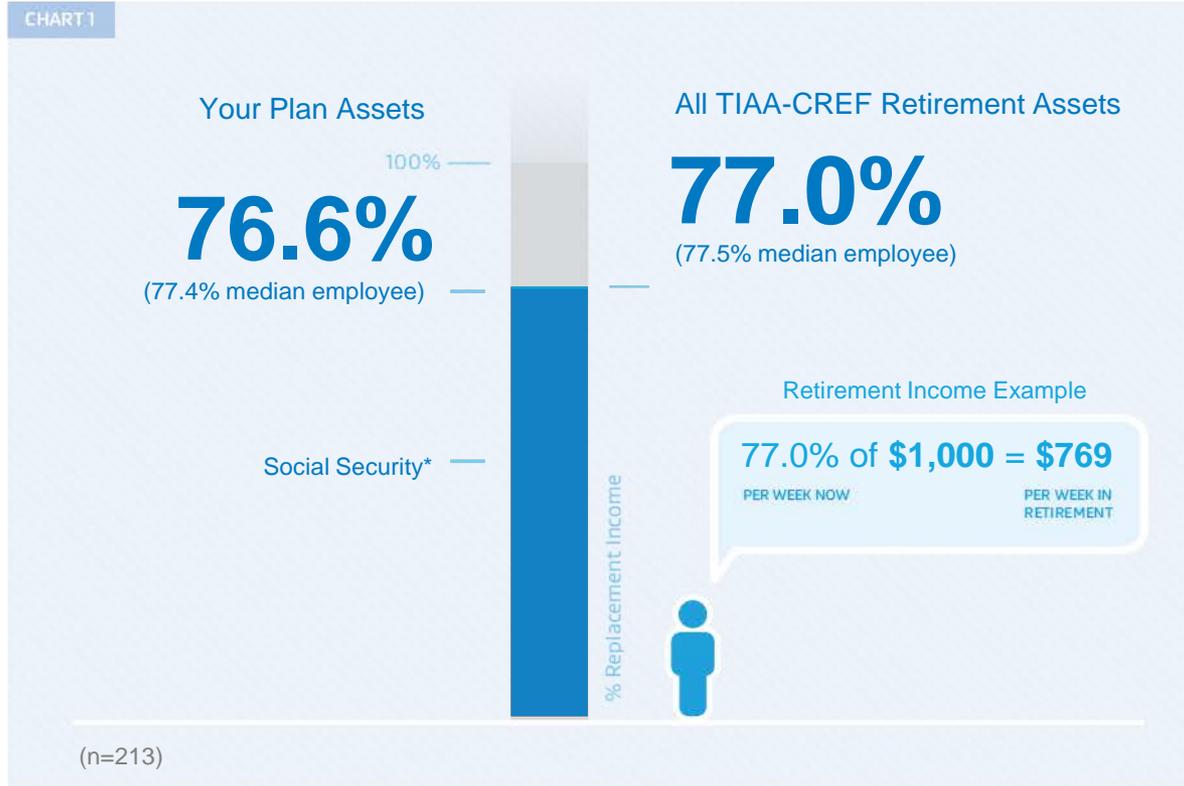
For more details, please refer to the “Report Methodology and Assumptions” slide in the Appendix.



# Your Plan's Retirement Income Replacement Ratio



## Average income replacement across your employees (as of December 31, 2012)



\*Social Security generally provides 20-40% of an individual's retirement income depending on the individual's total taxable income and tax rate.

**This report uses the actual salary and/or compensation data the institution provided to TIAA-CREF.**

## Current Plan Assets

**\$70,422**

Average annual salary (pre-tax)

**\$41,126**

Average annual after-tax retirement income your participants are on track to receive from your TIAA-CREF plan(s)

**\$107,839**

Average Plan balance

**11%**

Average contribution rate (employee & employer)

**48**

**11.1 years**

Average age

Average years in plan

## Plan Assets Plus Assets in All TIAA-CREF Retirement Plans (Past & Current Employers)

**\$41,355**

Average annual after-tax retirement income your participants are on track to receive from all their TIAA-CREF plans (including other employers)

**\$112,386**

Average all TIAA-CREF assets balance

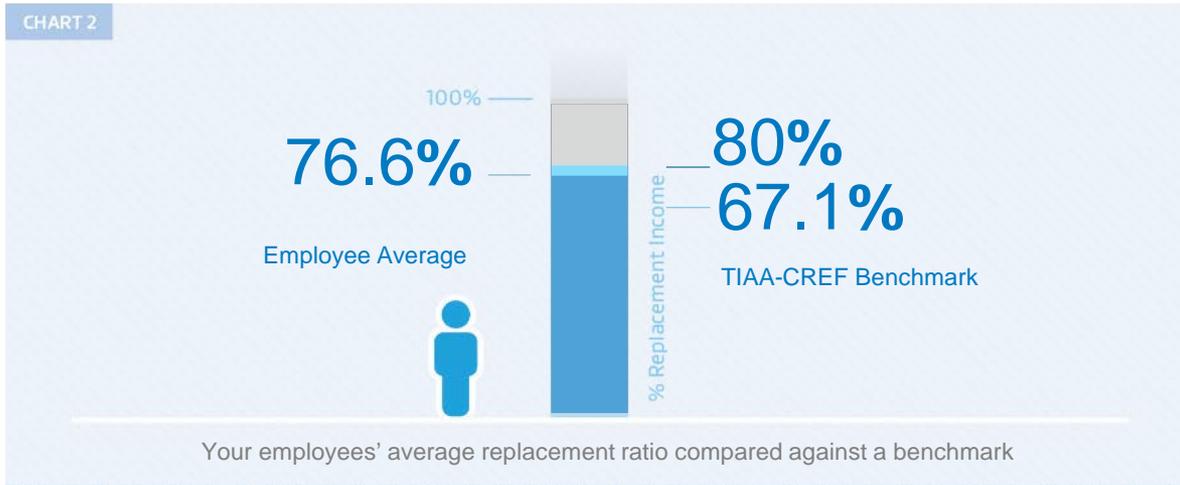
**3.8%**

Employees with balances in other TIAA-CREF administered retirement plans

# Compare Your Plan to Benchmarks



## Average income replacement across your employees compared to the TIAA-CREF Benchmark and average income replacement ratio



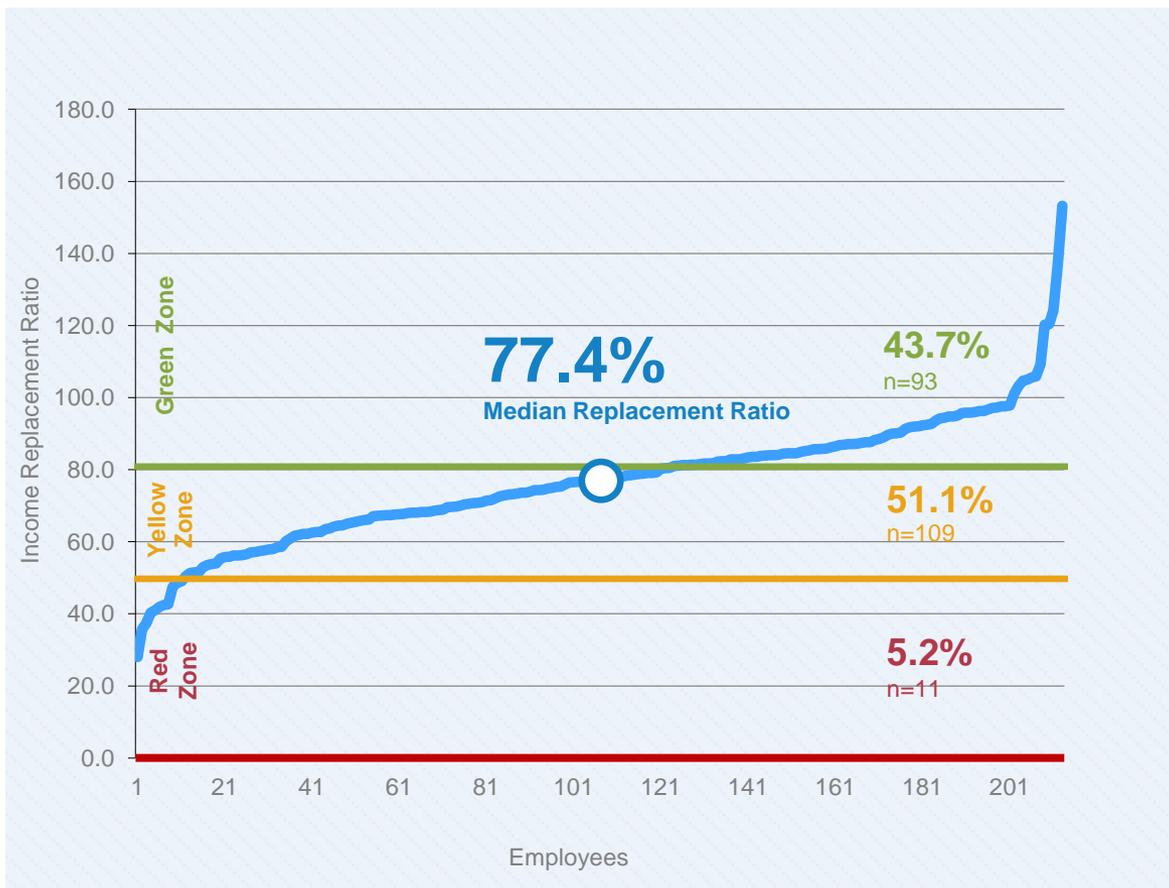
**80%** is a generally accepted target income replacement ratio.

The TIAA-CREF benchmark reflects 151 institutions in the not-for-profit market with plan assets between \$25M and \$100M.

	Your Plan Assets	TIAA-CREF Benchmark	Effect on income replacement ratio
Average annual salary (pre-tax)	\$70,422	\$71,446	The lower the average annual salary, the higher the ratio, because the participant must replace less income in retirement. Also, lower salary means Social Security has a greater impact in providing a retirement income floor.
Average annual retirement income (after-tax)	\$41,126	\$37,169	The higher the retirement income, the higher the income replacement ratio, assuming salaries are equal.
Average asset balance	\$107,839	\$43,071	The higher the average balance, the higher the potential income in retirement.
Average contribution rate	11%	9%	The higher the average contribution rate, the higher the potential income in retirement.
Average age	48	46	The lower the average age of plan participants, the more time employees have to save, leading to higher potential income in retirement.

# How much income is the plan actually replacing? The plan and the participants at a glance

## North Dakota Public Employee Assets Only



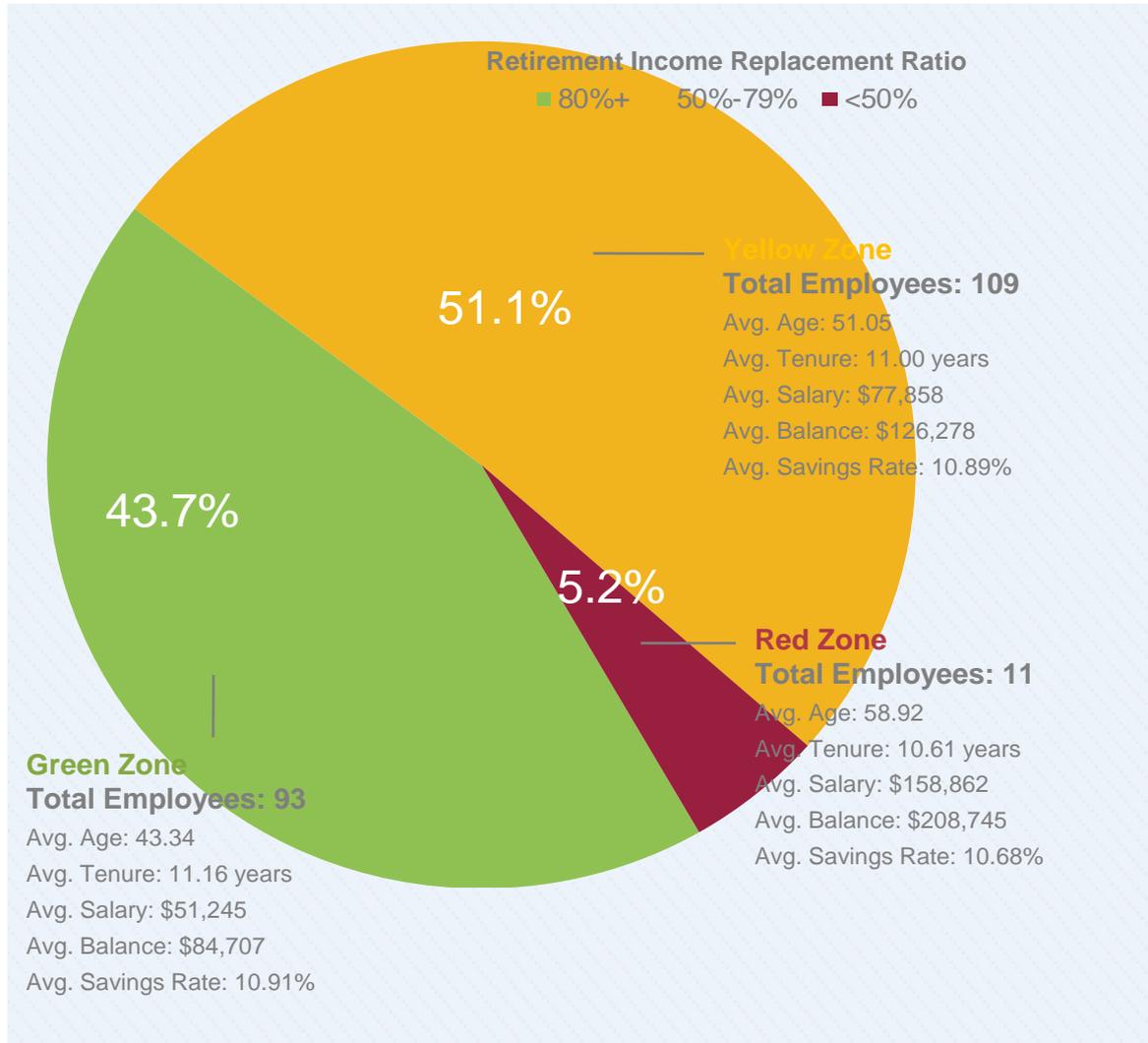
## Key Observations

- 44% of participants have income replacement ratios over 80%
- There are 11 employee with income replacement ratios under 50%

Retirement income replacement ratio calculated by TIAA-CREF's third-party advice provider, Ibbotson Associates, based on a participant's savings rate, asset allocation, balance and salary in 2012. Estimates a 70% chance of achieving after-tax retirement income as a percentage of after-tax salary in today's dollars.

# Employee retirement readiness at a glance

## Employee Detail by Zone



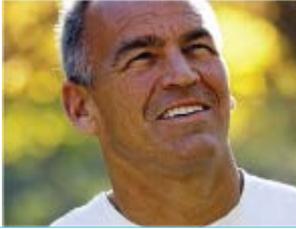
## Key Observations

- Your plan and Social Security can provide **53.4%** of your employees with adequate income in retirement
-

# Targeting employees by lifestage to help increase retirement readiness

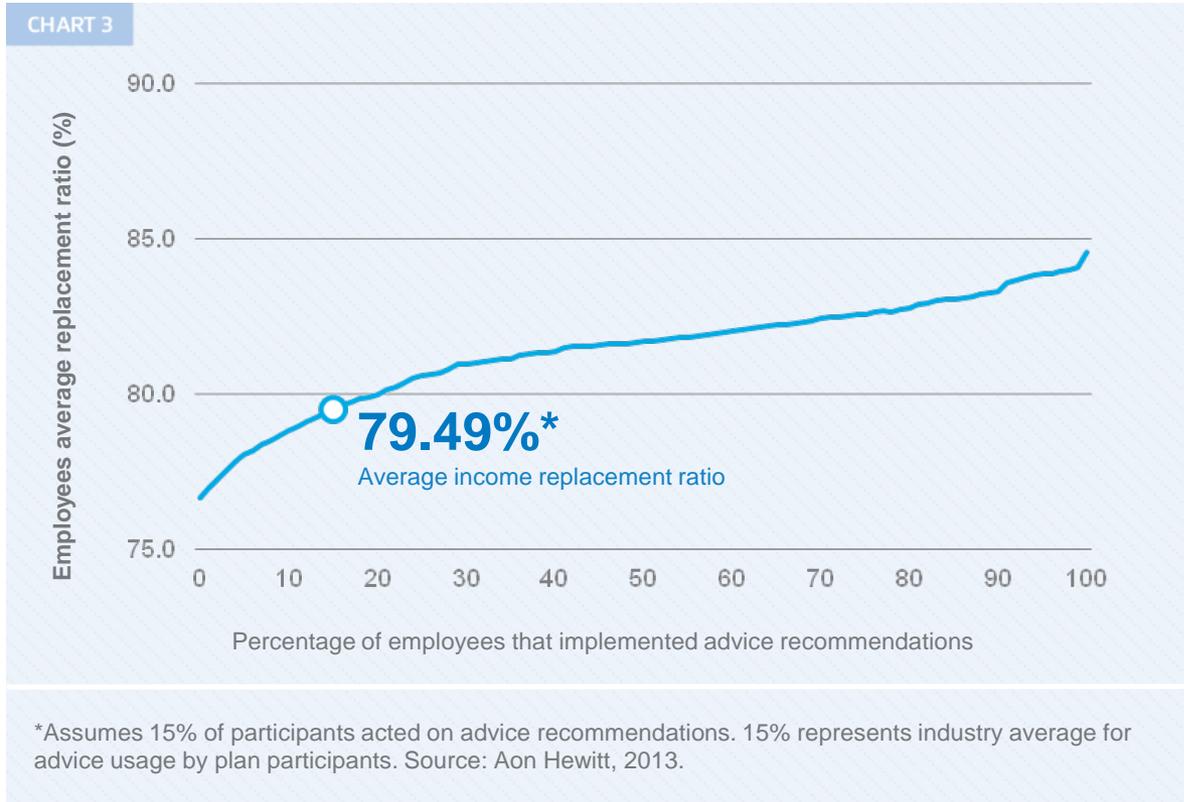


**Focusing on outreach to certain lifestage segments may enhance both plan and participant outcomes.**

	Dollar Stretchers	Life Builders	Accumulators	Transitioners	Established
					
# of employees	4	71	98	35	5
Avg. total assets	\$71,753	\$56,196	\$100,531	\$248,463	\$284,666
Avg. salary	\$57,660	\$54,205	\$73,950	\$93,906	\$104,980
Avg. income replacement ratio	67.4%	83.5%	77.2%	63.1%	59.5%
Avg. saving rate	9.7%	9.8%	11.1%	12.6%	12.4%

# Engaging employees: Advice can make a difference

## Average Income Replacement Assuming Your Employees Took Advantage of Our Advice Recommendations



## Next steps to help enhance your plan and participant outcomes

- Define retirement Plan goals and objectives to help inform next steps**
- Leverage TIAA-CREF's participant communication, education and advice to drive improved retirement readiness outcomes**
- Target select plan segments for increased communication and education outreach to meet your plan objectives**
- Share Plan Outcome Assessment with key stakeholders, such as the benefits committee, board of directors, CHRO, to review Plan progress**

# Plan Outcome Assessment: Methodology and assumptions



## Calculation of the Retirement Income Replacement Ratio

- TIAA-CREF measures retirement income replacement ratios by calculating the projected stream of distributions from participants' assets and estimated Social Security benefits in current dollars as a percentage of employees' current salaries.
- Using the participant's salary, current contribution rates and asset allocation, TIAA-CREF leverages the advice engine from Ibbotson Associates, Inc., an independent expert retained by TIAA-CREF, to perform a sophisticated, Monte Carlo analysis (500 total simulations) to project the retirement income replacement ratio. The results indicate the participant's 70% probability of achieving the retirement goal.
- The plan-level retirement income replacement ratio is determined by calculating the average retirement income replacement ratio of all participants in the plan analysis. All actively contributing participants are included in the analysis, unless the participant has annual compensation of less than \$25,000, has contributed less than \$300 in the previous 12-month period, has a current balance less than \$100, or is less than 18 or greater than 81 years of age.
- Social Security benefits are based on the employee information you provided and the standard formula used by the US Social Security Administration.
- **IMPORTANT:** The Plan Outcome Assessment projections, and other information generated regarding the likelihood of various investment outcomes, are hypothetical, do not reflect actual investment results, and are not a guarantee of future results. The projections are dependent in part on subjective and proprietary assumptions, including the rate of inflation and the rate of return for different asset classes, and these rates are difficult to accurately predict. The projections also rely on financial and economic historical assumptions that may not reoccur in the future, volatility measures and other facts.

## Participant-Related Assumptions (Salary, Contribution, Retirement Age, and Advice)

- Participant compensation is based on data submitted by the employer. The participant's gross annual income is used for various calculations, including retirement income replacement ratio, estimated Social Security benefits, and estimated federal and state taxes.
- Participant contributions are aggregated for a 12-month period for participants with a balance at the beginning of the period. For participants without a beginning balance, the contribution amount from the last month of the 12-month period is annualized. IRS contribution limits are applied and adjusted for participants eligible for catch-up provisions. Ibbotson Associates, Inc. shifts any contribution amount above the annual limit of \$50,000 to after-tax contributions for modeling purposes.
- All retirement plan contributions are considered to be dedicated solely for retirement. Assets will not be liquidated for use prior to retirement, and all contributions will end at the Target Retirement Age (TRA).
- The TRA value is defaulted to 67 for most plan participants. Participants aged 66 or higher have a TRA that is set two years from the current age. Life expectancy values are estimated by Ibbotson Associates, Inc. and are based on participant age and gender.
- The participant's balance is aggregated for all selected plans. Amounts are designed as pre-tax and Roth contributions, as appropriate.
- The participant's asset allocation, for the purposes of this analysis, is categorized into simplified asset classes (i.e., stable value, equities, real estate, fixed income, multi asset and money market).
- The advice provided by Ibbotson Associates, Inc. consists of model portfolios composed of target allocations for the asset classes. Based on the target retirement goals, Ibbotson will recommend a specific tolerance level designed to adjust over time based on Ibbotson's proprietary methodology which customizes a risk level trajectory for the participant.
- The hypothetical advice target for the model is an 80% replacement ratio. An 80% target rate is considered an optimal replacement rate when considering all participant retirement contributions, employer contributions and Social Security.

The Ibbotson tool's advice is based on statistical projections of the likelihood that an individual will achieve their retirement goals. The projections rely on financial and economic assumptions of historical rates of return of various asset classes that may not reoccur in the future, volatility measures and other facts, as well as information the individual provides.

**IMPORTANT:** Projections and other information generated through the Ibbotson tool regarding the likelihood of various investment outcomes are hypothetical, do not reflect actual investment results and are not a guarantee of future results. The projections are dependent in part of subjective assumptions, including the rate of inflation and the rate of return for different asset classes. These rates are difficult to accurately predict. Changes to the law, financial markets or individual personal circumstances can cause substantial deviation from the estimates. This could result in declines in an account's value over short or even extended periods of time. **Results may vary with each use and over time.**

**Consider the investment objectives, risks, charges and expenses before investing. Please call 877 518-9161 or go to TIAA-CREF.org for a prospectus that contains this and other information. Read the prospectus carefully before investing.**

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September 2013

**NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM  
DEFERRED COMPENSATION 457 COMPANION PLAN SURVEY**

Dear Member:

The North Dakota Public Employees Retirement System (NDPERS) is conducting a survey of its membership enrolled in the Deferred Compensation Companion Plan. NDPERS recently changed providers to TIAA-CREF. We would like to get your feedback and satisfaction with this retirement plan. In addition, space has been provided for you to share any other thoughts with us about this plan. This information will be valuable to us in making the NDPERS plan of benefits responsive to your needs. Note that this is an anonymous survey and the information you provide is confidential.

Please complete this questionnaire and return it in inside mail or use the enclosed, postage paid envelope by **Oct 15, 2013**.

Thank you for your participation in this study.

Sincerely,

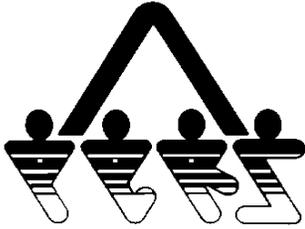
Bryan Reinhardt

Research Analyst/Benefits Planner

**NDPERS 457 Deferred Compensation Companion Plan Survey**

1. Are you satisfied with the investment funds available?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Are you satisfied with the availability of plan information?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are you confident that you are on the right track for retirement?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Have you ever met with a TIAA-CREF investment advisor?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Do you use an investment advisor or financial planner (other than TIAA-CREF) to help you with your investment decisions?	<input type="checkbox"/> Yes <input type="checkbox"/> No

	Strongly disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree
6. I am satisfied with the decision to change providers to TIAA-CREF.	1	2	3	4	5	6
7. I am satisfied with the investment education and advice given by TIAA-CREF.	1	2	3	4	5	6
8. I am satisfied with the web services and quarterly statements provided by TIAA-CREF.	1	2	3	4	5	6
9. I am satisfied with the availability of counselors and advisors from TIAA-CREF.	1	2	3	4	5	6
10. I am satisfied with the availability of the brokerage window for investing in other mutual funds.	1	2	3	4	5	6
11. I would recommend TIAA-CREF to other employees.	1	2	3	4	5	6
12. I am satisfied with the service provided by the NDPERS office.	1	2	3	4	5	6
13. I find selecting my own investments and asset allocation confusing.	1	2	3	4	5	6
14. I understand how the PEP provisions affect my retirement account.	1	2	3	4	5	6
15. I am confident my deferred compensation retirement savings will grow over time.	1	2	3	4	5	6



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# Memorandum

**TO:** PERS Board  
**FROM:** Deb  
**DATE:** September 19, 2013  
**SUBJECT:** Defined Contribution Plan Implementation

Attached is the defined contribution (DC) implementation task/timeline chart. We continue to meet weekly on the tasks identified and are making good progress towards our deadline of October 1<sup>st</sup>.

Jan has contacted Legislative Counsel to suspend the DC rules previously highlighted at our June meeting. We will be on the December agenda for the Administrative Rules Committee but will provide a newsletter article for our actives newsletter as well as our Payroll/Personnel representatives to publicize the Board's intent to temporarily suspend the DC rules prior to that.

All pertinent NDPERS documents have been reviewed and revised and are presently in the process of being formatted for web use. Internal processes have been identified and staffing/training needs are presently being addressed. Needed enhancements have been identified for PERSlink as well and will be implemented when possible. A webcast for employers is being offered on September 17<sup>th</sup> and staff will be filming informative webcasts, for newly hired employees, to post on the web on the 18<sup>th</sup>. We intend to post those on the NDPERS website on October 1<sup>st</sup> or as soon after that as they become available. A sample copy of materials will be mailed to state agencies as soon as the materials become available as well. These materials will also be available on the NDPERS website as of October 1.

Staff has also been working with TIAA-CREF to update materials they provide and the new materials are expected to be delivered to NDPERS the week of September 23<sup>rd</sup>.

Although there are many issues still in process, it appears we are on course for the implementation date. One variable we are going to be monitoring after implementation is the work requirements relating to sending out approximately 100 – 150 packets a month and processing enrollments. Presently we send only a few every several months. Since this effort has a clear timeline requirement and PERS did not get any additional staff for this effort, it will need to be accomplished using our existing resources. Depending on the magnitude of this task we may need to reallocate staff efforts and reprioritize internal efforts. Please let me know if you have any questions or concerns.

16. Years of Service with the state _____ Years	17. Age at last birthday _____ Years	18. Marital Status _____ Single _____ Married
19. Please circle your current monthly salary range?    1. <\$2,000    2. \$2,000-\$3,999    3. \$4,000-\$5,999    4. \$6,000+		
<p>20. As a result of the market downturn in 2008, the funding status of the retirement plan dropped below 100% and was projected to continue to decline over time. The recovery plan provided for an increase of 1% in employer and employee contribution for each January 1st from 2012 to 2015 (a total of 4% for the employee and 4% for the employer). The legislature has approved the first three increases but has not approved the last increase needed to return the plan back to 100% funded status by approximately 2040. As an alternative to the last year of contribution increases, benefits could be adjusted going forward that would have the same effect in returning the plan to 100%. Please rank your preference on how PERS should proceed with the last part of the recovery plan by ranking 1-5 your preferred option with "1" as your most preferred and "5" as you least preferred.</p> <p>_____ Propose the last year of contribution increases for the employer and employee of 1% each in January 2016 to bring the plan back to 100%.</p> <p>_____ Spread the last year of contribution increase over two years with a ½% increase in contributions for each the employer and employee in 2016 and 2017.</p> <p>_____ Instead of contribution increases, reduce future benefits by moving to a Rule of 90 for new employees; increasing the calculation of final average salary from 3 to 5 years for new employees and reducing the multiplier for all employees going forward from 2 to 1.8 provided the PERS Board could increase the multiplier again when the plan returned to 100% funded status.</p> <p>_____ Instead of contribution increases, reduce the multiplier for all employees going forward from 2.0 to 1.7 provided the PERS Board could increase the multiplier again when the plan returned to 100% funded status.</p> <p>_____ Do nothing, let the plans funded status stay below 100% (at the existing approved contribution increase level the plan would rise to about 80% by 2040 less the reduction associated with the DC option for state employees).</p>		
Additional Comments?		

THANK YOU!

Please return this survey in the postage-paid envelope by: October 15, 2013





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# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 9, 2013  
**SUBJECT:** NASRA Issue Brief

Attached please find a recently release NASRA Issue Brief on Hybrid plans. The is an update by the organization. You will note that the NDPERS PEP plan is noted in the attached.

# NASRA Issue Brief: State Hybrid Retirement Plans



September 2013

Although hybrid plans have been in place in public sector retirement systems for decades, this plan design has received increased attention in recent years. This new focus occurs as states find that closing their traditional pension plan to future (and, in some cases, existing) employees could increase—rather than reduce—costs,<sup>1</sup> and that providing only a 401(k)-type plan does not meet important retirement security, human resource, or fiscal objectives. While most states have chosen to retain their defined benefit (DB) plan by modifying required employer and employee contributions, restructuring benefits, or both,<sup>2</sup> some also have looked to so-called “hybrid” plans that combine elements of traditional pensions and individual account plans.

Although a hybrid retirement plan may take one of many forms, this brief examines two broad types in use in the public sector. The first is a cash balance plan, which marries elements of traditional pensions with individual accounts into a single plan (see Table 1). The second type combines a smaller traditional DB plan with an individual defined contribution (DC) retirement savings account, referred to in this brief as a “DB+DC plan” (see Table 2). Despite variability among these plans, most contain the core features known to promote retirement security: mandatory participation, shared financing between employers and employees, pooled assets invested by professionals, a benefit that cannot be outlived, and survivor and disability protections.

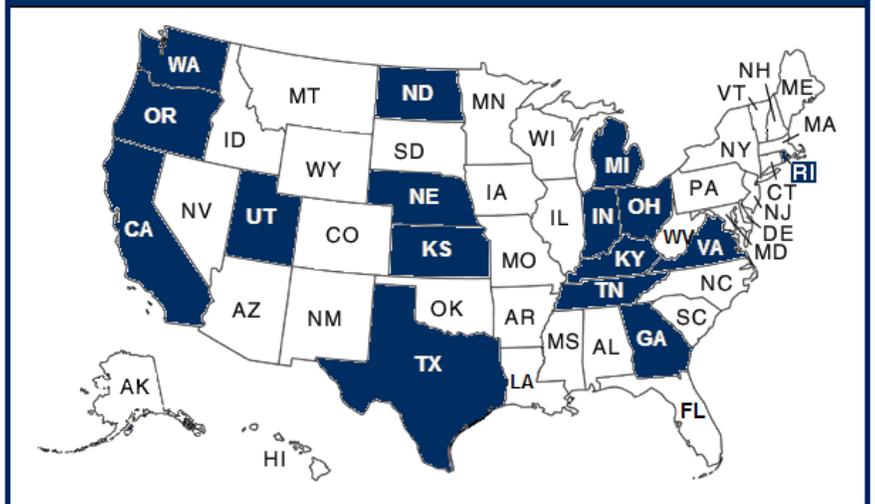
## Mandatory Participation

In the private sector, just one-half of the workforce participates in an employer-sponsored retirement plan,<sup>3</sup> widely recognized as a major factor contributing to the nation’s retirement insecurity. By contrast, for nearly all employees of state and local government, retirement plan participation is mandatory.

Employee participation remains mandatory in state hybrid plans. One partial exception is the Georgia Employees’ Retirement System (ERS), which administers a hybrid plan for many of its members. Participation in the DB component of the plan is mandatory, and participants may elect to not participate in the DC component (although the vast majority have not exercised this election).

Most public employees also have access to a supplemental, voluntary individual retirement savings plan, such as a 401(k), 403(b) or 457 plan. In addition to mandatory participation in the primary plan, some public employers automatically enroll new hires in supplemental retirement savings plans, and participants may opt-out at any time.

Figure 1: States that administer CB or DB+DC plans as a mandatory or optional primary retirement benefit for groups of general or K-12 educational employees



## Shared Financing among Employers and Employees

Nearly all traditional pensions in the public sector require employees to contribute toward the cost of their retirement benefit,<sup>4</sup> and in the wake of the 2008-09 market decline and the Great Recession, many states have increased employees' required contributions.<sup>5</sup>

Hybrid plans also typically employ a shared financing approach to retirement benefits. State cash balance plans, which feature accruals on employee accounts (cash balances), are funded with mandatory contributions from both employees and employers.

DB+DC plans vary regarding the level to which employees and employers are required to contribute toward the DB and DC components. As examples, for the hybrid plans in Indiana, Ohio, Oregon, and Washington, the employer finances the DB component, and the DC component is funded by mandatory employee contributions (ranging from 3 percent to 15 percent of salary). The Michigan Public Schools hybrid plan requires employees to contribute to the DB component on a graduated scale based on pay, and employers finance the remainder; employees are also required to make a mandatory 2-percent-of-salary contribution to the DC component, which employers match at a 50 percent rate.

The Georgia ERS hybrid requires employees to contribute 1.25 percent of salary to the DB component, with the remainder financed by the employer. Employees are automatically enrolled in the DC component at 1% of salary, but may opt out or contribute more. Employers match the first 1 percent of salary and one-half of the next 4 percent of salary voluntarily contributed by the employee to the DC plan.

The Utah retirement system requires employers to contribute 10 percent of salary (12 percent for public safety) toward the DB plan's cost.<sup>6</sup> If the cost is less than the employer's 10 percent contribution rate, the difference goes into employees' individual 401(k) savings account. If the cost of the DB plan exceeds the employer's 10 percent contribution rate, employees must contribute the difference to the DB plan. In either instance, employees may elect to make additional contributions to the 401(k) plan. (Employers in Utah must also contribute five percent of pay to the Utah Retirement System to amortize the unfunded pension liability.)

## Pooled Assets

Retirement assets that are pooled and invested by professionals offer important advantages over individual, self-directed accounts. Combined portfolios have a longer investment horizon, which allows them to be better diversified and to sustain greater market volatility. In addition, the professional asset management and lower administrative and investment costs in pooled arrangements result in higher investment returns.

As with traditional pension plan assets, cash balance plan assets are pooled, invested by professionals, and guarantee annual returns to plan participants. Likewise, DB+DC plans pool assets in the DB component; the manner in which DC plan assets are managed varies. Most plans provide a range of risk-based investment options: some are retail mutual funds and others are maintained by the retirement system and available only to plan participants. Assets in the Oregon DC component, for example, are pooled and invested in a fund similar to the DB plan fund; participants do not have a choice regarding how their DC plan assets are managed. Similarly, Washington State provides an option for employees to invest their DC assets in a fund that emulates the DB plan fund.

### North Dakota PEP

North Dakota offers most of its workers an optional hybrid retirement plan designed to provide greater portability.

Known as "PEP"  
— Portability Enhancement Program —  
North Dakota PERS participants can vest in the employer's portion of the defined benefit plan by participating in a supplemental deferred compensation account, funding a benefit that is more portable than the traditional defined benefit plan and similar to a defined contribution plan.

## Required Lifetime Benefit Payouts

A core objective of retirement plans is to provide lifetime income insurance. A major threat to lifetime income is known as longevity risk, which is the danger of exhausting assets before death. Ensuring lifetime income can be accomplished in part by pooling longevity risk, i.e., distributing that risk among many plan participants. The alternative is an arrangement, embodied in defined contribution plans, in which longevity risk is borne by individuals.

Most public sector plans require some or all of the pension benefit to be paid in the form of an annuity – installments over one’s retired lifetime – rather than allowing benefits to be distributed in a lump sum. This not only better ensures participants will not exhaust retirement assets, but it also reduces costs by allowing retirement assets to be invested as part of the trust over a longer period, and by funding for average longevity rather than the maximum longevity.

As examples, the two statewide cash balance plans in Texas require participant accounts to be paid in the form of a lifetime benefit; county and district employees may elect to receive 100% of their benefit as a partial lump sum upon retirement. The Nebraska cash balance plan gives employees the option of receiving a lifetime benefit payout on any portion of their account balance, and to receive any portion of their retirement benefit as a lump sum.

DB+DC plans normally require the DB portion of the plan to be paid in the form of a lifetime annuity. The DC portion, however, usually may be paid out in various forms including a lifetime benefit, a lump sum or partial lump sum of the account balance, or installments over a certain term (e.g., 5, 10, 15 or 20 years).

## Social Security, Disability and Survivor Benefits

Approximately 25 percent of state and local government employees do not participate in Social Security.<sup>7</sup> While most public sector retirement plan designs seek to replace a targeted percentage of income, they often also reflect the presence or absence of income from Social Security.

Benefits that provide income insurance in the event of death or disability are an important feature among public sector employers, particularly for jobs that involve hazardous conditions. Most public sector retirement plans—whether traditional or hybrid—include survivor and disability benefits, which is a cost-effective method for sponsoring these benefits.

## Conclusion

Nearly every state has made changes in recent years to the retirement plans.<sup>8</sup> While DB plans remain the prevailing model, cash balance and DB+DC plans have been in place for many years in some states, and are new in others. The diversity in public sector plan design reflects the fact that a one-size-fits-all solution does not meet public employer human resource and fiscal objectives. Like defined benefit plans, cash balance and DB+DC plans in the public sector vary from one jurisdiction to the next, and no single design will address the cost and risk factors of every state or local government.

A key factor in evaluating a retirement plan is the extent to which it contains the core elements known to best meet human resource and retirement policy objectives of state and local governments: mandatory participation, shared financing, pooled investments, benefit adequacy, and lifetime benefit payouts. These features are a proven means of delivering income security in retirement, retaining qualified workers who perform essential public services, and providing an important source of economic stability to every city, town, and state across the country.<sup>9</sup>

Most public retirement systems seek to provide a benefit that meets these objectives while balancing risk between employees and employer units. The information in the tables below illustrates the degree to which states are using various cash balance and DB+DC designs to achieve these objectives.

## See Also

National Association of State Retirement Administrators, Resolution 2010-01: *Guiding Principles for Retirement Security and Plan Sustainability*, <http://www.nasra.org/resolutions.htm#201001>

National Association of State Retirement Administrators Issue Brief: Shared-Risk Arrangements, <http://www.nasra.org/resources/issuebrief120801.pdf>

National Conference of State Legislators, State Defined Contribution and Hybrid Pension Plans, [http://www.nasra.org/resources/NCSL\\_DC\\_Hybrid.pdf](http://www.nasra.org/resources/NCSL_DC_Hybrid.pdf)

National Institute on Retirement Security, *A Better Bang for the Buck: The Economic Efficiencies of Pensions*, 2008, [http://www.nirsonline.org/index.php?option=com\\_content&task=view&id=121&Itemid=48](http://www.nirsonline.org/index.php?option=com_content&task=view&id=121&Itemid=48)

National Institute on Retirement Security, *Decisions, Decisions: Retirement Plan Choices for Public Employees and Employers*, 2011, [http://www.nirsonline.org/storage/nirs/documents/Decisions%20Decisions/final\\_decisions\\_decisions\\_report.pdf](http://www.nirsonline.org/storage/nirs/documents/Decisions%20Decisions/final_decisions_decisions_report.pdf)

National Institute on Retirement Security, *Look Before You Leap: The Unintended Consequences of Pension Freezes*, 2008, [http://www.nirsonline.org/index.php?option=com\\_content&task=view&id=173&Itemid=49](http://www.nirsonline.org/index.php?option=com_content&task=view&id=173&Itemid=49)

U.S. Department of Labor, Bureau of Labor Statistics, *National Compensation Survey: Employee Benefits in States and Local Government in the U.S.*, March 2011, <http://www.bls.gov/ncs/ebs/benefits/2011/ownership/govt/table02a.pdf>

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<sup>1</sup> NASRA, “Costs of Switching from a DB to a DC Plan,”

[http://www.wikipension.com/index.php?title=Studies\\_and\\_reports#State\\_Studies](http://www.wikipension.com/index.php?title=Studies_and_reports#State_Studies)

<sup>2</sup> NASRA, “Selected Approved Changes to State Public Pensions to Restore or Preserve Plan Sustainability,”

<http://www.nasra.org/resolutions.htm#200701>

<sup>3</sup> U.S. Department of Labor, Bureau of Labor Statistics, Retirement Benefits: Access, Participation and Take-Up Rates, July 2013,

<http://www.bls.gov/news.release/pdf/ebs2.pdf>

<sup>4</sup> Public Fund Survey, [www.publicfundsurvey.org](http://www.publicfundsurvey.org)

<sup>5</sup> NASRA, “Selected Approved Changes,” *supra*

<sup>6</sup> Employers are also required to contribute an actuarially determined rate each year to amortize the DB plan unfunded liability

<sup>7</sup> U.S. Government Accountability Office, “Social Security: Issues Regarding the Coverage of Public Employees,” 2007,

<http://finance.senate.gov/imo/media/doc/1110607testmn1.pdf>

<sup>8</sup> National Conference of State Legislatures, “State Retirement Legislation,” <http://www.ncsl.org/documents/employ/Basic-Presentation-July2012.pdf>

<sup>9</sup> National Institute on Retirement Security, *Pensionomics: Measuring the Economic Impact of State & Local Pension Plans*, 2009,

[http://www.nirsonline.org/index.php?option=com\\_content&task=view&id=189&Itemid=48](http://www.nirsonline.org/index.php?option=com_content&task=view&id=189&Itemid=48)

**Table 1: Overview of Cash Balance Hybrid Plans**

	<b>TX Municipal</b>	<b>TX County and District</b>	<b>CA State Teachers</b>	<b>NE County and State</b>	<b>KS PERS</b>	<b>KY RS</b>
<b>Year plan approved</b>	1947	1967	1995 for the Cash Balance Benefit Program, 2000 for the Defined Benefit Supplement	2002	2012	2013
<b>Employee groups affected</b>	Mandatory for EEs of 800+ cities that have elected to participate in the TMRS	Mandatory for EEs of 600+ counties and special districts that have elected to participate in the TCDRS	The Cash Balance Benefit Program is optional for part-time and adjunct educational workers; the Defined Benefit Supplement is a cash balance plan provided to full-time educators	Mandatory for county and state EEs* hired after 2002 and those hired previously who elected to switch from the DC plan	Mandatory for EEs of state and local government, including education employees, hired after 1/1/15	Mandatory for new state and local EEs, judges, and legislators who become members on or after January 1, 2014
<b>Contributions</b>	EEs pay 5%, 6%, or 7%, depending on ER* election  ER pays 100%, 150%, or 200% of EE rate, also depending on ER election, and adjusted based on unfunded liability	EEs pay 4%, 5%, 6%, or 7% depending on ER election  ERs pay normal cost plus amount to amortize the unfunded liability within a 20-year closed period	EEs in the Cash Balance Benefit Program typically pay approximately 4% of earnings, depending on local bargaining agreements; Defined Benefit Supplement EEs contributed 2% from 2001-2010  Beginning in 2011, ER and EE contributions to the Defined Benefit Supplement are 8% each on compensation in excess of one-year of service credit  ER must contribute at least 4% for Cash Balance Benefit participants and the combined EE/ER rate must be at least 8%	State EEs contribute 4.8%, county EEs contribute 4.5%  State contributes 156% of EE rate; counties contribute 150% of EE rate	EEs contribute 6%  ER contributes between 3-6% depending on how long the member has been employed	EEs contribute 5%; public safety EEs contribute 8%  State contributes 4%; , 7.5% for public safety EEs

	TX Municipal	TX County and District	CA State Teachers	NE County and State	KS PERS	KY RS
<b>Rate of return applied to cash balances</b>	5% (set by statute): The TMRS Board determines the allocation of any excess amounts; the board is authorized to distribute such amounts a) to reduce cities' unfunded liabilities; b) to EEs' individual accounts, and/or c) to a reserve to help offset future investment losses	7% (set by statute): Used to reduce ERs' Members' accounts receive an annual interest credit of 7% as specified by statute	Guaranteed minimum interest rate is based on 30-year U.S. Treasury bonds for the period from March to February immediately prior to the plan year (3% for plan year 2013-14)	Based on the federal mid-term rate plus 1.5%: When the mid-term rate falls below 3.5%, EEs receive a 5% minimum credit rate  When favorable returns combine with an actuarial surplus, the governing board may approve a dividend payment to EE accounts	Members are guaranteed an annual rate of return of 5.25% on their accounts	Employee accounts are guaranteed 4% annual return; accounts also receive 75% of all returns above 4%
<b>Benefit payment options</b>	Annuity with or without a partial lump sum, depending on EE election	Lifetime annuity based on EE final savings account balance, less any EE-elected partial lump-sum payment, plus ER matching	Lump-sum and/or monthly lifetime annuity or period certain monthly annuity	Retiring participants may annuitize any portion of their cash balance and take a lump sum of any remainder. Members electing an annuity may also elect to take a reduced benefit with an automatic annual COLA	Retiring participants may annuitize their cash balance and may elect to take up to 30 percent as a lump sum. Participants may also elect to use a portion of their balance to fund an auto-COLA	Member may choose annuity payments, a payment option calculated as the actuarial equivalent of the life annuity, or a refund of the accumulated account balance
<b>Info online</b>	<a href="http://www.tmr.com/download/pubs/tmrs_facts.pdf">www.tmr.com/download/pubs/tmrs_facts.pdf</a>	<a href="http://www.tcdrs.org">http://www.tcdrs.org</a>	<a href="http://www.calstrs.com/sites/main/files/file-attachments/basics_cash_balance_plan.pdf">http://www.calstrs.com/sites/main/files/file-attachments/basics_cash_balance_plan.pdf</a>	<a href="http://www.npers.ne.gov">www.npers.ne.gov</a>	<a href="http://www.kpers.org">http://www.kpers.org</a>	<a href="https://kyret.ky.gov/images/uploads/news/Summary_of_Senate_Bill_2_changes.pdf">https://kyret.ky.gov/images/uploads/news/Summary_of_Senate_Bill_2_changes.pdf</a>

\* EE = employee; ER = employer

**Table 2: Overview of Defined Benefit + Defined Contribution (DB+DC) Hybrid Plans**

	IN Public RS	WA Dept of RS	OH State Teachers' RS	OH Public Employees' RS	OR PERS	GA Employees' RS	MI Public Schools RS	UT RS	RI ERS	VA RS	TN Consolidated Retirement System
<b>Year plan approved</b>	1955	1996	2001	2002	2003	2008	2010	2010	2011	2012	2013
<b>Employee groups affected</b>	Mandatory except for EE hired after 2011 who may elect a DC plan only	Optional for most employee groups	Optional for new hires and non-vested workers since 2001	Optional for new hires and non-vested workers since 12/31/02	Mandatory for all EEs (existing and new) since 2004	Mandatory for new hires since 2009; optional for those hired before 2009 (EE* may opt-out of DC component within 90 days)	Mandatory for all new hires after 06/30/2010	Mandatory for new hires as of 07/01/2011; all EEs may elect DC-only plan	Mandatory for existing members of ERS as of July 1, 2012, as well as new hires (except judges and some public safety members)	Mandatory for most state and local employees, educational employees, and judges, hired on or after 1/1/14 – excluding state police and other law enforcement officers	Mandatory for new state and higher education employees and teachers hired after July 1, 2014; optional for local government entities
<b>Defined Benefit Portion</b>											
<b>DB benefit formula (having met age/service requirements)</b>	1.1% x years of service x final average salary = annual benefit	1% x years of service x final average salary = annual benefit	1% x years of service x final average salary = annual benefit	1% x up to 30 years of service x final average salary + 1.25% x years in excess of 30 x final average salary = annual benefit	Varies depending upon date of hire and which of 3 DB plans EE is enrolled in	1% x years of service x final average salary = annual benefit	1.5% x years of service x final average salary = annual benefit	1.5% x years of service x final average salary = annual benefit  For public safety: 2% x years of service x final average salary = annual benefit	1% x years of service x final average salary = annual benefit	1% x years of service x final average salary = annual benefit	1% x years of service x final average salary (maximum annual pension benefit of \$80,000, indexed by CPI)

	IN Public RS	WA Dept of RS	OH State Teachers' RS	OH Public Employees' RS	OR PERS	GA Employees' RS	MI Public Schools RS	UT RS	RI ERS	VA RS	TN Consolidated Retirement System
<b>DB plan contributions</b>	ER funds the DB benefit	ER funds DB benefit	ER funds DB benefit	ER funds DB benefit	ER funds DB benefit	EE contributes 1.25% and ER contributes the remainder of the annual actuarially determined contribution rate	EE contributes on a graduated scale based on pay; ER contributes remainder	ER pays up to 10% of pay, 12% for public safety (+ 5% to amortize the DB unfunded liability). EEs pay into DB only if the normal cost of the plan exceeds maximum ER contribution	State EEs and teachers contribute 3.75% to the DB plan; municipal EEs contribute 1% or 2% based on COLA election; municipal police and fire contribute 7 or 8% based on COLA election. ER contributions to the DB plan remain unchanged	EE contributes 4% to the DB plan ER contributes an actuarially determined amount to fund the DB benefit (less employer DC contributions)	EE contributes 5% to the DB plan ER contributes 4%
<b>Defined Contribution Portion</b>											
<b>Employer DC plan contributions</b>	None	None	None	None	None	100% ER match on EE's 1st 1% of salary and 50% match on next 4% of salary for a maximum ER contribution of 3%	ER contributes 1% of salary	ER contributes 10% (12% for public safety); if DB cost is more, EE must pay but if less, the difference is applied to EE's DC account	ER contributes 1% to the DC plan for state and local EEs and teachers; 3% for municipal police and fire EEs not covered by Social Security	Mandatory ER contributions of 1% - increases with EE contributions up to 3.5% maximum	ER contributes 5% to the DC plan

	IN Public RS	WA Dept of RS	OH State Teachers' RS	OH Public Employees' RS	OR PERS	GA Employees' RS	MI Public Schools RS	UT RS	RI ERS	VA RS	TN Consolidated Retirement System
<b>Employee DC plan contributions</b>	3% of salary	5% to 15% of salary depending on EE	10% of salary	10% of salary	6% of salary	EE auto enroll at 1% of salary contribution but may vary contribution rate up or down; participants may opt-out of the DC plan within 90 days of their date of hire	2% of salary	EE contributions optional	State and local EEs and teachers contribute 5% to the DC plan; 3% for municipal police and fire EEs not covered by Social Security	EEs may contribute up to 5% to the DC plan (1% minimum)	EEs contribute 2%, with opt-out feature
<b>DC plan investment options</b>	7 options ranging from conservative to aggressive, and 10 target date funds, all administered by the retirement system	Either the total allocation portfolio, which mirrors DB plan fund, or 7 self-directed funds ranging from conservative to aggressive, plus target date funds	8 STRS Ohio-sponsored options ranging from conservative to aggressive plus a guaranteed return option and target date funds	16 OPERS-sponsored funds including core and target date funds, plus a brokerage window	All DC plan contributions are invested in a single, pooled fund that mirrors the DB plan fund	16 options ranging from conservative to aggressive, plus 5 lifecycle funds	Choice of active and passive investment options, target date funds, and a brokerage window	12 risk-based options	12 target date funds and 10 funds ranging from conservative to aggressive	11 options ranging from conservative to aggressive, plus 10 target date funds.	11 target date funds and 15 options ranging from conservative to aggressive

	IN Public RS	WA Dept of RS	OH State Teachers' RS	OH Public Employees' RS	OR PERS	GA Employees' RS	MI Public Schools RS	UT RS	RI ERS	VA RS	TN Consolidated Retirement System
<b>Default DC plan investment options</b>	The Guaranteed Fund, which earns a fixed rate established annually by the Board	Target Date Funds	Earliest target date fund	Target Date Fund closest to the year the participant turns 65	DB plan fund	Lifecycle funds based on age	Target Retirement Fund that matches the year the participant will be eligible to retire	Medium Horizon Fund, which features a diversified investment portfolio	Age appropriate Target Retirement Fund	Target Date Funds based on the participant's age at enrollment	Age appropriate Target Date portfolio
<b>DC plan withdrawal options</b>	Annuity, rollover, partial lump sum and annuity, deferral until age 70½	Lump sum, direct rollover, scheduled payments, personalized payment schedule, and annuity purchase	Annuity including partial lump sum, lump sum or rollover	Annuity, including partial lump sum option plan; deferral until age 70½	Lump sum payment or in installments over a 5-, 10-, 15-, or 20-year period or the EE's anticipated lifespan	Rollover, annuity, lump sum, partial lump sum, installments	Lump sum, consolidation from other plans, direct rollover to an IRA, periodic distribution	After 4-year vesting period: lump sum, partial balance, periodic distribution, direct rollover, direct rollover to an IRA	Lifetime annuity, lump-sum distribution, or distribution in installments (rolling assets into an IRA or leaving assets in the plan)	Depend on the circumstances at termination; DB/DC combo plan requires coordination between the two components with respect to termination options	Lump sum, periodic payments, minimum required distributions, or annuity; beneficiaries may use a combination of more than one payment method
<b>Info online</b>	<a href="http://www.in.gov/inprs/index.htm">www.in.gov/inprs/index.htm</a>	<a href="http://www.drs.wa.gov">http://www.drs.wa.gov</a> (Go to "my plan 3 account")	<a href="http://www.strsoh.org">http://www.strsoh.org</a>	<a href="http://www.opers.org">http://www.opers.org</a>	<a href="http://www.oregon.gov/PERS">http://www.oregon.gov/PERS</a>	<a href="http://www.ers.ga.gov">www.ers.ga.gov</a>	<a href="https://stateofmi.ingplans.com/eportal/welcome.do">https://stateofmi.ingplans.com/eportal/welcome.do</a>	<a href="http://www.urs.org">http://www.urs.org</a>	<a href="https://www.ersri.org/public/documentation/FINAL_RIRSAGuide_January2012.pdf">https://www.ersri.org/public/documentation/FINAL_RIRSAGuide_January2012.pdf</a>	<a href="http://www.varretire.org/employers/members/benefits/hybrid-plan/index.asp">http://www.varretire.org/employers/members/benefits/hybrid-plan/index.asp</a>	<a href="http://treasury.tn.gov/tcrs/PDFs/HybridPlanSummarySheet.pdf">http://treasury.tn.gov/tcrs/PDFs/HybridPlanSummarySheet.pdf</a>



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# Memorandum

**TO:** PERS Board

**FROM:** Sparb

**DATE:** September 12, 2013

**SUBJECT:** Defined Benefit (DB) Plan Study

At the last meeting I noted the many “voices” that are now a part of the discussion of DB plans, hybrid plans or defined contribution plans in the public sector. Attached for your information is a recent report we received from one group titled “Promises Made – Promises Broken”. This report says that the amount of unfunded liability reported by plans is not accurate since the discount rate used is too high and should be lower (return assumption). If this premise is accepted, the liability is recalculated and the analysis proceeds as identified in the report (showing a much greater unfunded liability). This report presents one of the “voices” among many that advocate this argument in looking at DB plans in the public sector.



# Promises Made, Promises Broken — The Betrayal of Pensioners and Taxpayers

By Cory Eucalitto  
Editor, State Budget Solutions  
September 3, 2013

Comprehensive research into the funded status of state level defined benefit public pension plans reveals that public employee retirement promises are underfunded by \$4.1 trillion. Combined, state public pension plans are just 39 percent funded.

States facing a particularly large unfunded liability at a per capita level and as a percentage of their annual gross state product include Illinois, Ohio, New Jersey, Oregon, Connecticut, Nevada, New Mexico, Hawaii, and Alaska.

As this report demonstrates, unfunded public pension liabilities present a unique threat to state government finances. While many have tried to turn a blind eye to the pension crisis, the problem is simply too big to ignore.

### **Evolving Perspectives**

Both the Governmental Accounting Standards Board and Moody's Investors Services have recently made changes to the way they approach public pensions from their respective vantage points. The impetus for those changes was the routine undervaluing of plan liabilities.

With their rejection of an unsatisfactory approach to calculating public pension liabilities, GASB and Moody's have joined a chorus of financial economists and other observers warning that pension funding practices are dangerous for both taxpayers and public employees alike. Despite this progress, many discordant perspectives remain on the true size of these funding gaps.

### **Breaking Down the Numbers**

Flawed funding practices have put public pension systems across the country in peril, but some states are in better shape than others. An unfunded liability dollar amount alone does not tell the whole story. Larger states will, naturally, have a larger unfunded liability than smaller ones.

A funded ratio presents a plan's assets as a percentage of liabilities, or the amount of money owed in benefits. The funded ratio is used as one of the primary measurements of a pension plan's overall funding health. It provides an additional layer of context that an unfunded liability alone does not. For example, California has a larger unfunded liability than Kansas, but based on what the state currently knows it will owe to retirees versus the amount of money they actually have, the funded ratio tells us that Kansas is in worse shape than California, with Kansas' plans being 29% funded and those of the Golden State being 42% funded.

By this measure, the five most poorly funded states are Illinois (24%), Connecticut (25%), Kentucky (27%), and Kansas (29%), along with Mississippi, New Hampshire, and Alaska tied at 30% funded.

At the other end of the spectrum, Wisconsin, the most well funded state in the country, has just a 57% funded ratio, followed by North Carolina (54%), South Dakota (52%), Tennessee (50%) and Washington (49%).

<b>State</b>	<b>Funded Ratio</b>	<b>State</b>	<b>Funded Ratio</b>
Illinois	24%	Wisconsin	57%
Connecticut	25%	North Carolina	54%
Kentucky	27%	South Dakota	52%
Kansas	29%	Tennessee	50%
MS, NH, AK	30%	Washington	49%

Additional measurements offer a deeper look into what unfunded pension promises mean for taxpayers in a given state.

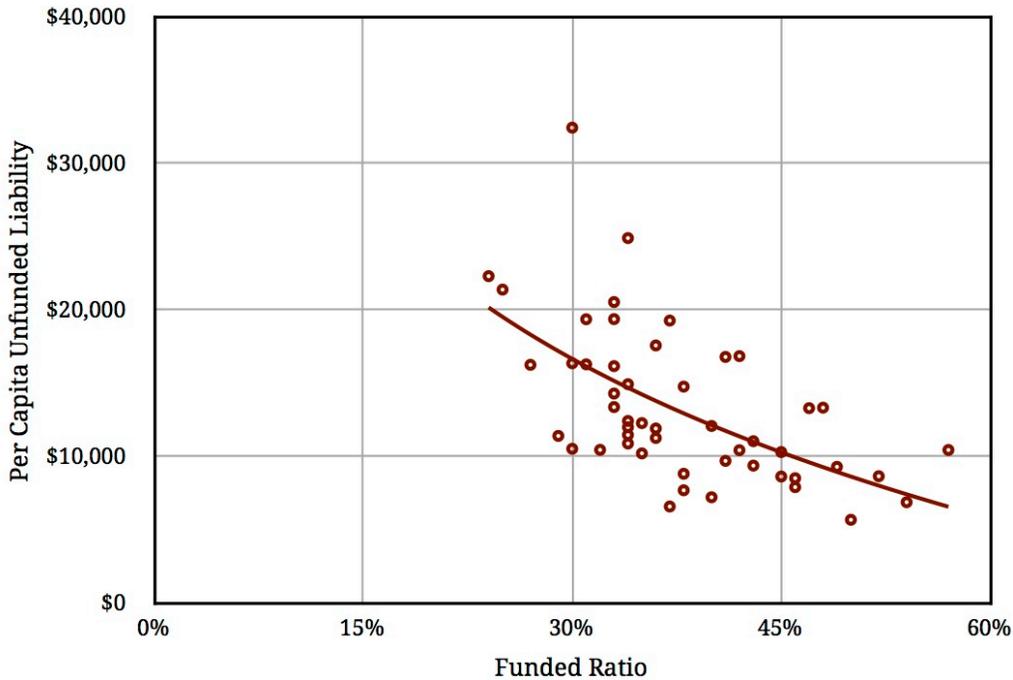
The unfunded liability of all plans in this study, \$4.1 trillion, works out to \$13,145 per capita.

The states with the largest unfunded liability per person are Alaska (\$32,425), Ohio (\$24,893), Illinois (\$22,294), Connecticut (\$21,378) and New Mexico (\$20,530). On the other hand, the states with the smallest unfunded liability per person are Tennessee (\$5,676), Indiana (\$6,581), North Carolina (\$6,874), Nebraska (\$7,212) and Arizona (\$7,688).

<b>State</b>	<b>Per Capita U.L.</b>	<b>State</b>	<b>Per Capita U.L.</b>
Alaska	\$32,425	Tennessee	\$5,676
Ohio	\$24,893	Indiana	\$6,581
Illinois	\$22,294	North Carolina	\$6,874
Connecticut	\$21,378	Nebraska	\$7,212
New Mexico	\$20,530	Arizona	\$7,688

The chart Per Capita Unfunded Liability vs. Funded Ratio demonstrates the connection between a state's funded ratio and its unfunded liability per capita. The connection is, of course, obvious. States with higher funded ratios also show smaller per capita unfunded liabilities.

**Per Capita Unfunded Liability vs. Funded Ratio**

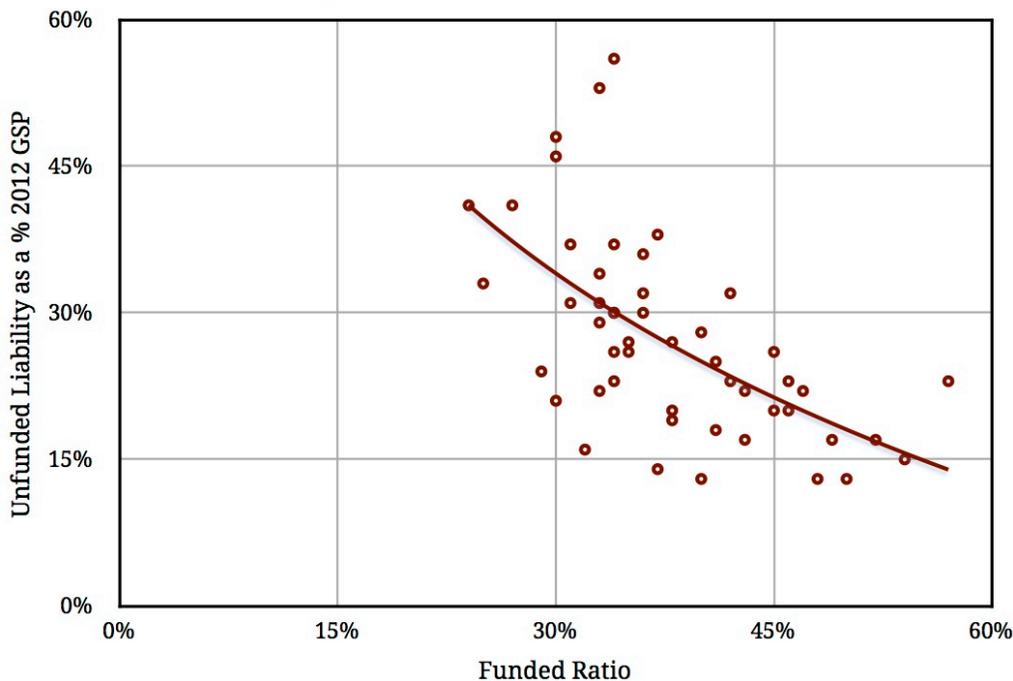


An examination of unfunded liabilities as a percentage of each state’s gross state product reveals a list similar to that shown on a per capita basis. Ohio (56%), New Mexico (53%), Mississippi (48%), Alaska (46%) and Illinois (41%) have the five largest ratios of unfunded liabilities to 2012 Gross State Product according to the U.S. Bureau of Economic Analysis. Delaware, Tennessee, Nebraska (13%), Indiana (14%), North Carolina (15%), North Dakota (16%), and South Dakota, Washington, and Texas (17%) had the lowest ratios.

State	U.L. as a % of GSP	State	U.L. as a % of GSP
Ohio	56%	DE, TN, NE	13%
New Mexico	53%	Indiana	14%
Mississippi	48%	North Carolina	15%
Alaska	46%	North Dakota	16%
Illinois	41%	SD, WA, TX	17%

The chart Unfunded Liability as a Percentage of 2012 Gross State Product vs. Funded Ratio, similar to the Per Capita Unfunded Liability vs. Funded Ratio one above, demonstrates the connection between a state’s funded ratio and its unfunded liability as a percentage of Gross State Product.

**Unfunded Liability as a % of 2012 Gross State Product vs. Funded Ratio**



By combining the rankings of per capita unfunded liabilities and unfunded liabilities as a percentage of annual gross state product, it is possible to identify which states stand out on both scales. Nine states are present in the top ten of both lists, showing large unfunded liabilities compared to their populations and economic output. Those states are Illinois, Ohio, New Jersey, Oregon, Connecticut, Nevada, New Mexico, Hawaii, and Alaska.

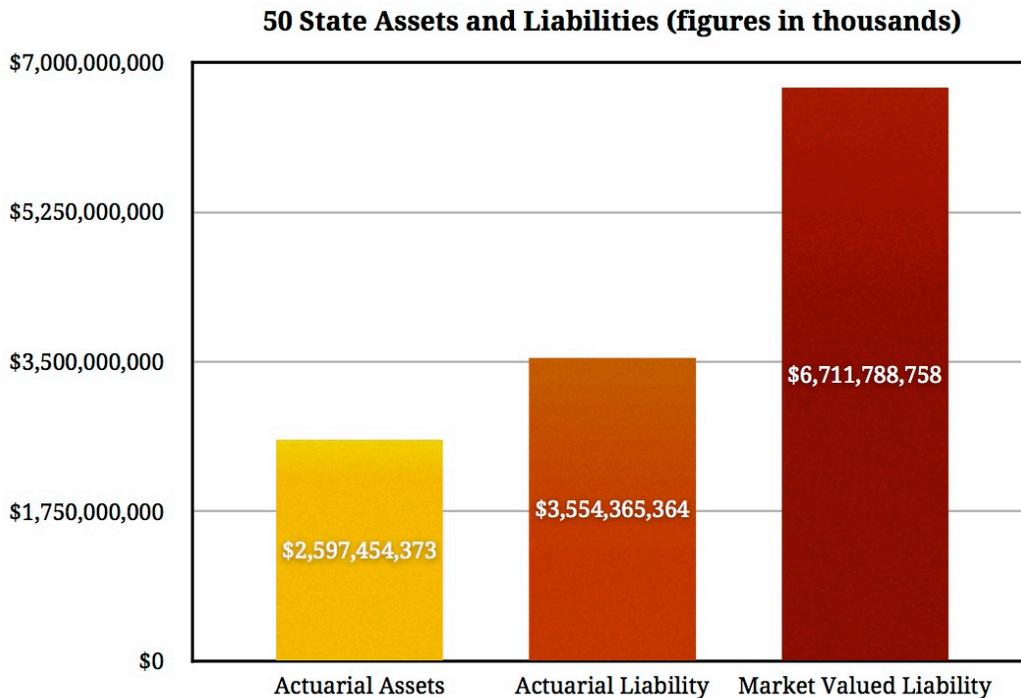
### **A Market-Valued Approach**

This fair-market valuation shows the tremendous impact that the choice of a discount rate has on funding health. It demonstrates the extent to which current funding practices undervalue the retirement promises made to public employees. According to official reporting, the overall funded ratio of state plans included in this report is 73 percent – a far cry from the 39 percent level that a fair-market valuation has revealed.

The size of a pension plan's liability is based greatly on the discount rate used in a valuation. Public pension plans discount liabilities in order to determine how much must be paid into the fund today to guarantee funding for benefits that will be paid in the future. The process involves starting with the amount of money that is projected will be owed and subtracting interest each year to arrive at a present value.

Current public sector practices involve discounting a liability according to the assumed investment returns of plan assets, typically around 8 percent. Yet with

discount rates tied to expected investment performance, plan sponsors can easily take on greater risk in order to make liabilities appear smaller. This reduces the resources required today to pay for the promises of tomorrow.



Accurately accounting for a pension system’s liability requires incorporating the nearly certain nature of benefits. That is, once promised, the chances that benefits will not have to be paid are extremely low.

A fair-market valuation does away with optimistic investment return assumptions and instead uses a rate that reflects the risk of the liability itself. One common approach, taken here, is to discount liabilities according to the yield of a 15-year Treasury bond.

**Method**

This report includes data from over 250 state-level defined benefit pension plans holding nearly \$2.6 trillion in assets. Figures were drawn from state Fiscal Year 2012 Comprehensive Annual Financial Reports, as well as the Comprehensive Annual Financial Reports and actuarial valuations published by individual plans. In each case, figures were from the most up-to-date valuation available at the time of research. Plans were compiled based on the United States Census Bureau’s 2012 Annual Survey of Public Pensions and state-level financial reports. Plan liabilities were discounted according to the 15-year Treasury bond yield as of August 21, 2013. That rate was 3.225 percent.

<b>State</b>	<b>Actuarial Assets</b>	<b>Market Valued Liability</b>	<b>Funding Ratio</b>	<b>Unfunded Liability</b>
<i>Note: figures in thousands</i>				
<b>Alabama</b>	\$28,136,859	\$83,416,289	34%	\$55,279,430
<b>Alaska</b>	\$10,257,331	\$33,972,931	30%	\$23,715,600
<b>Arizona</b>	\$30,716,205	\$81,099,672	38%	\$50,383,467
<b>Arkansas</b>	\$19,914,988	\$55,016,307	36%	\$35,101,319
<b>California</b>	\$459,450,490	\$1,100,068,950	42%	\$640,618,460
<b>Colorado</b>	\$40,915,702	\$124,738,616	33%	\$83,822,914
<b>Connecticut</b>	\$25,492,957	\$102,247,874	25%	\$76,754,917
<b>Delaware</b>	\$7,862,654	\$16,287,446	48%	\$8,424,792
<b>Florida</b>	\$127,891,781	\$280,543,392	46%	\$152,651,611
<b>Georgia</b>	\$69,392,153	\$154,949,799	45%	\$85,557,646
<b>Hawaii</b>	\$12,242,500	\$39,193,563	31%	\$26,951,063
<b>Idaho</b>	\$11,657,299	\$25,241,561	46%	\$13,584,262
<b>Illinois</b>	\$91,521,686	\$378,567,679	24%	\$287,045,993
<b>Indiana</b>	\$25,156,363	\$68,175,596	37%	\$43,019,233
<b>Iowa</b>	\$25,778,883	\$59,705,144	43%	\$33,926,261
<b>Kansas</b>	\$13,278,490	\$46,167,691	29%	\$32,889,201
<b>Kentucky</b>	\$26,060,181	\$97,225,999	27%	\$71,165,818
<b>Louisiana</b>	\$33,578,010	\$108,503,089	31%	\$74,925,079
<b>Maine</b>	\$11,076,400	\$24,761,724	45%	\$13,685,324
<b>Maryland</b>	\$37,448,661	\$110,513,048	34%	\$73,064,387
<b>Massachusetts</b>	\$43,493,039	\$132,310,593	33%	\$88,817,554
<b>Michigan</b>	\$59,934,079	\$178,436,105	34%	\$118,502,026
<b>Minnesota</b>	\$47,954,571	\$127,349,655	38%	\$79,395,084
<b>Mississippi</b>	\$20,429,973	\$69,238,316	30%	\$48,808,343
<b>Missouri</b>	\$48,699,412	\$121,416,557	40%	\$72,717,145
<b>Montana</b>	\$7,631,673	\$22,633,205	34%	\$15,001,532
<b>Nebraska</b>	\$9,058,379	\$22,439,823	40%	\$13,381,444
<b>Nevada</b>	\$27,466,740	\$75,934,905	36%	\$48,468,165
<b>New Hampshire</b>	\$5,861,896	\$19,751,867	30%	\$13,889,971
<b>New Jersey</b>	\$85,938,988	\$257,614,702	33%	\$171,675,714
<b>New Mexico</b>	\$21,397,284	\$64,212,781	33%	\$42,815,497
<b>New York</b>	\$230,680,400	\$490,756,062	47%	\$260,075,662
<b>North Carolina</b>	\$78,403,200	\$145,436,340	54%	\$67,033,140
<b>North Dakota</b>	\$3,498,700	\$10,806,862	32%	\$7,308,162
<b>Ohio</b>	\$146,123,868	\$433,497,668	34%	\$287,373,800

<b>State</b>	<b>Actuarial Assets</b>	<b>Market Valued Liability</b>	<b>Funding Ratio</b>	<b>Unfunded Liability</b>
<i>Note: figures in thousands</i>				
<b>Oklahoma</b>	\$21,469,876	\$62,963,724	34%	\$41,493,848
<b>Oregon</b>	\$44,943,100	\$120,068,763	37%	\$75,125,663
<b>Pennsylvania</b>	\$85,323,119	\$241,959,100	35%	\$156,635,981
<b>Rhode Island</b>	\$7,533,391	\$22,540,481	33%	\$15,007,090
<b>South Carolina</b>	\$29,555,334	\$82,721,841	36%	\$53,166,507
<b>South Dakota</b>	\$7,935,490	\$15,141,572	52%	\$7,206,082
<b>Tennessee</b>	\$36,680,783	\$73,328,483	50%	\$36,647,700
<b>Texas</b>	\$183,833,884	\$427,998,123	43%	\$244,164,239
<b>Utah</b>	\$21,369,935	\$51,129,687	42%	\$29,759,752
<b>Vermont</b>	\$3,335,632	\$8,853,162	38%	\$5,517,530
<b>Virginia</b>	\$54,473,000	\$133,823,921	41%	\$79,350,921
<b>Washington</b>	\$60,829,300	\$124,883,777	49%	\$64,054,477
<b>West Virginia</b>	\$10,220,671	\$29,152,505	35%	\$18,931,834
<b>Wisconsin</b>	\$78,940,000	\$138,707,039	57%	\$59,767,039
<b>Wyoming</b>	\$6,609,063	\$16,284,767	41%	\$9,675,704
<b>Total</b>	<b>\$2,597,454,373</b>	<b>\$6,711,788,758</b>	<b>39%</b>	<b>\$4,114,334,385</b>

<b>State</b>	<b>Population</b>	<b>Per Capita U.L.</b>	<b>Gross State Product</b>	<b>U.L. as a % of GSP</b>
<i>Note: figures in thousands, except Per Capita</i>				
<b>Alabama</b>	4,822	\$11,464	\$183,547,000	30%
<b>Alaska</b>	731	\$32,425	\$51,859,000	46%
<b>Arizona</b>	6,553	\$7,688	\$266,891,000	19%
<b>Arkansas</b>	2,949	\$11,902	\$109,557,000	32%
<b>California</b>	38,041	\$16,840	\$2,003,479,000	32%
<b>Colorado</b>	5,188	\$16,158	\$274,048,000	31%
<b>Connecticut</b>	3,590	\$21,378	\$229,317,000	33%
<b>Delaware</b>	632	\$13,324	\$65,984,000	13%
<b>Florida</b>	19,318	\$7,902	\$777,164,000	20%
<b>Georgia</b>	9,920	\$8,625	\$433,569,000	20%
<b>Hawaii</b>	1,392	\$19,357	\$72,424,000	37%
<b>Idaho</b>	1,596	\$8,513	\$58,243,000	23%
<b>Illinois</b>	12,875	\$22,294	\$695,238,000	41%
<b>Indiana</b>	6,537	\$6,581	\$298,625,000	14%
<b>Iowa</b>	3,074	\$11,036	\$152,436,000	22%
<b>Kansas</b>	2,886	\$11,397	\$138,953,000	24%
<b>Kentucky</b>	4,380	\$16,246	\$173,466,000	41%
<b>Louisiana</b>	4,602	\$16,281	\$243,264,000	31%
<b>Maine</b>	1,329	\$10,296	\$53,656,000	26%
<b>Maryland</b>	5,885	\$12,416	\$317,678,000	23%
<b>Massachusetts</b>	6,646	\$13,364	\$403,823,000	22%
<b>Michigan</b>	9,883	\$11,990	\$400,504,000	30%
<b>Minnesota</b>	5,379	\$14,760	\$294,729,000	27%
<b>Mississippi</b>	2,985	\$16,352	\$101,490,000	48%
<b>Missouri</b>	6,022	\$12,075	\$258,832,000	28%
<b>Montana</b>	1,005	\$14,925	\$40,422,000	37%
<b>Nebraska</b>	1,856	\$7,212	\$99,557,000	13%
<b>Nevada</b>	2,759	\$17,568	\$133,584,000	36%
<b>New Hampshire</b>	1,321	\$10,517	\$64,697,000	21%
<b>New Jersey</b>	8,865	\$19,366	\$508,003,000	34%
<b>New Mexico</b>	2,086	\$20,530	\$80,600,000	53%
<b>New York</b>	19,570	\$13,289	\$1,205,930,000	22%
<b>North Carolina</b>	9,752	\$6,874	\$455,973,000	15%
<b>North Dakota</b>	700	\$10,446	\$46,016,000	16%
<b>Ohio</b>	11,544	\$24,893	\$509,393,000	56%

<b>State</b>	<b>Population</b>	<b>Per Capita U.L.</b>	<b>Gross State Product</b>	<b>U.L. as a % of GSP</b>
<i>Note: figures in thousands, except Per Capita</i>				
<b>Oklahoma</b>	3,815	\$10,877	\$160,953,000	26%
<b>Oregon</b>	3,899	\$19,266	\$198,702,000	38%
<b>Pennsylvania</b>	12,764	\$12,272	\$600,897,000	26%
<b>Rhode Island</b>	1,050	\$14,288	\$50,956,000	29%
<b>South Carolina</b>	4,724	\$11,255	\$176,217,000	30%
<b>South Dakota</b>	833	\$8,647	\$42,464,000	17%
<b>Tennessee</b>	6,456	\$5,676	\$277,036,000	13%
<b>Texas</b>	26,059	\$9,370	\$1,397,369,000	17%
<b>Utah</b>	2,855	\$10,423	\$130,486,000	23%
<b>Vermont</b>	626	\$8,814	\$27,296,000	20%
<b>Virginia</b>	8,186	\$9,694	\$445,876,000	18%
<b>Washington</b>	6,897	\$9,287	\$375,730,000	17%
<b>West Virginia</b>	1,855	\$10,204	\$69,380,000	27%
<b>Wisconsin</b>	5,726	\$10,437	\$261,548,000	23%
<b>Wyoming</b>	576	\$16,786	\$38,422,000	25%
<b>Total</b>	<b>312,997</b>	<b>\$13,145</b>	<b>\$15,456,283,000</b>	<b>27%</b>

## **About State Budget Solutions**

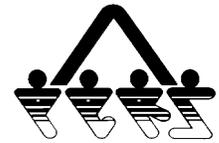
*State Budget Solutions' mission is to fundamentally change the way state & local governments do business by engaging journalists, bloggers, state officials and opinion leaders in a new way of thinking geared towards fundamental budget and public pension reforms, transparency, and accountability. State Budget Solutions is non-profit, non-partisan, positive, pro-reform, proactive and anchored in fundamental, systemic solutions.*

*State Budget Solutions provides research, analysis, commentary and policy expertise about the enormous fiscal challenges facing our state and local governments and is most importantly focused on solving these problems.*

*State Budget Solutions rejects the business as usual approach that many offer and instead works to promote process and structural reforms allowing state and local governments to better keep their own fiscal house in order and avoid combinations of draconian tax increases and unnecessary cuts to citizen-valued services.*

## **About the Author**

*Cory Eucalitto is an editor and author at State Budget Solutions. His areas of focus include public pension and state budget reform. Cory holds a B.A. in Politics focused on political theory from The Catholic University of America. He is originally from Florida and now resides in Washington, D.C.*



# Memo

To: NDPERS Board  
From: Bryan T. Reinhardt  
Date: 9/13/2013  
Re: 457 Companion Plan & 401(a) plan 2nd Quarter 2013 Reports

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Here is the 2nd quarter 2013 investment report for the 401(a) & 457 Companion Plan. The reports are available separately on the NDPERS web site. The NDPERS Investment Sub-committee reviewed the 2nd quarter report.

Assets in the 401(a) plan increased to \$26.6 million as of Jun 30, 2013. The number of participants is at 277, about the same as when the plan started. The largest funds are the TIAA-CREF Lifecycle funds with 70% of assets and the Stable Value fund with 4%.

Assets in the 457 Companion Plan increased to \$49.8 million as of Jun 30, 2013. The number of participants is increasing and is now at 4,450. The largest funds are the TIAA-CREF Lifecycle funds with 74% of assets and the PIMCO Total Return fund with 3%.

## Benchmarks:

Domestic equity fund returns for the quarter were all positive, but fixed income, international equity, and REITS were negative. The markets have rebounded and all the funds in the core lineup have positive returns across the 3-year and 5-year periods. Most of the core funds performed well compared to their benchmarks and peer funds. Note that index funds are expected to slightly underperform their benchmarks because of fund administration fees.

## Fund / Investment News:

The NDPERS Investment Sub-Committee reviewed a 2<sup>nd</sup> quarter plan and investment overview with TIAA-CREF. There were 157 new 457 enrollments and 1 new 401(a) member for the quarter. The Investment Sub-Committee marked the PIMCO Total Return (PTRAX), Franklin Growth (FCGAX), Allianz Small Cap (PVADX), Parnassus Small Cap (PARSX), and Vanguard Intl Index (VGTSX) as underperforming for the quarter.

The Sub-Committee continued to work on the Job Service and RHIC plans. Asset definitions work will continue and a review of the investment policy statements for all the plans will start next quarter.

NDPERS  
Quarterly Investment Report  
2nd Quarter  
4/1/2013 – 6/30/2013



North Dakota Public Employees Retirement System  
400 E Bdwy, Suite 505  
Box 1657  
Bismarck, ND 58502

## NDPERS 401(a) Defined Contribution Plan & 457 Companion Plan - TIAA-CREF

<b>INITIAL OFFERING:</b>			
	Hartford Dividend & Growth T.Rowe Price Equity Income	Vanguard 500 Index Signal Vanguard Dividend Growth	Franklin Growth Adv Wells Fargo Adv Growth Adm
			<b>LARGE</b>
	RidgeWorth Mid Cap Value Equity I	ASTON/Fairpointe Mid Cap I Columbia Mid Cap Index A	Prudential Jennison Mid Cap Growth Z
			<b>MEDIUM</b>
	Allianz NFJ Small Cap Value	Parnassus Small Cap	Brown Capital Mgmt Small Co Inv
			<b>SMALL</b>
	<b>VALUE</b>	<b>BLEND</b>	<b>GROWTH</b>
<b>BALANCED FUND:</b>	T.Rowe Price Capital Appreciation		
<b>INCOME FUNDS:</b>	Wells Fargo Stable Value Fund J	Vanguard Prime Money Market	
<b>BOND FUNDS:</b>	PIMCO Total Return Bond Fund	Prudential High Yield Z	
	PIMCO Real Return Admin Bond Fund	Templeton Global Bond	
<b>REAL ESTATE:</b>	Cohen & Steers Realty Shares		
<b>INTERNATIONAL FUNDS:</b>	Mutual Global Discovery Z	Vanguard Total Intl Stock Index	Oppenheimer Developing Markets Y
<b>LIFESTYLE FUNDS:</b>	TIAA-CREF Lifecycle Ret Income	TIAA-CREF Lifecycle 2025	TIAA-CREF Lifecycle 2045
	TIAA-CREF Lifecycle 2010	TIAA-CREF Lifecycle 2030	TIAA-CREF Lifecycle 2050
	TIAA-CREF Lifecycle 2015	TIAA-CREF Lifecycle 2035	TIAA-CREF Lifecycle 2055
	TIAA-CREF Lifecycle 2020	TIAA-CREF Lifecycle 2040	
<b>FUND STYLE CHANGES:</b>			
			
			<b>LARGE</b>
	ASTON/Fairpointe Mid Cap I		
			<b>MEDIUM</b>
			<b>SMALL</b>
	<b>VALUE</b>	<b>BLEND</b>	<b>GROWTH</b>
<b>OTHER FUNDS:</b>			
<b>CURRENT LINEUP:</b>			
	Hartford Dividend & Growth T.Rowe Price Equity Income	Vanguard 500 Index Signal Vanguard Dividend Growth	Franklin Growth Adv Wells Fargo Adv Growth Adm
			<b>LARGE</b>
	RidgeWorth Mid Cap Value Equity I ASTON/Fairpointe Mid Cap I	Columbia Mid Cap Index A	Prudential Jennison Mid Cap Growth Z
			<b>MEDIUM</b>
	Allianz NFJ Small Cap Value	Parnassus Small Cap	Brown Capital Mgmt Small Co Inv
			<b>SMALL</b>
	<b>VALUE</b>	<b>BLEND</b>	<b>GROWTH</b>
<b>BALANCED FUND:</b>	T.Rowe Price Capital Appreciation		
<b>INCOME FUNDS:</b>	Wells Fargo Stable Value Fund J	Vanguard Prime Money Market	
<b>BOND FUNDS:</b>	PIMCO Total Return Bond Fund	Prudential High Yield Z	
	PIMCO Real Return Admin Bond Fund	Templeton Global Bond	
<b>REAL ESTATE:</b>	Cohen & Steers Realty Shares		
<b>INTERNATIONAL FUNDS:</b>	Mutual Global Discovery Z	Vanguard Total Intl Stock Index	Oppenheimer Developing Markets Y
<b>LIFESTYLE FUNDS:</b>	TIAA-CREF Lifecycle Ret Income	TIAA-CREF Lifecycle 2025	TIAA-CREF Lifecycle 2045
	TIAA-CREF Lifecycle 2010	TIAA-CREF Lifecycle 2030	TIAA-CREF Lifecycle 2050
	TIAA-CREF Lifecycle 2015	TIAA-CREF Lifecycle 2035	TIAA-CREF Lifecycle 2055
	TIAA-CREF Lifecycle 2020	TIAA-CREF Lifecycle 2040	

## NDPERS Investment Benchmarks - 2nd Quarter 2013

	<u>Quarter</u>	<u>Y-T-D</u>	<u>1-Year</u>	<u>3-Year</u>	<u>5-Year</u>
<u>Stable Value / Money Market Fund</u>					
<b>Vanguard Prime Money Market - VMMXX</b>	<b>0.00%</b>	<b>0.01%</b>	<b>0.02%</b>	<b>0.04%</b>	<b>0.38%</b>
<b>Wells Fargo Stable Return Fund J - WFSJ#</b>	<b>0.25%</b>	<b>0.50%</b>	<b>1.09%</b>	<b>1.46%</b>	<b>1.98%</b>
3 Month T-Bill Index	0.02%	0.03%	0.08%	0.09%	0.23%
<u>Fixed Income Fund</u>					
<b>PIMCO Real Return Admin - PARRX</b>	<b>-8.36%</b>	<b>-8.31%</b>	<b>-5.13%</b>	<b>4.42%</b>	<b>4.85%</b>
<b>PIMCO Total Return Bond Fund - PTRAX</b>	<b>-3.66%</b>	<b>-3.14%</b>	<b>0.95%</b>	<b>4.41%</b>	<b>6.99%</b>
Barclays Aggregate Bond Index	-2.32%	-2.44%	-0.69%	3.51%	5.19%
Taxable Bond Fund Universe	-2.52%	-1.88%	2.21%	4.89%	5.50%
<b>Prudential High Yield Z - PHYZX</b>	<b>-1.33%</b>	<b>1.37%</b>	<b>8.75%</b>	<b>10.25%</b>	<b>9.93%</b>
ML High Yield Bond Fund Index	-1.35%	1.46%	9.55%	10.42%	10.62%
High Yield Bond Fund Universe	-1.36%	1.40%	9.04%	9.65%	8.65%
<b>Templeton Global Bond Adv - TGBAX</b>	<b>-2.73%</b>	<b>-1.36%</b>	<b>7.95%</b>	<b>6.84%</b>	<b>9.63%</b>
Citi World Govt Bond Index	-2.97%	-5.66%	-4.50%	2.72%	3.04%
World Bond Fund Universe	-3.63%	-4.59%	0.15%	4.05%	4.45%
<u>Real Estate Fund</u>					
<b>Cohen &amp; Steers Realty Shares - CSRSX</b>	<b>-1.54%</b>	<b>5.95%</b>	<b>8.06%</b>	<b>16.60%</b>	<b>8.11%</b>
FTSE NAREIT All Equity REITs Index	-2.13%	5.79%	10.21%	18.46%	7.72%
Real Estate Fund Universe	-2.02%	4.67%	7.75%	16.90%	6.69%
<u>Balanced Fund</u>					
<b>T.Rowe Price Capital Appreciation - PACLX</b>	<b>2.35%</b>	<b>10.09%</b>	<b>17.89%</b>	<b>14.49%</b>	<b>8.04%</b>
60% Large Cap Value Univ & 40% Taxable Bond Universe	0.97%	8.21%	14.70%	12.10%	5.82%
60% Russell 1000 Value & 40% Agg Bond Index	0.99%	8.56%	14.92%	12.51%	6.08%
<u>Large Cap Equities - Value</u>					
<b>Hartford Dividend &amp; Growth - HDGTX</b>	<b>3.84%</b>	<b>14.96%</b>	<b>21.49%</b>	<b>17.08%</b>	<b>6.73%</b>
<b>T.Rowe Price Equity Income - PRFDX</b>	<b>2.63%</b>	<b>14.12%</b>	<b>23.66%</b>	<b>17.49%</b>	<b>7.37%</b>
Russell 1000 Value Index	3.20%	15.90%	25.32%	18.51%	6.67%
Large Cap Value Fund Universe	3.30%	14.94%	23.02%	16.90%	6.03%
<u>Large Cap Equities - Blend</u>					
<b>Vanguard 500 Index Signal - VIFSX</b>	<b>2.90%</b>	<b>13.80%</b>	<b>20.55%</b>	<b>18.42%</b>	<b>7.03%</b>
<b>Vanguard Dividend Growth Fund - VDIGX</b>	<b>3.81%</b>	<b>15.22%</b>	<b>19.65%</b>	<b>18.55%</b>	<b>8.64%</b>
S&P 500 Index	2.91%	13.82%	20.60%	18.45%	7.01%
Large Cap Blend Fund Universe	2.56%	13.26%	20.83%	16.68%	5.83%
<u>Large Cap Equities - Growth</u>					
<b>Wells Fargo Adv Growth Adm - SGRKX</b>	<b>2.15%</b>	<b>9.13%</b>	<b>14.40%</b>	<b>21.44%</b>	<b>11.81%</b>
Russell 3000 Growth Index	2.19%	12.23%	17.56%	18.78%	7.58%
<b>Franklin Growth Adv - FCGAX</b>	<b>1.57%</b>	<b>9.73%</b>	<b>16.27%</b>	<b>15.34%</b>	<b>7.96%</b>
Russell 1000 Growth Index	2.06%	11.80%	17.07%	18.68%	7.47%
Large Cap Growth Fund Universe	2.03%	11.05%	17.23%	16.51%	5.57%
<u>Mid Cap Equities - Value</u>					
<b>RidgeWorth Mid Cap Value Equity I - SMVTX</b>	<b>1.30%</b>	<b>12.60%</b>	<b>27.45%</b>	<b>17.55%</b>	<b>12.21%</b>
Russell Mid Cap Value	1.65%	16.10%	27.65%	19.53%	8.87%
Mid Cap Value Fund Universe	2.65%	15.98%	26.71%	17.61%	8.29%
<u>Mid Cap Equities - Blend</u>					
<b>Columbia Mid Cap Index A - NTIAX</b>	<b>0.87%</b>	<b>14.31%</b>	<b>24.54%</b>	<b>18.91%</b>	<b>8.47%</b>
S&P Mid Cap 400	1.00%	14.59%	25.18%	19.45%	8.91%
<b>ASTON/Fairpointe Mid Cap I - ABMIX</b>	<b>6.53%</b>	<b>22.46%</b>	<b>34.07%</b>	<b>19.70%</b>	<b>10.03%</b>
Wilshire 4500 Index	2.21%	15.43%	25.22%	19.26%	8.74%
Mid Cap Blend Fund Universe	2.20%	14.78%	25.06%	17.40%	6.67%
<u>Mid Cap Equities - Growth</u>					
<b>Prudential Jennison Mid Cap Growth Z - PEGZX</b>	<b>0.82%</b>	<b>9.38%</b>	<b>14.78%</b>	<b>16.89%</b>	<b>8.12%</b>
Russell Mid Cap Growth	2.87%	14.70%	22.88%	19.53%	7.61%
Mid Cap Growth Fund Universe	2.11%	13.11%	19.79%	17.01%	6.07%
<b>Fund Returns in RED do not meet both benchmarks.</b>					
<b>Fund Returns in BLACK meet both benchmarks.</b>					

## NDPERS Investment Benchmarks - 2nd Quarter 2013

	<u>Quarter</u>	<u>Y-T-D</u>	<u>1-Year</u>	<u>3-Year</u>	<u>5-Year</u>
<b>Small Cap Equities - Value</b>					
<b>Allianz NFJ Small Cap Value - PVADX</b>	<b>0.16%</b>	<b>12.47%</b>	<b>22.30%</b>	<b>16.14%</b>	<b>8.28%</b>
Russell 2000 Value Index	2.47%	14.39%	24.76%	17.33%	8.59%
Small Value Fund Universe	2.71%	15.30%	25.62%	16.70%	9.31%
<b>Small Cap Equities - Blend</b>					
<b>Parnassus Small Cap - PARSX</b>	<b>2.81%</b>	<b>7.81%</b>	<b>17.52%</b>	<b>13.38%</b>	<b>9.84%</b>
Russell 2000 Index	3.08%	15.86%	24.21%	18.67%	8.77%
Small Blend Fund Universe	2.57%	15.32%	24.56%	17.99%	8.01%
<b>Small Cap Equities - Growth</b>					
<b>Brown Capital Mgmt Small Co Inv - BCSIX</b>	<b>0.95%</b>	<b>15.54%</b>	<b>23.89%</b>	<b>21.22%</b>	<b>12.97%</b>
Russell 2000 Growth Index	3.74%	17.44%	23.67%	19.97%	8.89%
Small Growth Fund Universe	3.52%	16.03%	22.25%	18.57%	8.33%
<b>International Equity Funds</b>					
<b>Mutual Global Discovery Z - MDISX</b>	<b>2.03%</b>	<b>10.44%</b>	<b>19.67%</b>	<b>12.19%</b>	<b>6.10%</b>
<b>Vanguard Total Intl Stock Index Inv - VGTSX</b>	<b>-3.24%</b>	<b>-0.44%</b>	<b>13.58%</b>	<b>N/A</b>	<b>N/A</b>
MSCI EAFE	-0.98%	4.10%	18.62%	10.04%	-0.63%
International Stock Fund Universe	-2.01%	1.88%	14.89%	9.43%	0.48%
<b>Oppenheimer Developing Markets Y - ODVYX</b>	<b>-3.95%</b>	<b>-3.78%</b>	<b>7.87%</b>	<b>8.13%</b>	<b>5.48%</b>
MSCI Emerging Markets Index	-8.08%	-9.57%	2.87%	3.38%	-0.43%
Diversified Emerging Mkts Universe	-7.51%	-7.78%	4.45%	3.44%	-1.35%
<b>Asset Allocation Funds:</b>					
<b>TIAA-CREF Lifecycle Ret Income - TLIRX</b>	<b>-1.32%</b>	<b>1.87%</b>	<b>7.64%</b>	<b>8.74%</b>	<b>5.23%</b>
Income Benchmark	-0.33%	3.77%	8.88%	8.99%	5.26%
<b>TIAA-CREF Lifecycle 2010 - TCLEX</b>	<b>-1.13%</b>	<b>2.68%</b>	<b>9.07%</b>	<b>9.89%</b>	<b>5.04%</b>
2010 Benchmark	-0.13%	4.59%	10.08%	9.82%	5.24%
<b>TIAA-CREF Lifecycle 2015 - TCLIX</b>	<b>-0.92%</b>	<b>3.40%</b>	<b>10.39%</b>	<b>10.73%</b>	<b>5.00%</b>
2015 Benchmark	0.07%	5.36%	11.22%	10.57%	5.24%
<b>TIAA-CREF Lifecycle 2020 - TCLTX</b>	<b>-0.58%</b>	<b>4.45%</b>	<b>12.08%</b>	<b>11.72%</b>	<b>4.93%</b>
2020 Benchmark	0.34%	6.35%	12.69%	11.53%	5.23%
<b>TIAA-CREF Lifecycle 2025 - TCLFX</b>	<b>-0.08%</b>	<b>5.64%</b>	<b>13.86%</b>	<b>12.65%</b>	<b>4.88%</b>
2025 Benchmark	0.61%	7.33%	14.17%	12.48%	5.23%
<b>TIAA-CREF Lifecycle 2030 - TCLNX</b>	<b>0.17%</b>	<b>6.68%</b>	<b>15.48%</b>	<b>13.56%</b>	<b>4.69%</b>
2030 Benchmark	0.90%	8.38%	15.74%	13.47%	5.22%
<b>TIAA-CREF Lifecycle 2035 - TCLRX</b>	<b>0.50%</b>	<b>7.62%</b>	<b>17.06%</b>	<b>14.42%</b>	<b>4.74%</b>
2035 Benchmark	1.23%	9.49%	17.43%	14.50%	5.23%
<b>TIAA-CREF Lifecycle 2040 - TCLOX</b>	<b>0.65%</b>	<b>8.12%</b>	<b>17.77%</b>	<b>14.60%</b>	<b>4.89%</b>
2040 Benchmark	1.42%	10.11%	18.36%	15.06%	5.23%
<b>TIAA-CREF Lifecycle 2045 - TTFRX</b>	<b>0.73%</b>	<b>8.28%</b>	<b>17.90%</b>	<b>14.60%</b>	<b>4.55%</b>
2045 Benchmark	1.42%	10.11%	18.36%	15.06%	5.23%
<b>TIAA-CREF Lifecycle 2050 - TLFRX</b>	<b>0.73%</b>	<b>8.19%</b>	<b>17.76%</b>	<b>14.57%</b>	<b>4.32%</b>
2050 Benchmark	1.42%	10.11%	18.36%	15.06%	5.23%
<b>TIAA-CREF Lifecycle 2055 - TTRLX</b>	<b>0.75%</b>	<b>8.27%</b>	<b>17.87%</b>	<b>N/A</b>	<b>N/A</b>
2055 Benchmark	1.42%	10.11%	18.36%	15.06%	5.23%
Income Benchmark is comprised of 30% Wilshire 5000, 10% MSCI EAFE, 40% Ag Bond, 10% ML HY Bond, 10% 3 Month T-Bill					
2010 Benchmark is comprised of 35.4% Wilshire 5000, 11.8% MSCI EAFE, 38.6% Ag Bond, 7.1% ML HY Bond, 7.1% 3 Month T-Bill					
2015 Benchmark is comprised of 40.2% Wilshire 5000, 13.4% MSCI EAFE, 36.2% Ag Bond, 5.1% ML HY Bond, 5.1% 3 Month T-Bill					
2020 Benchmark is comprised of 46.2% Wilshire 5000, 15.4% MSCI EAFE, 32.2% Ag Bond, 3.1% ML HY Bond, 3.1% 3 Month T-Bill					
2025 Benchmark is comprised of 52.2% Wilshire 5000, 17.4% MSCI EAFE, 28.2% Ag Bond, 1.1% ML HY Bond, 1.1% 3 Month T-Bill					
2030 Benchmark is comprised of 58.2% Wilshire 5000, 19.4% MSCI EAFE, 22.4% Ag Bond					
2035 Benchmark is comprised of 64.2% Wilshire 5000, 21.4% MSCI EAFE, 14.4% Ag Bond					
2040 Benchmark is comprised of 67.5% Wilshire 5000, 22.5% MSCI EAFE, 10% Ag Bond					
2045 Benchmark is comprised of 67.5% Wilshire 5000, 22.5% MSCI EAFE, 10% Ag Bond					
2050 Benchmark is comprised of 67.5% Wilshire 5000, 22.5% MSCI EAFE, 10% Ag Bond					
2055 Benchmark is comprised of 67.5% Wilshire 5000, 22.5% MSCI EAFE, 10% Ag Bond					
Wilshire 5000 Index	2.77%	13.97%	21.10%	18.45%	7.19%
MSCI EAFE	-0.98%	4.10%	18.62%	10.04%	-0.63%
Barclays Aggregate Bond Index	-2.32%	-2.44%	-0.69%	3.51%	5.19%
ML High Yield Bond Fund Index	-1.35%	1.46%	9.55%	10.42%	10.62%
3 Month T-Bill Index	0.02%	0.03%	0.08%	0.09%	0.23%
<b>Fund Returns in RED do not meet both benchmarks. Fund Returns in BLACK meet both benchmarks.</b>					

## 457(b)

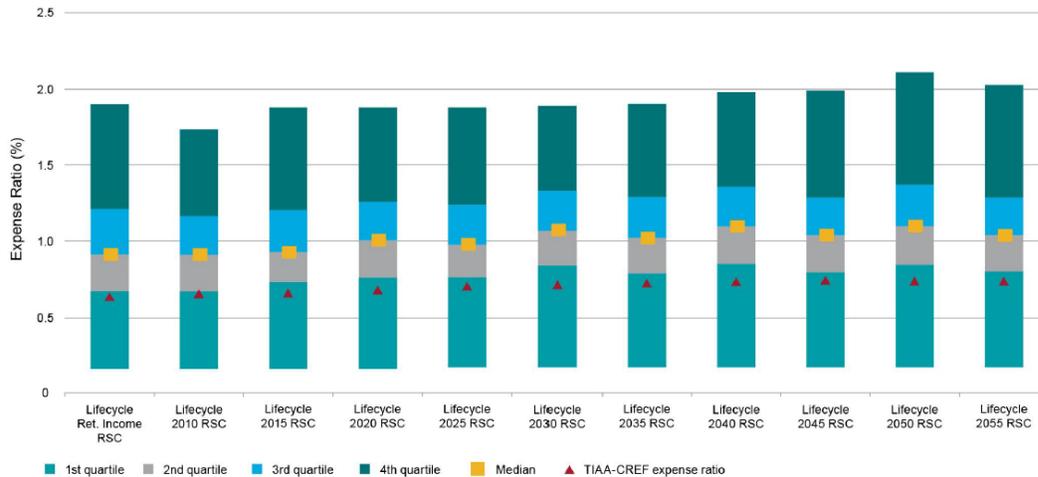
	Assets
TIAA-CREF Lifecycle 2025 Fund Retirement	\$8,158,515
TIAA-CREF Lifecycle 2020 Fund Retirement	\$7,902,713
TIAA-CREF Lifecycle 2015 Fund Retirement	\$6,842,660
TIAA-CREF Lifecycle 2030 Fund Retirement	\$4,570,941
TIAA-CREF Lifecycle 2035 Fund Retirement	\$2,638,175
TIAA-CREF Lifecycle 2010 Fund Retirement	\$2,458,226
TIAA-CREF Lifecycle 2040 Fund Retirement	\$2,171,138
PIMCO Total Return Fund Admin	\$1,454,234
TIAA-CREF Lifecycle 2045 Fund Retirement	\$1,448,526
AllianzGI NFJ Small Cap Value Fund Administrative	\$1,111,893
Wells Fargo Stable Return Fund - J	\$1,096,488
Vanguard Total International Stock Index Fund Signal	\$1,088,700
Vanguard 500 Index Fund Signal	\$1,044,687
Wells Fargo Advantage Growth Fund Administrator	\$726,662
TIAA-CREF Lifecycle 2050 Fund Retirement	\$707,011
Columbia Mid Cap Index Fund A	\$631,473
T. Rowe Price Equity Income Fund	\$564,227
Templeton Global Bond Fund Advisor	\$564,130
Franklin Growth Fund Advisor	\$563,251
Cohen & Steers Realty Shares	\$476,086
T. Rowe Price Capital Appreciation Fund Advisor	\$474,190
Brown Capital Management Small Company Fund Institutional	\$380,685
Hartford Dividend and Growth Fund R5	\$351,631
Self Directed Brokerage Account	\$331,820
Oppenheimer Developing Markets Fund Y	\$329,723
Prudential High Yield Fund Z	\$270,479
Prudential Jennison Mid-Cap Growth Fund Z	\$195,809
RidgeWorth Mid Cap Value Equity Fund I	\$191,238
Vanguard Dividend Growth Fund Investor	\$188,385
Mutual Global Discovery Fund Z	\$181,387
Pamassus Small Cap Fund	\$170,879
ASTON/Fairpointe Mid Cap Fund I	\$156,665
PIMCO Real Return Fund Administrative	\$147,617
TIAA-CREF Lifecycle Retirement Income Fund Retirement	\$101,506
Vanguard Prime Money Market Fund Investor	\$100,733
TIAA-CREF Lifecycle 2055 Fund Retirement	\$54,076
TIAA-CREF Money Market Fund Retirement	\$0
<b>Total</b>	<b>\$49,846,559</b>

## 401(a)

	Assets
TIAA-CREF Lifecycle 2025 Fund Retirement	\$4,021,558
TIAA-CREF Lifecycle 2030 Fund Retirement	\$3,889,488
TIAA-CREF Lifecycle 2035 Fund Retirement	\$3,308,125
TIAA-CREF Lifecycle 2020 Fund Retirement	\$3,045,538
TIAA-CREF Lifecycle 2015 Fund Retirement	\$1,913,507
TIAA-CREF Lifecycle 2040 Fund Retirement	\$1,105,363
TIAA-CREF Lifecycle 2010 Fund Retirement	\$1,070,475
Wells Fargo Stable Return Fund - J	\$1,024,745
Wells Fargo Advantage Growth Fund Administrator	\$954,046
PIMCO Total Return Fund Admin	\$705,113
Vanguard Total International Stock Index Fund Signal	\$485,341
AllianzGI NFJ Small Cap Value Fund Administrative	\$419,541
Self Directed Brokerage Account	\$409,171
T. Rowe Price Equity Income Fund	\$370,026
Cohen & Steers Realty Shares	\$358,399
RidgeWorth Mid Cap Value Equity Fund I	\$329,485
Vanguard Dividend Growth Fund Investor	\$301,714
Hartford Dividend and Growth Fund R5	\$284,226
Oppenheimer Developing Markets Fund Y	\$277,645
Brown Capital Management Small Company Fund Institutional	\$275,085
Prudential Jennison Mid-Cap Growth Fund Z	\$267,490
Franklin Growth Fund Advisor	\$234,992
T. Rowe Price Capital Appreciation Fund Advisor	\$214,553
Vanguard 500 Index Fund Signal	\$206,654
Mutual Global Discovery Fund Z	\$203,911
Columbia Mid Cap Index Fund A	\$149,198
Prudential High Yield Fund Z	\$133,067
TIAA-CREF Lifecycle 2045 Fund Retirement	\$132,916
Templeton Global Bond Fund Advisor	\$130,731
ASTON/Fairpointe Mid Cap Fund I	\$125,732
Parnassus Small Cap Fund	\$97,733
PIMCO Real Return Fund Administrative	\$94,990
TIAA-CREF Lifecycle 2050 Fund Retirement	\$30,820
TIAA-CREF Lifecycle Retirement Income Fund Retirement	\$29,581
TIAA-CREF Lifecycle 2055 Fund Retirement	\$7,505
Vanguard Prime Money Market Fund Investor	\$201
TIAA-CREF Money Market Fund Retirement	\$0
<b>Total</b>	<b>\$26,608,664</b>

## Morningstar U.S. Open End Mutual Fund Target Date expense quartiles vs. TIAA-CREF Lifecycle Retirement Share Class Mutual Fund expense ratios

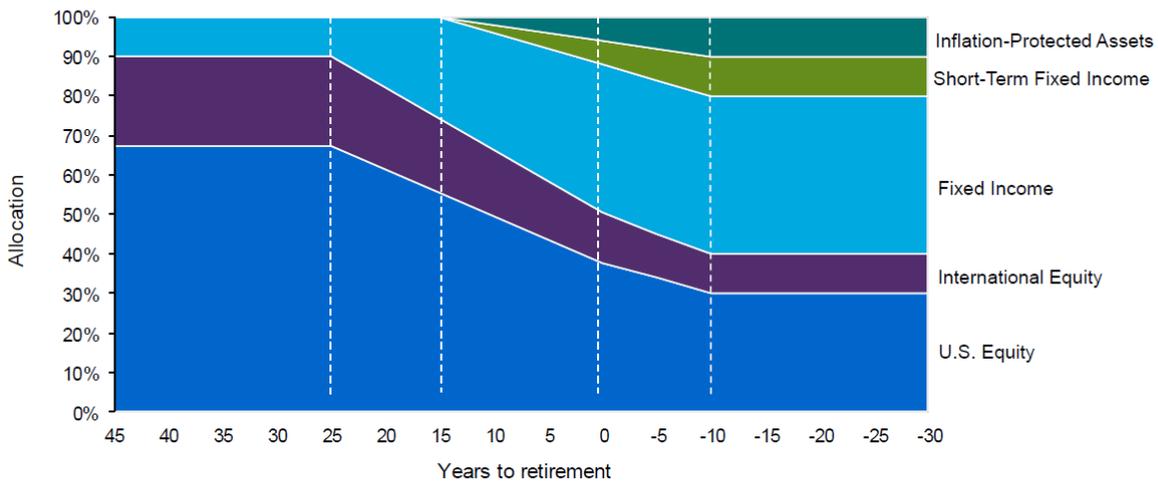
As Of 7/1/13



All TIAA-CREF mutual funds are subject to market and other risk factors.

\* Expense ratio information is shown net of any applicable fee waivers as provided in each fund's prospectus. Please note, expense comparisons may mask important differences in performance, portfolio qualities, and access. See footnotes on following page for details regarding expenses for each TIAA-CREF fund.

## TIAA-CREF Lifecycle Funds Glidepath profile



--- Represents significant change to the glidepath

Source: TIAA-CREF Asset Management

\* The above chart represents the strategic asset allocation progression of one of a series of multi-asset class portfolios with target retirement dates at 5-year intervals. Asset allocations represent the exposures sought at the given number of years before the maturity of the fund and are not actual mutual fund exposures. Allocations are presented for information only and may not represent the actual allocation at the time of investment.

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## TIAA-CREF Lifecycle Funds: Asset allocation strategy

---

### Equity

- U.S.
  - Allocation starts at 67.5% and ends at 30% in retirement.
  - Similar to the risk characteristics of the Russell 3000® Index.
  - Combines fundamental and quantitative management U.S. Large Cap exposure (60%/40% respectively).
- International and Emerging Markets
  - Allocation starts at 22.5% and ends at 10% in retirement.
  - Similar to risk characteristics of the MSCI® EAFE® + EM Index.
  - Combines fundamental and quantitative management for International EAFE exposure (equally weighted).

### Fixed Income

- Fixed Income (Bond, Bond Plus, High Yield)
  - Portfolio allocation starts at 10% and ends at 40%.
  - Simulations and tail risk analysis drive overall allocations between TIAA-CREF Bond, Bond Plus (includes exposure to Emerging Markets Debt) and High Yield Funds.
- Inflation-Linked Bond Fund
  - Portfolio allocation starts 15 years from retirement and grows to 10% allocation in retirement.
  - Provides a hedge against inflation risk and enhances diversification.
- Short-Term Bond Fund
  - Portfolio allocation starts 15 years from retirement and grows to 10% allocation in retirement.
  - Provides a hedge against interest rate risk and reduces volatility.

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## TIAA-CREF Lifecycle Funds

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TIAA-CREF's disciplined, structured approach to Lifecycle fund investing accommodates the needs of a broad range of investors for an effective yet simple tool with which to meet retirement savings objectives.

- Broad diversification within and across asset classes
- Low costs: total expense ratio of 64-74 basis points – well below industry median Lifecycle fund expense ratio of 103 basis points\*
- Style consistency
- Carefully managed risk appropriate to investor's time horizon
- Pursuit of excess returns through bottom-up security selection rooted in fundamental securities analysis



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# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 11, 2013  
**SUBJECT:** BCBS Quarterly Report

BCBS will be at the next meeting to review the quarterly report and answer any questions you may have.

# NDPERS Executive Summary

Q2 | Presented September 2013

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NORTH DAKOTA  
PUBLIC EMPLOYEES  
RETIREMENT SYSTEM

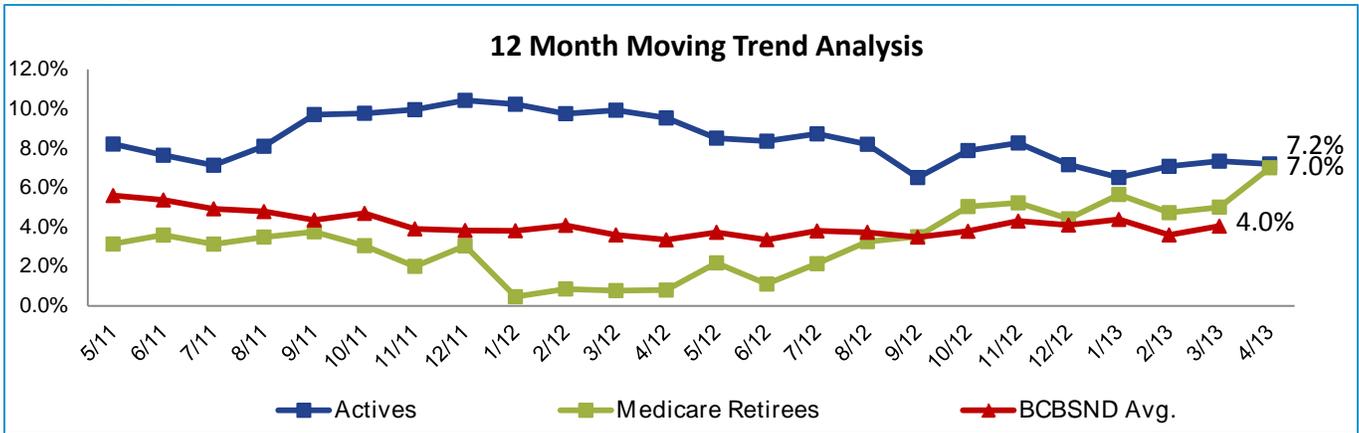


ND

Blue Cross Blue Shield of North Dakota is an independent licensee of the Blue Cross & Blue Shield Association

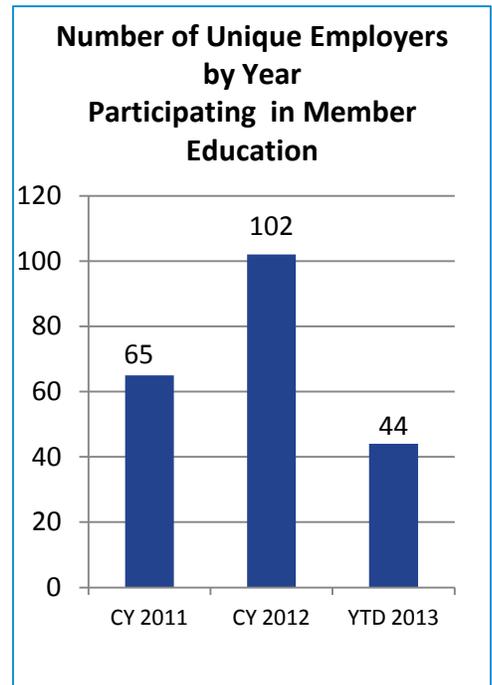
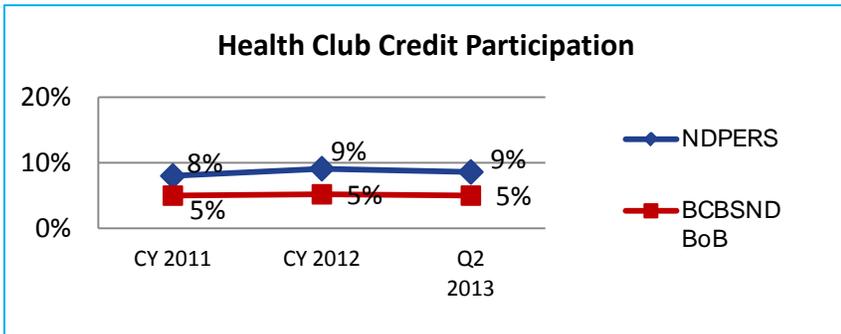
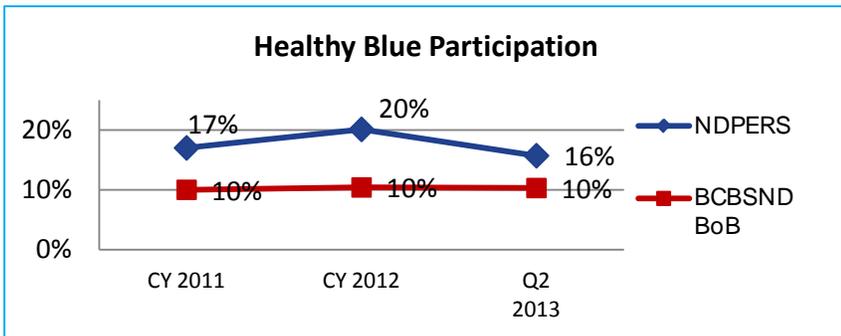
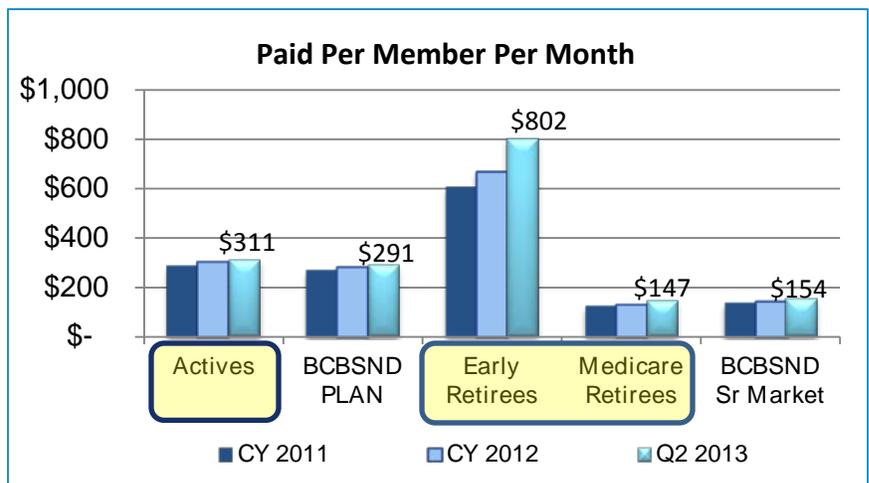
Northwestern Mutual Insurance Company

Restricted and/or Confidential



### Membership Comparison

	CY 2012	Q2 2013
Actives	53,759	54,609
Early Retirees	1,233	1,263
Medicare Retirees	7,438	7,721



Actives include Political Subs and State Employees  
 Quarters are cumulative to period noted.

## NDPERS Biennium Comparison

Paid through June 30, 2013

	Premium	Admin Fee	Interest on Surplus	Estimated Incurred Claims	Gain (Loss)	Gain (Loss) as % of Premium	Biennium Gain (loss)	% of Premium
July 07 - Apr 09	300,431	16,277	505	286,679	-2,020	-0.7%	-3,106	-0.9%
July 09 - Apr 11	386,427	20,471	376	329,027	37,305	9.7%	38,075	9.0%
July 11 - Apr 13	431,197	22,973	109	398,269	10,064	2.3%		

Note: Reported in thousands

The biennium beginning July 09 ended with a significant gain compared to the loss on the July 07 biennium. Current biennium gains are better than the July 07 biennium. It is important to note that the July 11 - April 13 claims include estimated reserves. Actual claims run-out may vary from original reserve estimates.

It is expected that premiums will exceed claims in the first few months of the biennium. This is due to stable premium levels throughout the entire biennium and increasing claims during the biennium. At the mid-point of the biennium claims would be expected to be equal to premiums less admin fees and during the last months of the biennium, claims would be expected to exceed premiums.

## NDPERS Quarterly Trend Analysis

Paid through June 30, 2013

Incurred Month	Twelve Month Moving Average		Annual Trend	
	Est. Incurred Claim/Contract Actives	Med Retirees	Actives	Med Retirees
6/11	\$ 712.66	\$171.54	7.6%	3.6%
7/11	714.16	171.37	7.1%	3.1%
8/11	726.40	171.70	8.1%	3.5%
9/11	736.83	171.73	9.7%	3.8%
10/11	740.09	171.40	9.8%	3.1%
11/11	744.62	171.38	10.0%	2.0%
12/11	751.06	172.16	10.4%	3.0%
1/12	757.04	171.62	10.2%	0.5%
2/12	758.55	172.15	9.8%	0.9%
3/12	761.17	171.79	9.9%	0.8%
4/12	765.06	172.16	9.5%	0.8%
5/12	769.24	174.06	8.5%	2.2%
6/12	772.26	173.44	8.4%	1.1%
7/12	776.53	175.04	8.7%	2.1%
8/12	786.01	177.30	8.2%	3.3%
9/12	784.84	177.76	6.5%	3.5%
10/12	798.45	180.05	7.9%	5.0%
11/12	806.20	180.34	8.3%	5.2%
12/12	804.90	179.77	7.2%	4.4%
1/13	806.38	181.33	6.5%	5.7%
2/13	812.29	180.30	7.1%	4.7%
3/13	817.10	180.40	7.3%	5.0%
4/13	820.20	184.24	7.2%	7.0%

The 5% twelve month rolling trend for NDPERS Actives through March 2013 is greater than the Blue Cross Blue Shield overall trend of 4%.

A 7.5% trend was used in rating the first year of the biennium beginning July 2011. A 9% claims trend was used for the second year.

**NDPERS Quarterly Trend Analysis**  
Paid through June 30, 2013

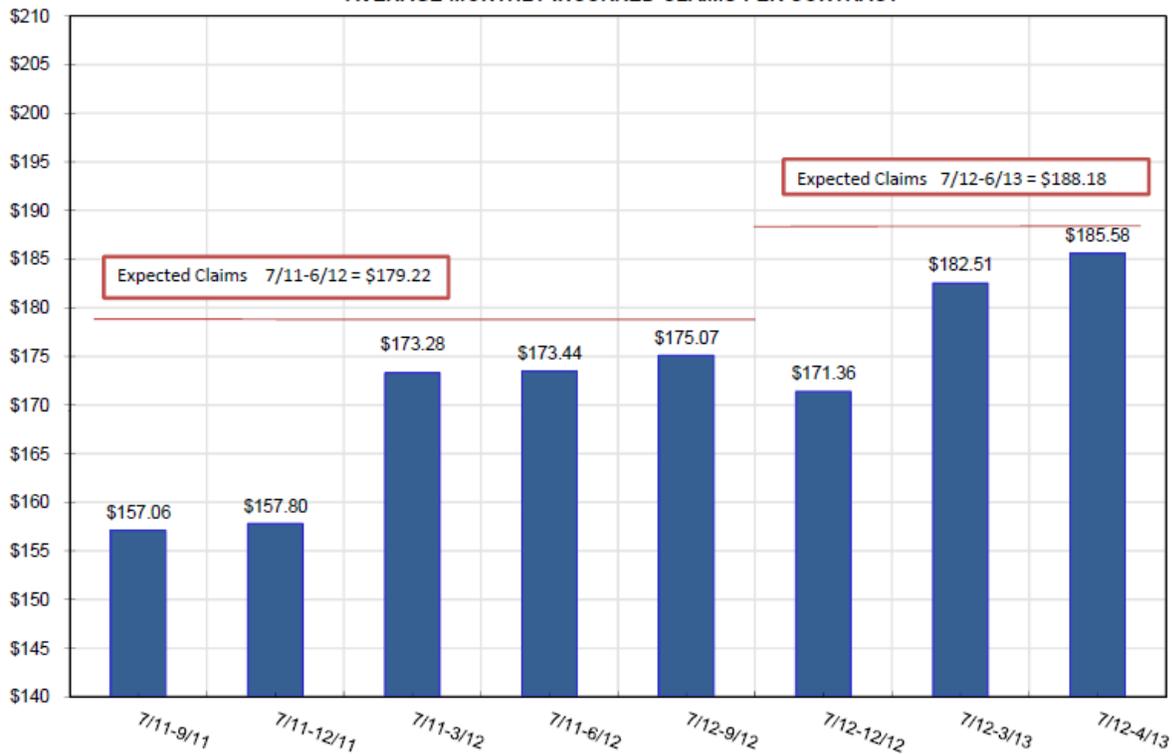
**NDPERS - Actives**

AVERAGE MONTHLY INCURRED CLAIMS PER CONTRACT



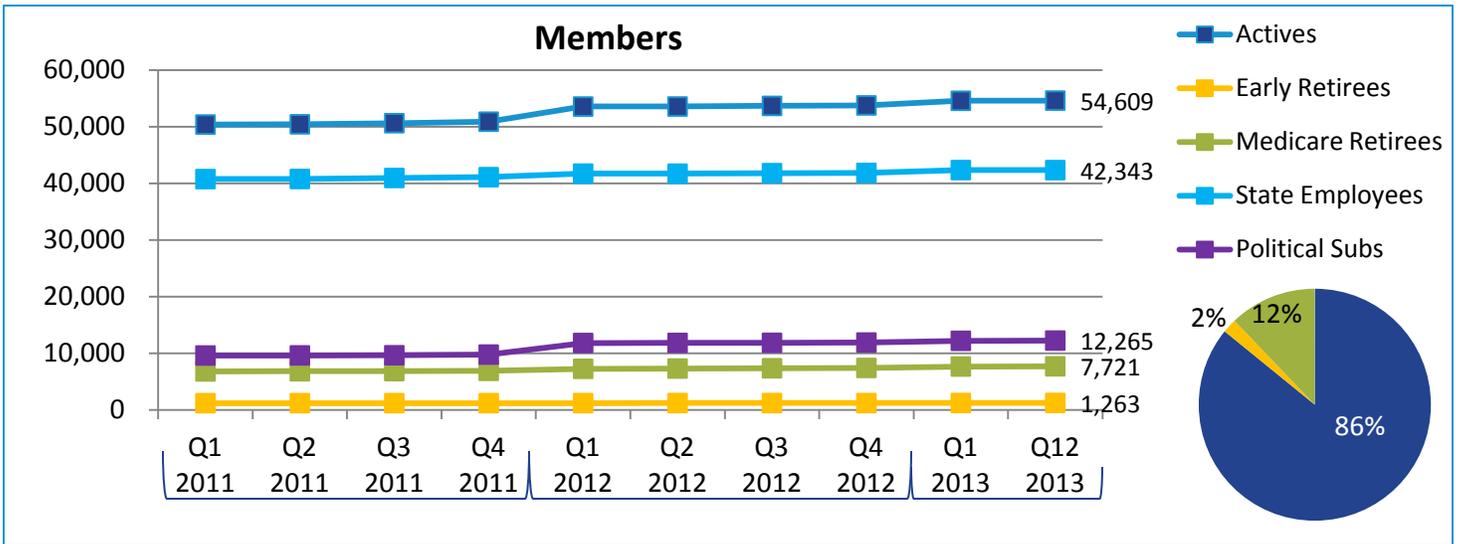
**NDPERS - Medicare Retirees**

AVERAGE MONTHLY INCURRED CLAIMS PER CONTRACT

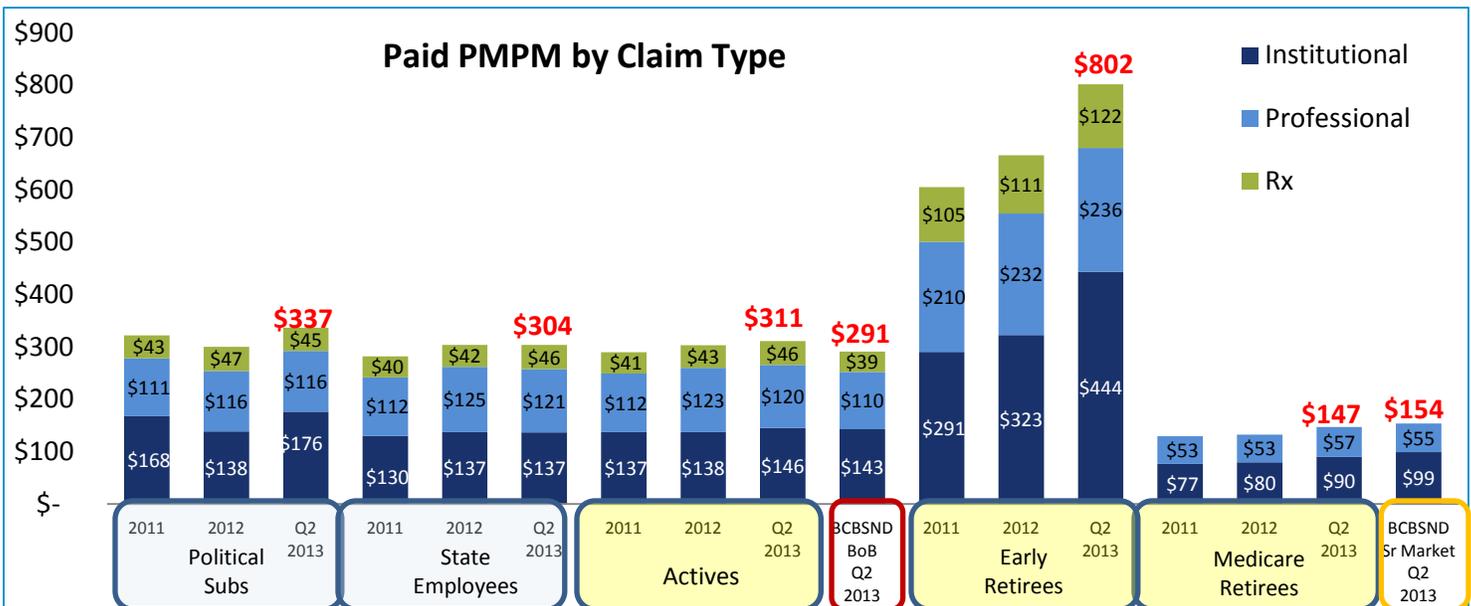
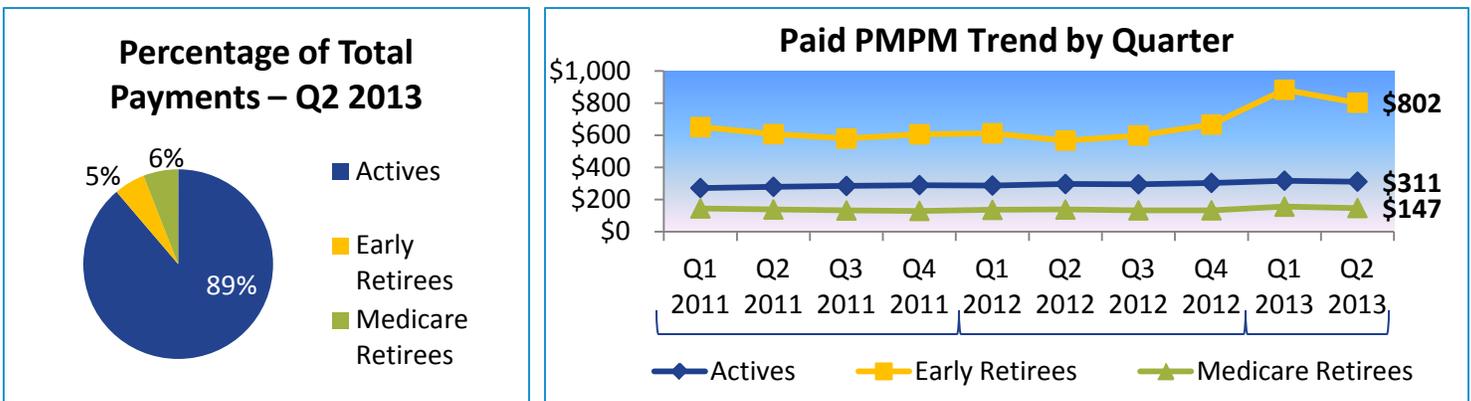




## Membership



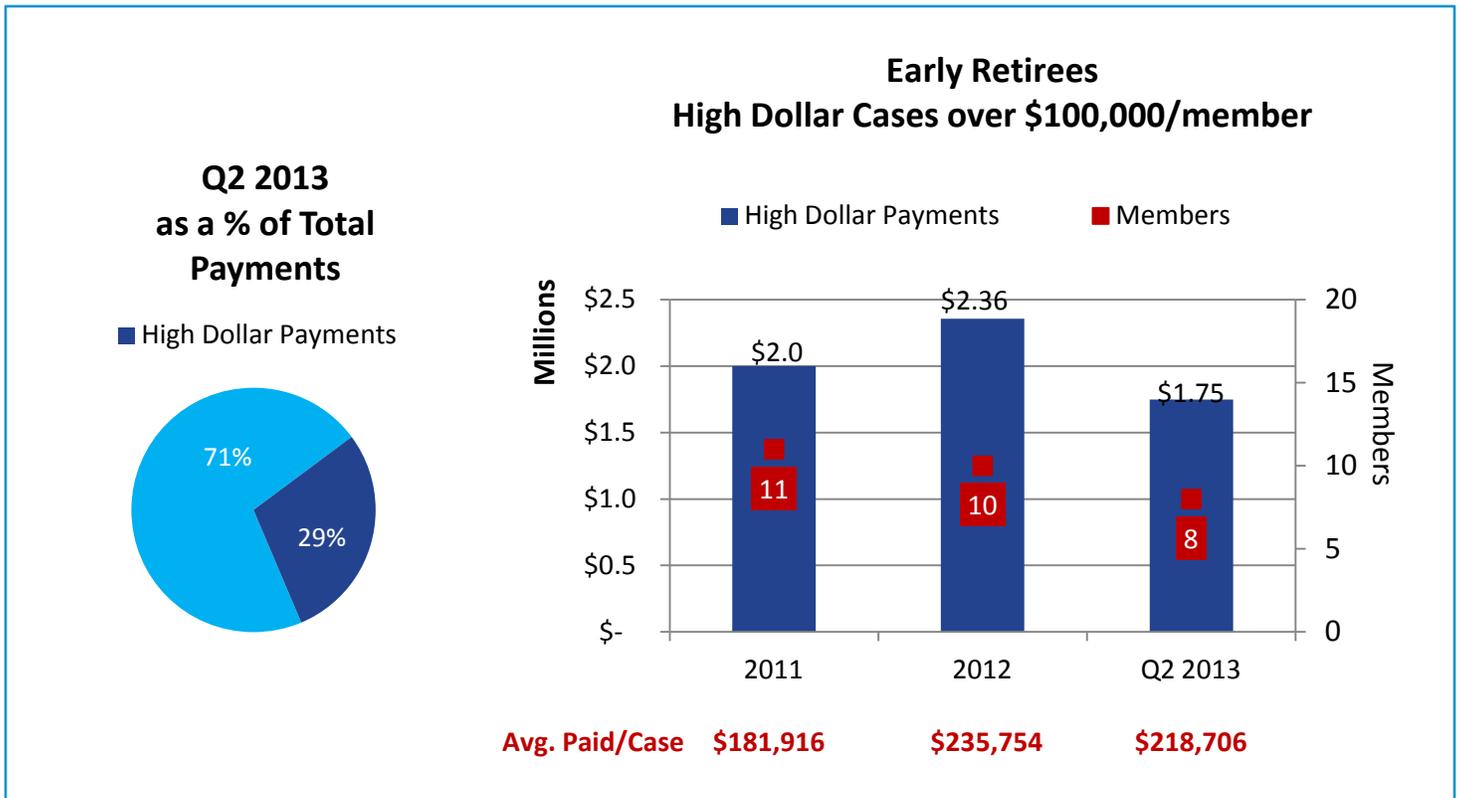
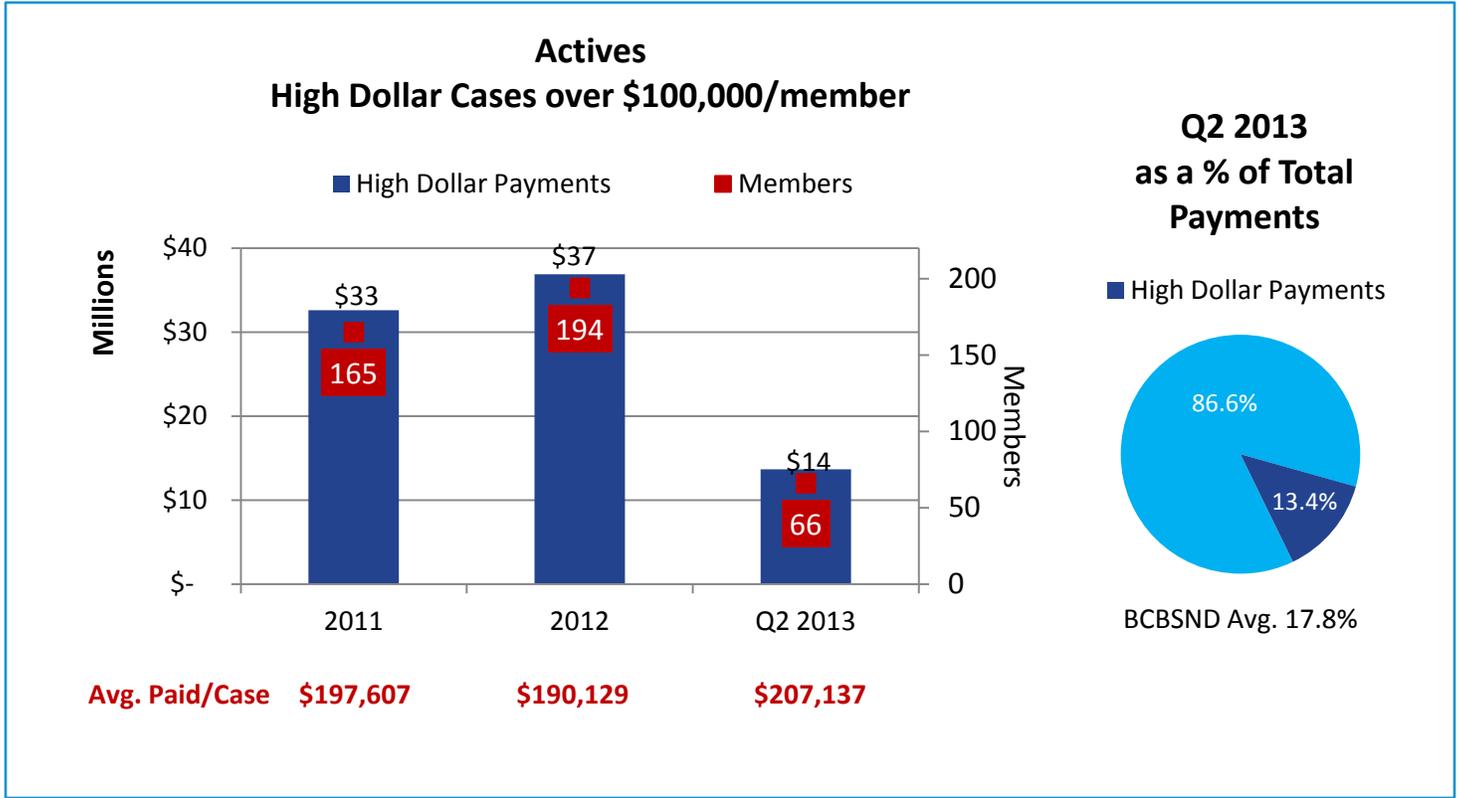
## Claims Paid Per Member Per Month (PMPM)



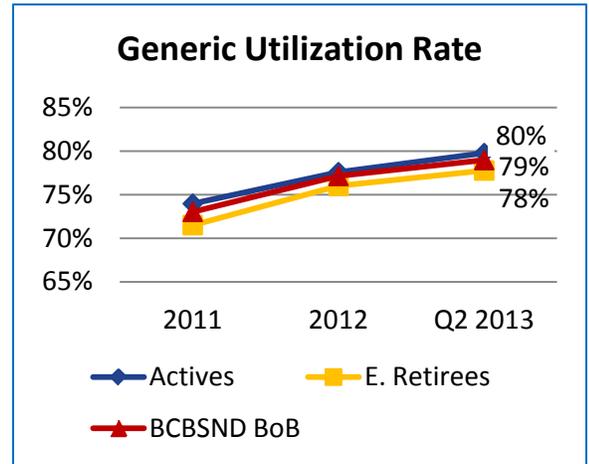
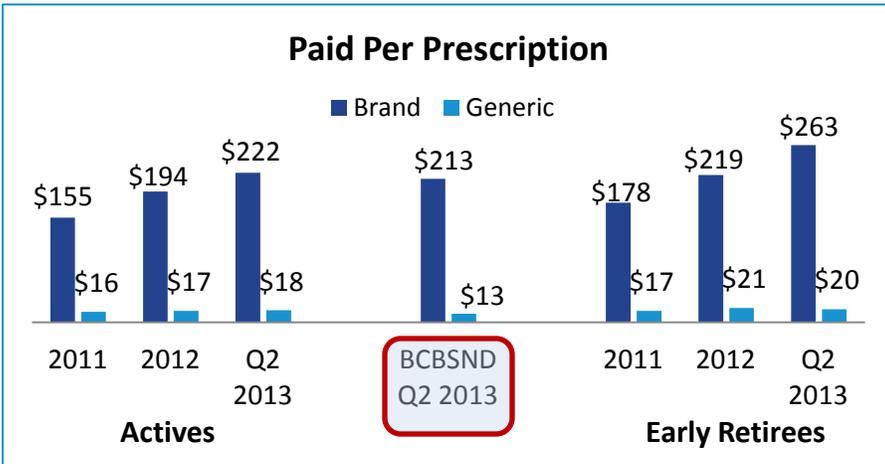
Actives include Political Subs and State Employees

Quarters are cumulative to calendar year end

## High Dollar Cases

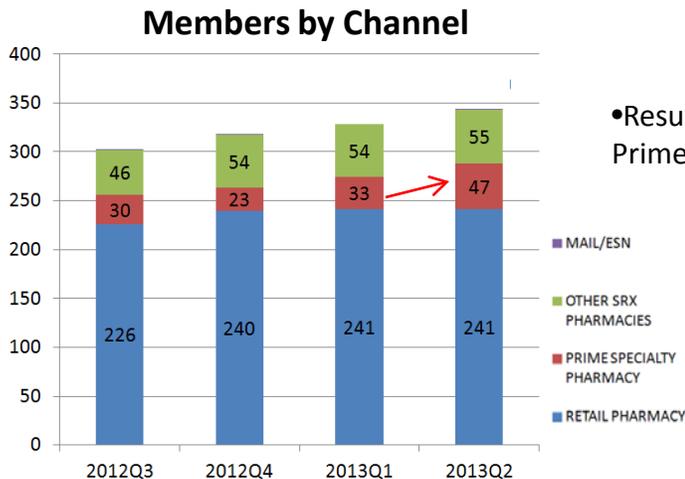
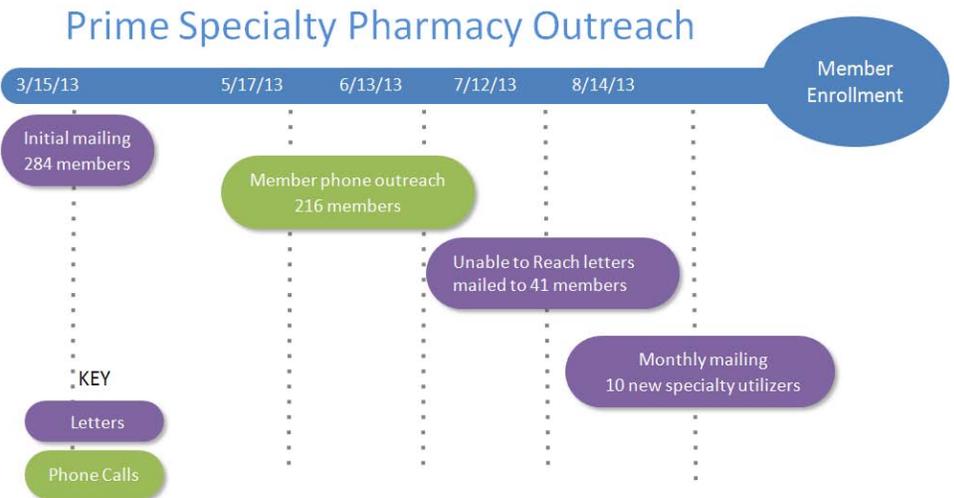


## Prescription Drugs



## Specialty Pharmacy (handout with discussion)

- All specialty utilizers were targeted with letters encouraging use of Prime Specialty Pharmacy



- Resulted in 44% increase in members who now are using Prime Specialty Pharmacy

## Risk Scores

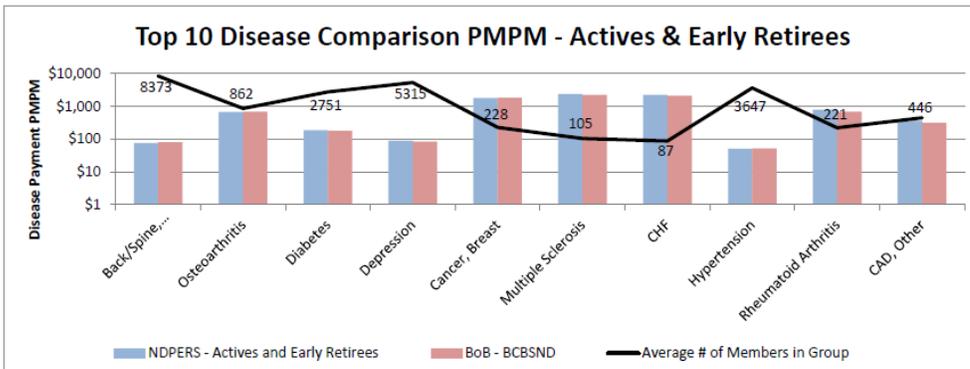
Members as of 6/2013	Demographic Risk (age/gender)	Future Risk (demographics & health related events)
Active/Early Ret.	1.13	1.19
PPO	1.13	1.19
HDHP	.97	.60
Medicare Ret.	3.26	4.05
BCBSND BoB	1.05	1.04

➤ Both demographic & Future risk scores

- Predict a 12 month horizon
- Measures of relative risk, meaning the group is compared to others in the plan with respect to total costs.

A score of 1.00 indicates risk comparable to the overall population.  
 A score of 1.10 indicates a 10% greater risk.  
 A score of 0.85 indicates a 15% lower risk.

## Top 10 Diseases

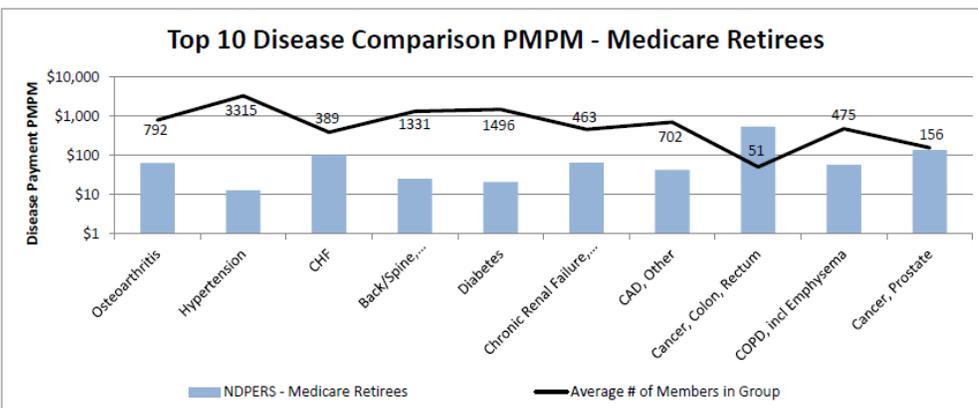


### Most members

- Back/Spine-Pain/Condition
- Depression
- Hypertension

### Most costly

- Breast Cancer
- MS
- Congestive Heart Failure (CHF)



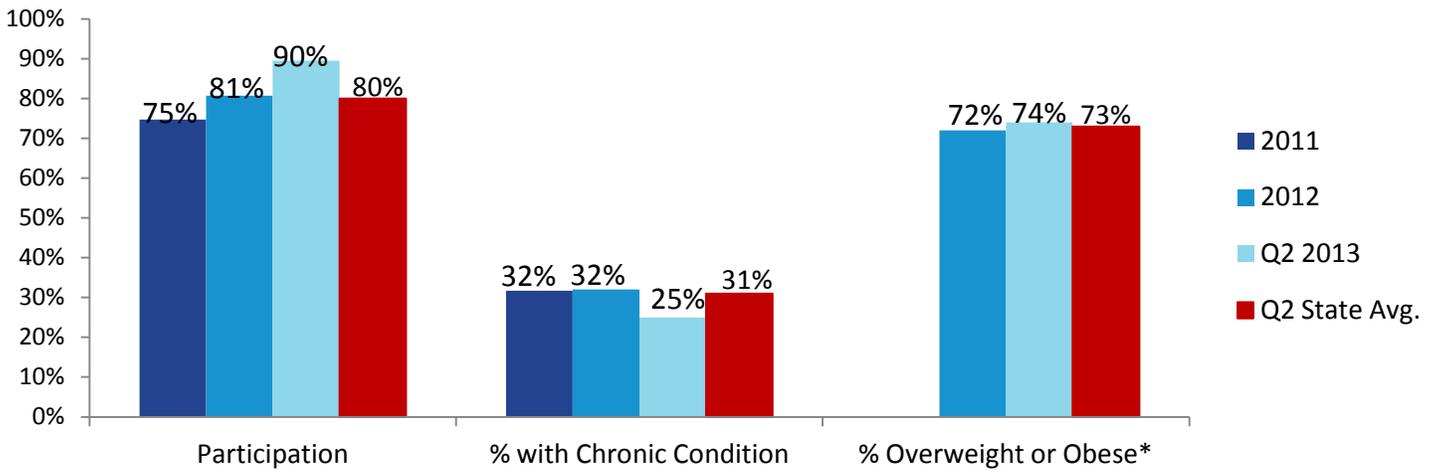
### Most members

- Hypertension
- Diabetes
- Back/Spine-Pain/Condition

### Most costly

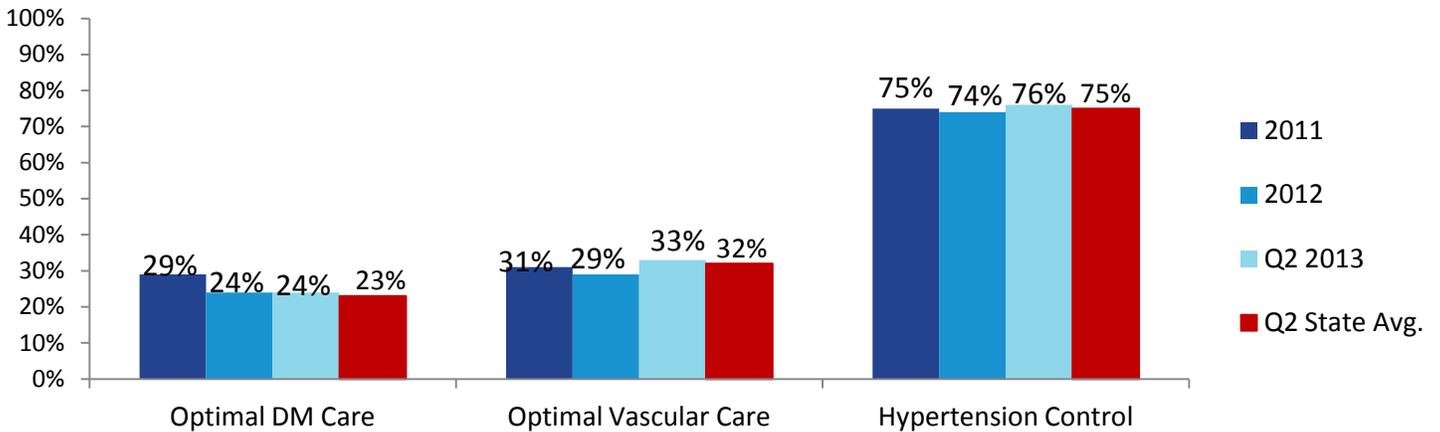
- Colon/Rectum Cancer
- Prostate Cancer
- Congestive Heart Failure (CHF)

## MediQHome Key Measures

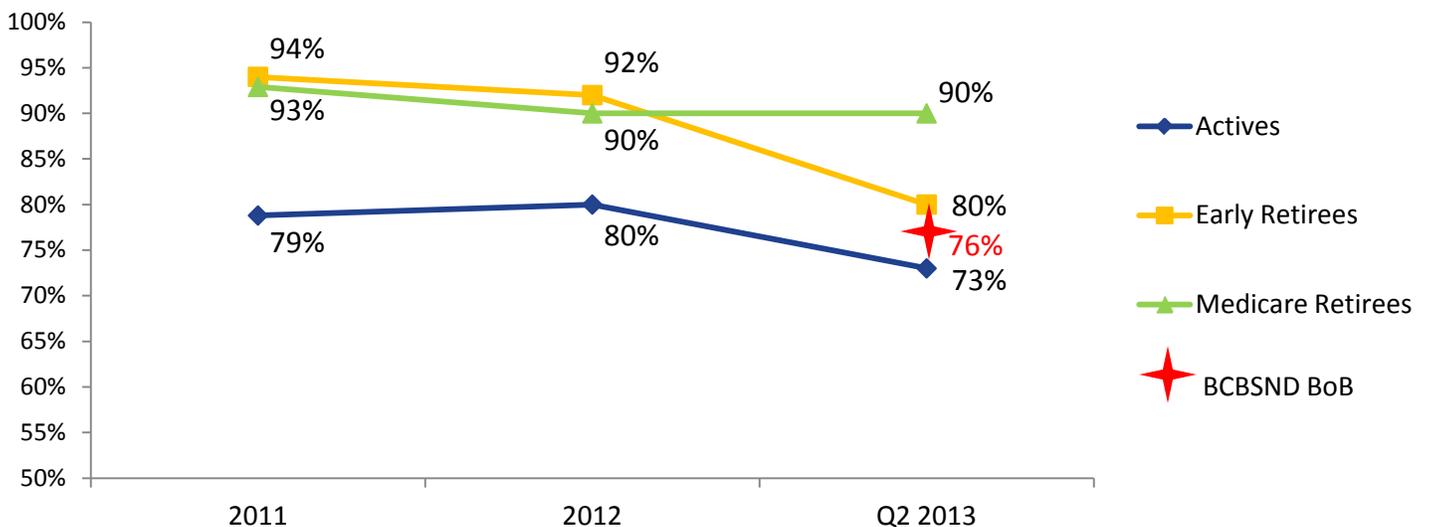


\* First available obesity data is Q2 2012

## MediQHome Outcome Measures



## AccordantCare Participation — Rare and Complex Disease Management



## Tobacco Cessation - Biennium Program Highlights (July 2011 – June 2013)

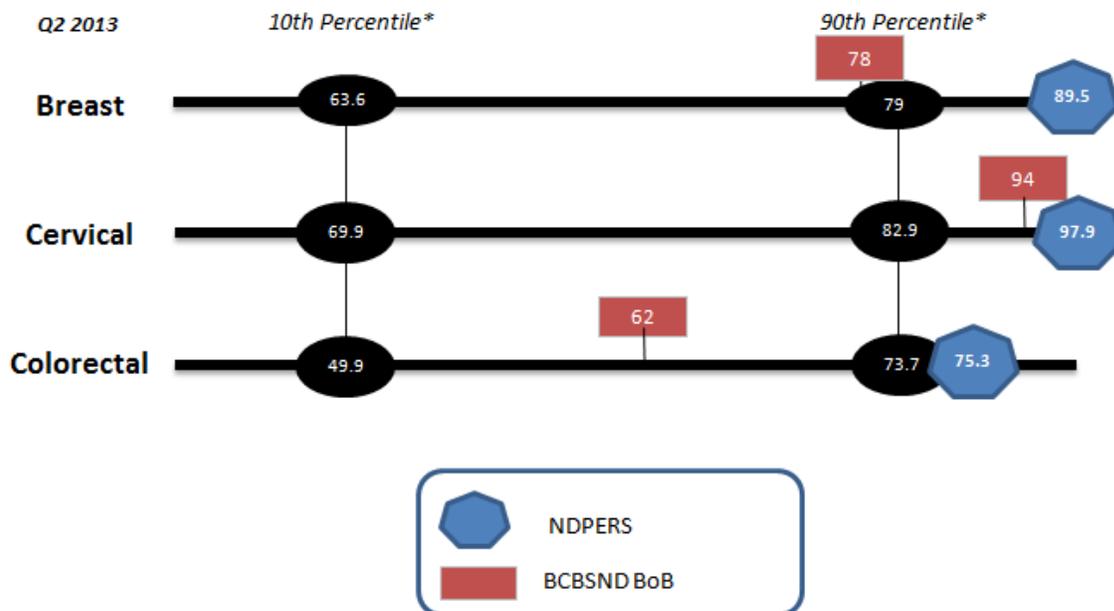
- 264 members with 360 start dates
- 151 members submitted a claim for payment – these claim payments totaled \$60,693.96
  - About half of claim payments were for Chantix
- Average Paid per Member - \$479

Biennium	Unique Members	Members with Payments	Biennium Program Expenditures	Payments Per Member
July 1, 2007 – June 30, 2009	448	314	\$130,689	\$416
July 1, 2009 – June 30, 2011	319	207	\$82,171	\$397
July 1, 2011 – June 30, 2013	264	151	\$72,263	\$479

➤ Received grant approval for the 2013-2015 biennium

## Preventive Cancer Screenings (Actives/Early Retirees)

Cancer screening compliance continues to improve for NDPERS members and is above the 2011 NCQA 90<sup>th</sup> percentile and BCBSND book of business.



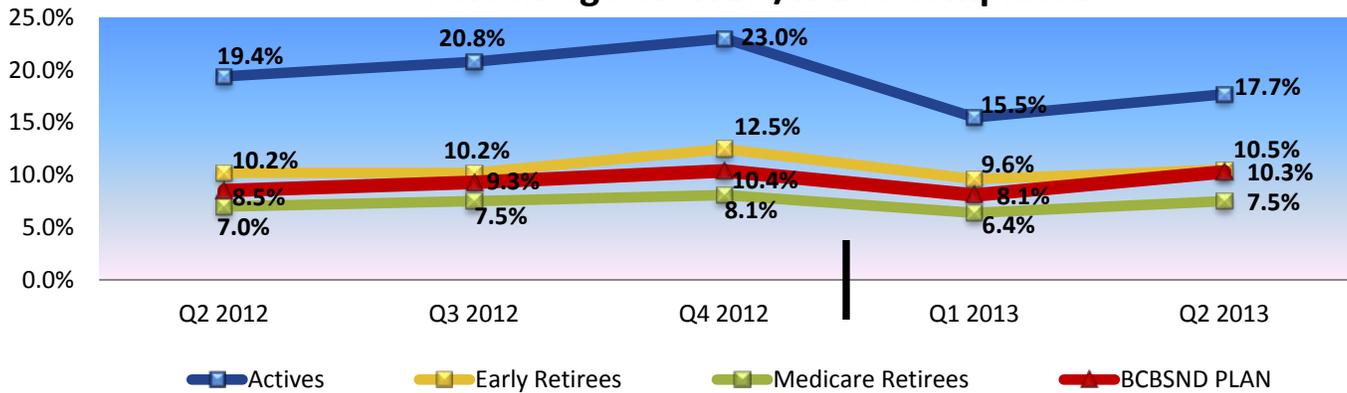
\*2011 NCQA

Through Q2 2013 (Jan-Jun), there was a total of 43,485 members eligible for the wellness programs, HealthyBlue and Health Club Credit. NDPERS member participation in these wellness programs is higher than the BCBSND Plan average.

## HealthyBlue

- 15.7% (up from 13.7% Q1) of total eligible members have completed a Health Risk Assessment (3,747 members). Both Early Retirees and Medicare Retirees are ahead of Q2 last year.
  - BCBSND Plan HRA completion rate 10.3% (also up from 8.1% Q1)
- Point redemption through Q2 2013 - \$93,682 in redeemed prizes

### Percentage of WBA/HRA's completed



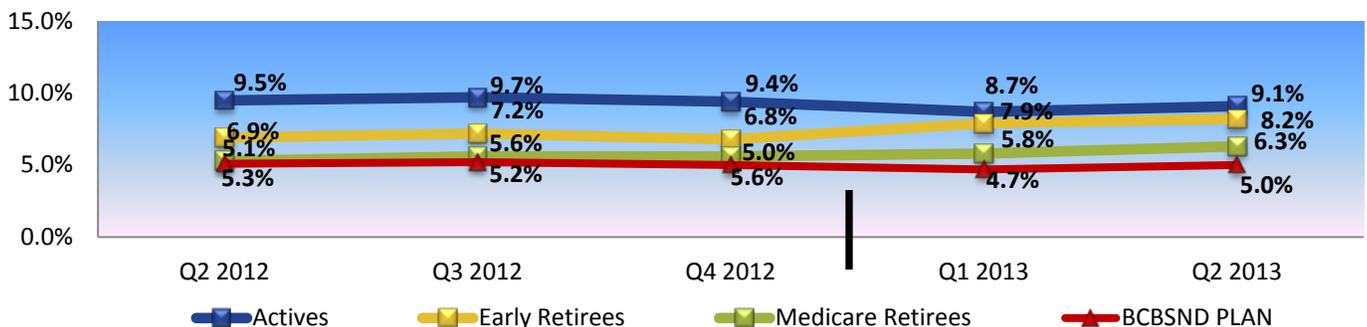
Q1 2013 begins over due to annual HRA completion requirement.

Quarters are cumulative to calendar year end

## Health Club Credit

- 8.6% (up slightly from 8.2% Q1) participate in the Health Club Credit Program (3,747 members)
  - BCBSND Plan average is 5.0% (also up slightly from 4.7% Q1)
- 57.6% (down from 59% Q1) of those participating in HCC exercise 12 or more days per month (2,157 members)
  - BCBSND Plan average is 56.1% (also down from 58.1% Q1)
- Health club credits paid through Q1 2013 - \$279,304.93

### HCC Member Participation



Quarters are cumulative to calendar year end



## Member Engagement

Member Education Representatives introduce programs that provide employees with valuable information and engages them in their health care. Along with making more informed health care decisions, these programs include valuable life skills.

Presentations are available for the following programs:

- Take Care of Yourself
- Walking Works
- Strength Training
- Beat The Bug
- Summer Safety
- Stress Management
- Medication Education
- Tobacco Cessation
- Wellness Programs  
(HealthyBlue/Health Club Credit)
- Nutrition Basics for a Healthier You

In Quarter 2, 2013 there have been 967 members in attendance at these educational programs and 15 employer groups have had benefit overview meetings.

	Number of Employers	Member Education Programs & Benefit Overview	Member Attendance
<b>Q2 2013</b>	13	HealthyBlue /HCC	91
	22	Other	876
	15	Benefit Overview	

## NDPERS Wellness Specialist

- An NDPERS-specific Pregnancy Awareness flyer was created and distributed through designated NDPERS Wellness Coordinators during the month of May. Flyer was posted on HealthyBlue image rotator.
- Monthly Wellness Coordinator Calls continued – May featured a Rheumatologist and volunteer from the Arthritis Foundation.
- Summer Wellness Coordinator Workshops were hosted in Bismarck, Dickinson, Fargo, Grand Forks, and Minot. 88 Wellness Coordinators attended.
- Created Monthly “Wellness Star” program.
- Received approval from Lieutenant Governor’s office to name the Healthy North Dakota worksite wellness awards as the “Lieutenant Governor’s Worksite Wellness” award.



All measures are now complete for the 2011-2013 biennium.

**Cost Management** – 2 measures missed

**Health Outcomes** – all measures met

**Operational Performance** –

**Provider Network Management** – all measures met

Measure	Goal	To Date
<b>Cost Management</b> (measures completed 12/31/2012):		
WBA/HRA Completions	10% increase over 2011 completions (2011 = 16.9%)	20.1%
WBA/HRA Score	5% point increase over 2011 score (2011 = 70.2**)	<b>66.6 (missed)</b>
Online Wellness Tool - incentives paid	10% increase over 2011 incentives paid (2011 = \$323,401)	<b>\$335,326 (missed)</b>
*Health Club Credit - members receiving credit	10% increase over 2011 members receiving credit (2011 = 1,903 members)	2,117
<b>Health Outcomes:</b>		
Members enrolled in a Medical Home	80%	89.5% (met)
Breast Cancer Screening Rates	80%	*86.4% (met)
Cervical Cancer Screening Rates	85%	*97.9% (met)
Colorectal Cancer Screening Rates	60%	*75.3% (met)
<b>Operational Performance:</b>		
Claims Financial Accuracy	99%	98.95% ( )
Payment Incident Accuracy	97%	99.10% (met)
Claim Timeliness	99%	99.40% (met)
Average Speed of Answer (in seconds)	30 seconds or less	14.89 (met)
Call Abandonment Rate	5% or less	0.92% (met)
<b>Provider Network Management:</b>		
NDPERS PPO network	90% (or more) participation	99.6% (met)

\*Cancer screening rates were a culmination of MediQHome and Optum claims data

\*\*Conversion from MyHealthCenter to HealthyBlue required score translation

## Completed

- Monthly Wellness Star program created
- An NDPERS-specific Pregnancy Awareness flyer was created and distributed through designated NDPERS Wellness Coordinators.
- Summer Wellness Coordinator Workshops were hosted in Bismarck, Dickinson, Fargo, Grand Forks, and Minot.
- Specialty Pharmacy Mailing completed on 4/3/13 to 285 members
- All major health systems in ND are now live on MediQHome

## Ongoing Activities

- Executive Summaries have been sent to several agencies with utilization updates & recommendations
- Developing formal ACO relationships supported by MediQHome
- There are currently 3 members in the Member Advocacy Program (MAP)
- Testimonial campaign is in development
- Colorectal Cancer Screening Survey collaboration
- Specialty Pharmacy
  - Will continue to outreach to those members who were unreachable during round one
  - Program now targets new specialty drug users automatically
  - Prime Specialty clients are now receiving enhanced case management
- MediQHome
  - Provider contracting – 75% of ND's participating providers are participating in MediQHome with 80% of all ND residents in a Medical Home
  - MediQHome combined with ACO contracting is changing how BCBSND pays for care by transitioning to payment based on quality outcomes, rather than simply paying a fee for a service delivered.
  - MediQHome is developing a medication module designed to improve the management of several targeted chronic conditions
- During program year two with Accordant, the overall book of business resulted a net ROI of 2.9 and a participation rate of 80%
  - NDPERS has a 75% participation rate for Q2 2013 (594 eligible with 446 participating)
  - A new condition has been added to the program - Ulcerative Colitis



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# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 11, 2013  
**SUBJECT:** ACA – Shared Responsibility Rules

The Legislative Employee Benefits Committee met on August 29<sup>th</sup>. I reviewed the following Board action with them:

**MR. SANDAL MOVED TO HAVE THE DATE IN SECTION 2 OF HOUSE BILL 1059 MOVED BACK ONE YEAR PURSUANT TO THE ACTION OF THE FEDERAL GOVERNMENT IN DELAYING EMPLOYER PENALITES FOR THE AFFORDABLE CARE ACT. THE MOTION WAS SECONDED BY MS. WASSIM.**

In addition, I discussed the basis for the Board's action was the following legislative authority:

**54-52.1-08.2. Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.**

If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative management's employee benefits programs committee.

After discussion, the Legislative Employee Benefits Committee voted to accept the Board action with one modification and that is the date be moved back to the earlier of January 1, 2015 or the enactment of final rules by the federal government.



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# Memorandum

**TO:** NDPERS Board

**FROM:** Kathy

**DATE:** September 11, 2013

**SUBJECT:** Affordable Care Act

The Affordable Care Act (ACA) requires employers to provide a Notice of Coverage Options to current employees by October 1, 2013. It is the employer's responsibility to distribute this information to its employees; however, to assist our participating employers with this effort, NDPERS provided them with instructions, web site links, and a model notice. NDPERS completed the basic information items in Part B of the model notice and also provided some sample language for the employers to use at their option in their distribution notice.

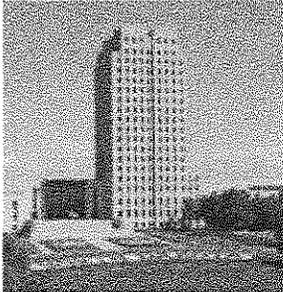
We have included copies of the information that was distributed on September 6, 2013.

We are available for any questions.

Allen, Kathy M.

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From: -Info-NDPERS  
Sent: Friday, September 06, 2013 8:34 AM  
Subject: Affordable Care Act: Notice of Coverage Options  
Attachments: Notice of Coverage Options - Employer Notice.docx



North Dakota Public Employees Retirement System



# PERSONNEL Updates

September 2013

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The Affordable Care Act requires employers to provide a Notice of Coverage Options to current employees by October 1, 2013 (and to new hires beginning on or after October 1, 2013). The notice is to provide all employees with information about the Health Insurance Marketplace, which is scheduled to begin open enrollment on October 1, 2013. Information about the notice requirement can be found on the U.S. Department of Labor website at <http://www.dol.gov/ebsa/healthreform/index.html>. The Department of Health and Human Services has provided the attached sample notice.

Although it is the employer's responsibility to distribute the notice, NDPERS is providing the attached to assist you in this process. NDPERS has provided basic information about the NDPERS health insurance coverage on Part B of the notice. You may determine if you wish to use this template or develop one of your own. Please note that it is optional for employers to complete and distribute answers to questions 13-16. In addition, we are providing the below sample message that you may wish to use as part of your notice.

Sample Message to Employees:

*As your employer, the Affordable Care Act (the federal health reform law) requires us to provide you with the enclosed notice regarding the Health Insurance Marketplace, or exchange. We have been advised by Blue Cross Blue Shield of North Dakota that the employer-sponsored health insurance plan that we currently offer you MEETS the "minimum value standard" as defined by the Affordable Care Act.*

*You do not need to do anything as a result of this notice.*

*If you have questions regarding the employer-sponsored health insurance coverage available to you, please review your Summary Plan Description or visit the NDPERS website at [www.nd.gov/ndpers/insurance-plans/group-health.html](http://www.nd.gov/ndpers/insurance-plans/group-health.html).*



# New Health Insurance Marketplace Coverage Options and Your Health Coverage

Form Approved  
OMB No. 1210-0149  
(expires 11-30-2013)

## PART A: General Information

When key parts of the health care law take effect in 2014, there will be a new way to buy health insurance: the Health Insurance Marketplace. To assist you as you evaluate options for you and your family, this notice provides some basic information about the new Marketplace and employment-based health coverage offered by your employer.

### What is the Health Insurance Marketplace?

The Marketplace is designed to help you find health insurance that meets your needs and fits your budget. The Marketplace offers "one-stop shopping" to find and compare private health insurance options. You may also be eligible for a new kind of tax credit that lowers your monthly premium right away. Open enrollment for health insurance coverage through the Marketplace begins in October 2013 for coverage starting as early as January 1, 2014.

### Can I Save Money on my Health Insurance Premiums in the Marketplace?

You may qualify to save money and lower your monthly premium, but only if your employer does not offer coverage, or offers coverage that doesn't meet certain standards. The savings on your premium that you're eligible for depends on your household income.

### Does Employer Health Coverage Affect Eligibility for Premium Savings through the Marketplace?

Yes. If you have an offer of health coverage from your employer that meets certain standards, you will not be eligible for a tax credit through the Marketplace and may wish to enroll in your employer's health plan. However, you may be eligible for a tax credit that lowers your monthly premium, or a reduction in certain cost-sharing if your employer does not offer coverage to you at all or does not offer coverage that meets certain standards. If the cost of a plan from your employer that would cover you (and not any other members of your family) is more than 9.5% of your household income for the year, or if the coverage your employer provides does not meet the "minimum value" standard set by the Affordable Care Act, you may be eligible for a tax credit.<sup>1</sup>

Note: If you purchase a health plan through the Marketplace instead of accepting health coverage offered by your employer, then you may lose the employer contribution (if any) to the employer-offered coverage. Also, this employer contribution –as well as your employee contribution to employer-offered coverage–is often excluded from income for Federal and State income tax purposes. Your payments for coverage through the Marketplace are made on an after-tax basis.

### How Can I Get More Information?

For more information about your coverage offered by your employer, please check your summary plan description or visit the NDPERS website at <http://www.nd.gov/ndpers/insurance-plans/group-health.html>.

The Marketplace can help you evaluate your coverage options, including your eligibility for coverage through the Marketplace and its cost. Please visit [HealthCare.gov](http://HealthCare.gov) for more information, including an online application for health insurance coverage and contact information for a Health Insurance Marketplace in your area.

<sup>1</sup> An employer-sponsored health plan meets the "minimum value standard" if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs.

## PART B: Information About Health Coverage Offered by Your Employer

This section contains information about any health coverage offered by your employer. If you decide to complete an application for coverage in the Marketplace, you will be asked to provide this information. This information is numbered to correspond to the Marketplace application.

3. Employer name		4. Employer Identification Number (EIN)	
5. Employer address		6. Employer phone number	
7. City	8. State	9. ZIP code	
10. Who can we contact about employee health coverage at this job?			
11. Phone number (if different from above)		12. Email address	

Here is some basic information about health coverage offered by this employer:

- As your employer, we offer a health plan to:

All employees.

Some employees. Eligible employees are:

State employees or employees of participating Political Subdivisions who are eighteen (18) years of age, whose services are not limited in duration, who are filling an approved and regularly funded position, and who is employed at least 17 and one-half hours per week and at least five months each year or those first employed after August 1, 2003, are employed at least twenty (20) hours per week and at least twenty weeks each year of employment are eligible to receive benefits. Temporary employees who work a minimum of 20 hours per week and at least 20 weeks each year are eligible to receive benefits.

- With respect to dependents:

We do offer coverage. Eligible dependents are:

A. The Subscriber's spouse under a legally existing marriage between persons of the opposite sex.

B. The Subscriber's or the Subscriber's living, covered spouse's children under the age of 26 years who are not eligible to enroll in an employer sponsored health plan other than a group health plan of a parent. Children are considered under age 26 until the end of the month in which the child becomes 26 years of age.

The term child or children includes:

- Children physically placed with the Subscriber for adoption or whom the Subscriber or the Subscriber's living, covered spouse has legally adopted.
- Children living with the Subscriber for whom the Subscriber or the Subscriber's living, covered spouse has been appointed legal guardian by court order.<sup>58</sup>
- The Subscriber's grandchildren or those of the Subscriber's living, covered spouse if: (a) the parent of the grandchild is unmarried, (b) the parent of the grandchild is covered under this Benefit Plan and (c) both the parent and the grandchild are primarily dependent on the Subscriber for support. If a lapse in coverage occurs due to ineligibility of the parent under this Benefit Plan, the grandchild cannot be reenrolled unless the Subscriber has been appointed legal guardian.
- Children for whom the Subscriber or the Subscriber's living, covered spouse are required by court order to provide health benefits.
- Children beyond the age of 26 who are incapable of self support because of mental retardation or physical handicap that began before the child attained age 26 and who are primarily dependent on the Subscriber or the Subscriber's spouse for support. Coverage for such a disabled child will continue for as long as the child remains unmarried, disabled and the Subscriber's dependent for federal income tax purposes. The Subscriber may be asked periodically to provide evidence satisfactory to BCBSND of these disabilities.

We do not offer coverage.

If checked, this coverage meets the minimum value standard, and the cost of this coverage to you is intended to be affordable, based on employee wages.

**\*\*** Even if your employer intends your coverage to be affordable, you may still be eligible for a premium discount through the Marketplace. The Marketplace will use your household income, along with other factors, to determine whether you may be eligible for a premium discount. If, for example, your wages vary from week to week (perhaps you are an hourly employee or you work on a commission basis), if you are newly employed mid-year, or if you have other income losses, you may still qualify for a premium discount.

If you decide to shop for coverage in the Marketplace, [HealthCare.gov](http://HealthCare.gov) will guide you through the process. Here's the employer information you'll enter when you visit [HealthCare.gov](http://HealthCare.gov) to find out if you can get a tax credit to lower your monthly premiums.

The information below corresponds to the Marketplace Employer Coverage Tool. Completing this section is optional for employers, but will help ensure employees understand their coverage choices.

13. Is the employee currently eligible for coverage offered by this employer, or will the employee be eligible in the next 3 months?

Yes (Continue)

13a. If the employee is not eligible today, including as a result of a waiting or probationary period, when is the employee eligible for coverage? \_\_\_\_\_(mm/dd/yyyy) (Continue)

No (STOP and return this form to employee)

14. Does the employer offer a health plan that meets the minimum value standard\*?

Yes (Go to question 15)  No (STOP and return form to employee)

15. For the lowest-cost plan that meets the minimum value standard\* offered **only to the employee** (don't include family plans): If the employer has wellness programs, provide the premium that the employee would pay if he/ she received the maximum discount for any tobacco cessation programs, and didn't receive any other discounts based on wellness programs.

a. How much would the employee have to pay in premiums for this plan? \$

b. How often?  Weekly  Every 2 weeks  Twice a month  Monthly  Quarterly  Yearly

If the plan year will end soon and you know that the health plans offered will change, go to question 16. If you don't know, STOP and return form to employee.

16. What change will the employer make for the new plan year?

Employer won't offer health coverage

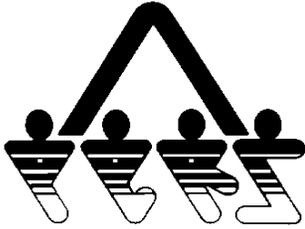
Employer will start offering health coverage to employees or change the premium for the lowest-cost plan available only to the employee that meets the minimum value standard.\* (Premium should reflect the discount for wellness programs. See question 15.)

a. How much will the employee have to pay in premiums for that plan? \$

b. How often?  Weekly  Every 2 weeks  Twice a month  Monthly  Quarterly  Yearly

Date of change (mm/dd/yyyy):

\* An employer-sponsored health plan meets the "minimum value standard" if the plan's share of the total allowed benefit costs covered by the plan is no less than 60 percent of such costs (Section 36B(c)(2)(C)(ii) of the Internal Revenue Code of 1986)



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# Memorandum

**TO:** NDPERS Board  
**FROM:** Deb  
**DATE:** September 19, 2013  
**SUBJECT:** HIPAA Compliance

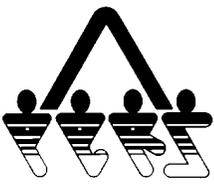
At the last Board meeting staff provided materials that had been determined to need revision or were created due to some recently released privacy and security regulations under the federally mandated Health Insurance Portability and Accountability Act (HIPAA). In addition, there were a few other documents that followed via email for your review.

These materials are:

- a. Revised Privacy Notice
- b. Revised Business Associate's Agreement
- c. Revised Security Standards
- d. Revised Privacy Standards
  - a. Request for Restrictions by Participant Policy
  - b. Request for Access by Participant
  - c. Confidential Communications Requests by Participants
  - d. Disclosure to Plan Sponsor Policy
  - e. Minimum Necessary Disclosures Policy
  - f. Request for Accounting by Participant
  - g. Use of Authorizations Policy
  - h. Privacy Rights Policy for Participant
  - i. Revised Policy & Procedure for Privacy of PHI for Deceased Participants
  - j. Breach Analysis Protocol and Notice of Breach

The above materials are again included for your review. Previous tracking on the documents has been removed to allow you to see any substantive changes that have occurred since the last meeting. The most recent changes are tracked for your convenience. As indicated last month, it is necessary to implement our updated policies by September 23, 2013 pursuant to federal requirements. If you have questions, please contact staff prior to the Board meeting so your concerns may be addressed. Kathy Allen, as our Privacy Officer and Bryan Reinhardt, as our Security Officer will be at the meeting as well to address any questions.

Board action required: Approve revised HIPAA policies.



## North Dakota

# Public Employees Retirement System

400 East Broadway, Suite 505 • Box 1657 • Bismarck, North Dakota 58502-1657

### NOTICE OF PRIVACY PRACTICES – Effective **September \_\_\_\_\_, 2013**

**THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY. THIS IS INFORMATIONAL ONLY – NO ACTION IS REQUIRED ON YOUR PART. PLEASE RETAIN A COPY OF THIS NOTICE FOR YOUR RECORDS**

#### **USES AND DISCLOSURES OF HEALTH INFORMATION**

The North Dakota Public Employees Retirement System (NDPERS) uses health information about You for treatment, to obtain payment for treatment, for administrative purposes, and to evaluate the quality of care that You receive.

Subject to certain requirements, we may give out Your health information if you have given written authorization to have your health information disclosed; or if a personal representative of yours (with proper authorization) has requested NDPERS to disclose your health information.

NDPERS may use or disclose “protected (identifiable) health” information about You without Your authorization for several reasons: (1) subject to a court order; (2) when disclosure is required under a federal or state law (such as an audit of NDPERS financial records); or, (3) for research purposes. But, in the case of disclosure for research, we will disclose information only if the project is approved by the NDPERS Board (Plan Sponsor), and the information is “summary information” from which all direct identifiers such as name, address, Social Security number, date of birth, etc. have been removed. NDPERS may also use Your health information to contact You to provide information about treatment alternatives or other health-related benefits and services that may be of interest to You.

NDPERS also limits the use and disclosure of health information as required by section 54-52.1-11 and section 54-52.3-05 of the North Dakota Century Code, which provide for the confidential treatment of health information of individuals receiving health care benefits under the Uniform Group Insurance Program and the Pretax Benefits Program, respectively.

NDPERS will not disclose individually identifiable health information about You or other plan members to the “Plan Sponsor” (NDPERS Board). Only aggregate de-identified information will be disclosed to the Plan Sponsor for the purpose of evaluating NDPERS health plan benefits structure, expenditure trends, premium financing and related matters.

NDPERS will not use individually identifiable health information that is genetic information for underwriting purposes.

NDPERS is prohibited from selling any protected health information without your authorization and will not use your information for marketing purposes without your authorization.

Furthermore, only aggregate, summarized, de-identified health information (such as total annual amounts, average payments per member per month, and trends for the utilization of hospital, ambulatory, and prescription drug benefits) will be disclosed to any insurance underwriter or consultant for the purpose of evaluating NDPERS health plan benefits structure, expenditure trends, premium financing and related matters.

Except as stated above, NDPERS will not “use” or “disclose” Your health information, unless You have given NDPERS Your written authorization to do so. You may revoke this authorization at any time to stop any future uses and disclosures by sending NDPERS a written revocation of Your authorization.

#### **YOUR RIGHTS**

- In the event that NDPERS discovers that a breach of Your health information has occurred, contrary to allowed uses and disclosures, You have the right to be notified of such breach.
- You have the right to request restrictions on certain uses and disclosures of protected health information, but NDPERS is not required to agree to a requested restriction, unless the purpose relates to carrying out payment or health care operations, **and** the information pertains to a health care item or service for which the health care provider involved has been paid out of pocket in full and disclosure is not required by law.
- You have the right to receive confidential communications of protected health information subject to certain limitations.
- In most cases, You have the right to look at or get a copy of health information about You that we use to make decisions about You.
- You have the right to request that NDPERS amend Your health information, if You believe that Your information is incorrect.

- You also have the right to receive a list of certain instances when we have disclosed health information about You except for disclosures (1) to You, subject to certain limited exceptions; (2) to carry out treatment, payment and health care operations; (3) incidental to a use or disclosure otherwise permitted or required by the HIPAA privacy rule; (4) pursuant to an authorization; (5) for a facility's directory or to persons involved in Your care; or, (6) for certain other purposes provided in 45 C.F.R. § 164.508).
- If Your health information is disclosed electronically then the accounting of disclosures will include information about treatment, payment and health care operations

Accounting requests may be made for periods of time going back six (6) years; if an accounting request relates to an electronic health record it may go back three (3) years. NDPERS will provide the first accounting You request during any 12-month period without charge. Subsequent accounting requests may be subject to a reasonable cost-based fee. NDPERS will inform You in advance of the fee, if applicable.

Requests for any of the above must be made in writing and submitted to the Privacy Officer at 400 East Broadway, Suite 505, Bismarck, ND 58502.

## **OUR DUTIES**

NDPERS is required by law to maintain the privacy of protected health information, to provide You with a notice of Our legal duties and privacy practices with respect to identifiable health information about You, to provide You with notice of a breach of unsecured protected health information, and to follow the practices which are currently in effect as described in this notice. You have the right, even if You agreed to receive the notice electronically, to obtain a paper copy of the notice from NDPERS upon request.

We reserve the right to change the terms of this Privacy Notice and to make the new notice provisions effective for all protected health information that NDPERS maintains. If NDPERS changes our policies and procedures, NDPERS will revise the Notice, post a copy of the revised Notice on the NDPERS website, [www.nd.gov/ndpers](http://www.nd.gov/ndpers), and provide information to You on how you may obtain a copy of the revised Notice within 60 days of the change. For more information about our privacy practices, contact the person listed at the end of this Notice.

## **COMPLAINTS**

You have the right to file a complaint with NDPERS or the Secretary of the Department of Health and Human Services (DHHS) if You believe that Your privacy rights have been violated. Any complaints to NDPERS should be made in writing to Privacy Officer, 400 East Broadway, Suite 505, Bismarck, ND 58502.

You may receive information on how to file a federal complaint by contacting the Regional Manager, Office for Civil Rights, U.S. Department of Health and Human Services, 1961 Stout Street, Room 1426 FOB, Denver, CO 80294-3538, Phone (303) 844-2024, FAX (303) 844-2025, TDD (303)844-3439 or the Office for Civil Rights, U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Room 509F HHH Bldg., Washington, D.C. 20201.

***NDPERS will not retaliate against YOU for filing a complaint.***

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## **NDPERS PRIVACY CONTACT**

NDPERS has designated a Privacy Officer as its contact person for all issues regarding patient privacy and Your privacy rights. If You have any questions about NDPERS privacy policy or Your privacy rights, please submit a written request to:

NDPERS Privacy Officer, 400 East Broadway, Suite 505, Bismarck, ND 58502 or call 701-328-3900  
or 1-800-803-7377.

You also may obtain a copy of the current version of the NDPERS Privacy Notice at our Web site -- [www.nd.gov/ndpers](http://www.nd.gov/ndpers).

**EFFECTIVE DATE:** This Notice was revised effective **September \_\_, 2013.**

## Business Associate Agreement

(Rev. 9-2013)

This Business Associate Agreement, which is an addendum to the underlying vendor contract, is entered into by and between, the North Dakota Public Employees Retirement System ("NDPERS") and the **ENTER BUSINESS ASSOCIATE NAME, ADDRESS OF ASSOCIATE.**

NDPERS is a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, and enters into this Agreement with the Business Associate to clarify the expected access to and safeguarding of all Protected Health Information ("PHI") used, disclosed, created, maintained, transmitted or received on behalf of NDPERS.

The parties hereby agree that the Business Associate Agreement dated \_\_\_\_\_ is terminated and replaced with this Business Associate Agreement.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement and to comply with all legal requirements for the protection of this information, the parties therefore agree as follows.

### 1. Definitions

- a. **Catch-all definitions.** Terms used, but not otherwise defined, in this Agreement have the same meaning as those terms in the HIPAA Rules, 45 C.F.R. Part 160, **Part 162** and Part 164 Business Associate. "Business Associate" means the **ENTER BUSINESS ASSOCIATE NAME.**
- b. Covered Entity. "Covered Entity" means the **North Dakota Public Employees Retirement System Health Plans.**
- c. PHI and ePHI. "PHI" means Protected Health Information; "ePHI" means Electronic Protected Health Information.

### 2. Obligations of Business Associate.

#### 2.1. The Business Associate agrees:

- a. To use or disclose PHI and ePHI only as permitted or required by this Agreement or as Required by Law.
- b. To use appropriate safeguards and security measures to prevent use or disclosure of the PHI and ePHI other than as provided for by this Agreement, and to comply with all security requirements of the HIPAA Security and Privacy rule.
- c. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that it creates, receives, maintains or transmits on behalf of the Covered Entity as required by the HIPAA Security and Privacy rule.
- d. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI or ePHI by Business Associate in violation of the requirements of this Agreement.
- e. To report to Covered Entity (1) any use or disclosure of the PHI not provided for by this Agreement, and (2) any "security incident" as defined in 45 C.F.R. § 164.304 involving ePHI, of which it becomes aware without unreasonable delay and in any case within

thirty (30) days from the date after discovery and provide the Covered Entity with a written notification that complies with 45 C.F.R. § 164.410.

- i. Notice is considered to have been given for any unsuccessful security incident and no further notice will be required. For purposes of this subsection, “unsuccessful security incident” means, without limitation, pings and other broadcast attacks on the Business Associate’s firewall or port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of these items, as long as the incident does not result in unauthorized access, acquisition, use, or disclosure of Protected Health Information.
- ii. A report shall include the following information:
  1. to the extent possible, the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed during the breach;
  2. a brief description of what happened;
  3. the date of discovery of the breach and date of the breach;
  4. the nature of the Protected Health Information that was involved;
  5. identify of any person who received the non-permitted Protected Health Information;
  6. any steps individuals should take to protect themselves from potential harm resulting from the breach;
  7. a brief description of what the Business Associate is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and
  8. any other available information that the Covered Entity is required to include in notification to an individual under 45 C.F.R. § 164.404(c) at the time of the notification to the State required by this subsection or promptly thereafter as information becomes available.
- f. With respect to any use or disclosure of Unsecured Protected Health Information not permitted by the Privacy Rule that is caused by the Business Associate’s failure to comply with one or more of its obligations under this Agreement, the Business Associate agrees to pay its reasonable share of cost-based fees associated with activities the Covered Entity must undertake to meet its notification obligations under the HIPAA Rules and any other security breach notification laws;
- g. Ensure that any agent or subcontractor that creates, receives, maintains, or transmits electronic PHI on behalf of the Business Associate agrees to comply with the same restrictions and conditions that apply through this Agreement to the Business Associate.
- h. To make available to the Secretary of Health and Human Services the Business Associate’s internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI and ePHI received from, or created or received by Business Associate on behalf of Covered Entity, for the purpose of determining the Covered Entity’s compliance with the HIPAA Privacy Rule, subject to any applicable legal privileges.
- i. To document the disclosure of PHI related to any disclosure of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.
- j. To provide to Covered Entity within 15 days of a written notice from Covered Entity, information necessary to permit the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

- k. To provide, within 10 days of receiving a written request, information necessary for the Covered Entity to respond to an Individual's request for access to PHI about himself or herself, in the event that PHI in the Business Associate's possession constitutes a Designated Record Set.
- l. Make amendments(s) to PHI in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 C.F.R. § 164.526 or take other measures as necessary to satisfy the covered entity's obligations under that section of law.

### 3. Permitted Uses and Disclosures by Business Associate

#### 3.1. General Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may Use or Disclose PHI and ePHI to perform functions, activities, or services for, or on behalf of, Covered Entity, specifically, **ENTER DATA PROVIDED AND FOR WHAT PURPOSE** – provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

#### 3.2. Specific Use and Disclosure Provisions

Except as otherwise limited in this Agreement, Business Associate may use PHI and ePHI:

- a. For the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- b. To provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B), but Business Associate may not disclose the PHI or ePHI of the Covered Entity to any other client of the Business Associate without the written authorization of the covered entity Covered Entity.
- c. To report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. §§ 164.304 and 164.502(j)(1).

### 4. Obligations of Covered Entity

#### 4.1. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

Covered Entity shall notify Business Associate of:

- a. Any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that any such limitation may affect Business Associate's use or disclosure of PHI.
- b. Any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that any such changes may affect Business Associate's use or disclosure of PHI.
- c. Any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that any such restriction may affect Business Associate's use or disclosure of PHI.

4.2. Additional Obligations of Covered Entity. Covered Entity agrees that it:

- a. Has included, and will include, in the Covered Entity's Notice of Privacy Practices required by the Privacy Rule that the Covered Entity may disclose PHI for Health Care Operations purposes.
- b. Has obtained, and will obtain, from Individuals any consents, authorizations and other permissions necessary or required by laws applicable to the Covered Entity for Business Associate and the Covered Entity to fulfill their obligations under the Underlying Agreement and this Agreement.
- c. Will promptly notify Business Associate in writing of any restrictions on the Use and Disclosure of PHI about Individuals that the Covered Entity has agreed to that may affect Business Associate's ability to perform its obligations under the Underlying Agreement or this Agreement.
- d. Will promptly notify Business Associate in writing of any change in, or revocation of, permission by an Individual to Use or Disclose PHI, if the change or revocation may affect Business Associate's ability to perform its obligations under the Underlying Agreement or this Agreement.

4.3. Permissible Requests by Covered Entity

Covered Entity may not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI and ePHI for management and administrative activities of Business Associate.

5. Term and Termination

- a. Term. The Term of this Agreement shall be effective as of **MO/DAY/YEAR**, and shall terminate when all of the PHI and ePHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI and ePHI, protections are extended to any such information, in accordance with the termination provisions in this Section.
- b. Automatic Termination. This Agreement will automatically terminate upon the termination or expiration of the Underlying Agreement.
- c. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
  1. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement and the Underlying Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
  2. Immediately terminate this Agreement and the Underlying Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
  3. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- d. Effect of Termination.
  1. Except as provided in paragraph (2) of this subsection, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI and ePHI that is in the

possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI or ePHI.

2. In the event that Business Associate determines that returning or destroying the PHI or ePHI is not feasible, Business Associate shall provide to Covered Entity written notification of the conditions that make return or destruction infeasible. Upon explicit written agreement of Covered Entity that return or destruction of PHI or ePHI is not feasible, Business Associate shall extend the protections of this Agreement to that PHI and ePHI and limit further uses and disclosures of any such PHI and ePHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains that PHI or ePHI.

## 6. Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy or Security Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- c. Survival. The respective rights and obligations of Business Associate under Section 5.c, related to "Effect of Termination," of this Agreement shall survive the termination of this Agreement.
- d. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.
- e. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything this Agreement confer, upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. Applicable Law and Venue. This Business Associate Agreement is governed by and construed in accordance with the laws of the State of North Dakota. Any action commenced to enforce this Contract must be brought in the District Court of Burleigh County, North Dakota.
- g. Compliance with Laws. Business Associate agrees to comply with all the requirements imposed on a business associate under Title XIII of the American Recovery and Reinvestment Act of 2009, the Health Information Technology for Economic and Clinical Health (HI-TECH) Act, and, at the request of NDPERS, to agree to any reasonable modification of this agreement required to conform the agreement to any Model Business Associate Agreement published by the Department of Health and Human Services.

## 7. Entire Agreement

This Agreement contains all of the agreements and understandings between the parties with respect to the subject matter of this Agreement. No agreement or other understanding in any way modifying the terms of this Agreement will be binding unless made in writing as a modification or amendment to this Agreement and executed by both parties.

IN WITNESS OF THIS, **NDPERS** [CE] and **ENTER BUSINESS ASSOCIATE NAME** [BA] agree to and intend to be legally bound by all terms and conditions set forth above and hereby execute this Agreement as of the effective date set forth above.

For Covered Entity:

For Business Associate:

\_\_\_\_\_  
Sparb Collins, Executive Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**NDPERS  
HIPAA SECURITY  
STANDARDS**

September 19, 2013

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# I. Administrative Safeguards

1. Security Management Process NDPERS shall ensure the confidentiality, integrity, and availability of all electronic protected health information NDPERS creates, receives, maintains, or transmits, protects against any reasonably anticipated threats or hazards to the security or integrity of such information, protects against any reasonably anticipated uses or disclosures of such information that are not permitted or required under the HIPAA rules or state law, and ensures compliance of its security safeguards by its workforce.

- *Risk Analysis* – NDPERS shall conduct an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability of electronic protected health information held by NDPERS or a business associate.

## Policy:

NDPERS will periodically evaluate the reasonably anticipated hazards, threats, and risks to stored, transmitted, and received health information. The assessment will include: systems, networks, connections, remote access, physical access, and include countermeasures such as: firewalls, anti-virus software, access controls, authentication systems, physical controls, employee training, and auditing & review.

## Identified threats:

- Impermissible acquisition, access, use or disclosure of protected health information (PHI) in a manner not permitted by the HIPAA Rules or NDPERS policies which compromises the security of privacy of the PHI.
  - Unauthorized or accidental manipulation or destruction of PHI.
  - Loss of access to health information.
  - Theft of equipment containing PHI.
- *Risk Management* – NDPERS shall implement security measures that reduce risk and vulnerabilities to a reasonable and appropriate level.

## Policy:

NDPERS Risk Management will evaluate and modify NDPERS security policies & procedures as necessary and at a minimum annually. The NDPERS office area, workstations, and computer systems will be inspected periodically to ensure they are secure. NDPERS shall train new staff and annually train all staff on security policies and procedures.

- *Sanction Policy* – NDPERS shall apply appropriate sanctions against workforce members who fail to comply with its security policies and procedures.

Policy:

NDPERS will apply appropriate sanctions in accordance with NDPERS disciplinary procedures against any employee who violates its security practices.

- NDPERS employees who perform health plan functions are provided with training and retraining as necessary to ensure they understand NDPERS security policies and procedures, the requirements of the security rules, and the expectation that they will comply with them.
  - Sanctions are applied against an NDPERS employee who violates NDPERS security policies and procedures or the security rules as provided in its Personnel Policy Manual and the ND Human Resource Management Services (HRMS) rules.
  - Appropriate sanctions are determined based on the nature of the violation, its severity and whether it was intentional or unintentional.
  - Any sanctions applied are documented and retained for a period of six (6) years.
  - Sanctions are not applied against NDPERS employees who lodge a complaint with any entity regarding a privacy violation or who refuse to follow a policy or procedure that they believe, in good faith, violates the security rules.
- *Information System Activity Review* – NDPERS shall implement procedures to regularly review records of information system activity, such as audit logs, access reports, and security incidence tracking reports.

Policy:

Access reports are sent from ITD to the NDPERS IT division. System logs and reports will be reviewed by NDPERS IT Division as received. The IT division shall monitor all security logs and investigate any possible violations. Security logs will be kept for a period of 90 days. During this period, security logs will be secured such that they can not be modified and can only be read by authorized persons. The IT division keeps the logs in:

*Outlook, Public Folders\All Public Folders\NDPERS\Security Access Reports*

## 2. Assign Security Official

- The NDPERS director will appoint a security official who is responsible for the development and implementation of necessary security policies and procedures.

Policy:

The security responsibility is assigned to the NDPERS Research & Planning Division. Bryan Reinhardt is the Security Officer with Deb Knudsen as the backup. The Research & Planning Division has full security responsibility and authority reporting only to the Executive Director.

3. Workforce Security

- *Authorization/Supervision Procedures* – NDPERS shall implement procedures to provide for the authorization and supervision of workforce members who work with PHI or who work in locations where PHI might be accessed.

Policy:

NDPERS will maintain a position specific access control chart for all staff. The chart is located at: U:\Management Recovery\Computer Access Control.XLS. Access will be determined by NDPERS management and periodically reviewed. All staff will review and sign the NDPERS new employee release form before any computer access is granted.

- *Workforce Clearance Procedures* – NDPERS shall implement procedures to determine whether the access of a workforce member to PHI is appropriate.

Policy:

Hiring Policy/Background Checks – It is the policy of NDPERS to exercise reasonable care in hiring employees by conducting a thorough background check on all candidates selected for hire, regardless of the position and prior to the candidate reporting to work.

NDPERS will maintain a position specific access control chart for all staff. Access will be determined by NDPERS management and periodically reviewed. All staff will review and sign the NDPERS new employee release form before any computer access is granted.

- *Access Termination Procedures* – NDPERS shall implement procedures to terminate an individual's access to electronic PHI when necessary or appropriate.

**Accounting/IT Division Policy**  
**Removing User Accounts**

**Policy IT-0001**

**Effective date: August 2002 (revised 09/11/2013)**

## POLICY

Access to computer accounts for terminated employees will be disabled within 1 day after the date of termination. If necessary, LAN and mainframe accounts can be disabled immediately. The IT Division will be notified of an employee's termination on SFN 53251 NDPERS Employee Exit Checklist.

## PROCEDURES

### LAN

The LAN Administrator will:

- Disable the user's account
- Reset the user's password
- The terminated employee's folders/files on the H and U drive will be transferred according to the directions of the supervisor of the terminated employee.
- Delete the terminated employees folders on H and U drive if required

### MAINFRAME

Access to mainframe is INQUIRY only at this time

- LAN Administrator disables account
- LAN administrator resets password
- LAN Administrator submits a Work Request to ITD to have mainframe account deleted
- ITD notifies LAN Administrator that account has been deleted

### EMAIL

- IT Coordinator submits a work request to ITD to remove terminated employee's email account
- ITD notifies IT Coordinator that account has been removed

### PERSLink

- PERSLink Security Administrator will set the employee's user status to "Inactive"
- PERSLink Security Administrator will end date the employee's security role(s)

### NOTIFICATION

- LAN Administrator will notify the NDPERS Risk Management Coordinator that the employee's account has been removed from the account access control matrix.

## **Accounting/IT Division Policy** **Removing User Accounts**

**Effective date:** ~~August 2002 (revised 06/23/2005)~~

## **POLICY**

~~Access to computer accounts for terminated employees will be disabled within 1 day after the date of termination. If necessary, LAN and mainframe accounts can be disabled immediately. The IT Division will be notified of an employee's termination on SFN 53251 NDPERS Employee Exit Checklist.~~

## **PROCEDURES**

## LAN

The LAN Administrator will:

- ~~Disable the user's account~~
- ~~Reset the user's password~~
- ~~The terminated employee's account and security profile are retained until the vacant position is filled. Security from the terminated employees account is copied to the new employee's account. The terminated employee's account is deleted within 5 days after setting up the new employee's account.~~
- ~~Remove terminated employee's user profile after setting up the new employee's account~~
- ~~The terminated employee's folders/files on the H and U drive will be transferred according to the directions of the supervisor of the terminated employee.~~
- ~~Delete the terminated employees folders on H and U drive~~

## MAINFRAME

- ~~LAN Administrator disables account~~
- ~~LAN administrator resets password~~
- ~~When vacant position is filled, LAN Administrator submits a Work Request to ITD to use security profile from terminated employee to set up new employee~~
- ~~LAN Administrator submits a Work Request to ITD to have mainframe account deleted within 5 days after setting up the new employee's account~~
- ~~ITD notifies LAN Administrator that account has been deleted~~

## EMAIL

- ~~IT Coordinator submits a work request to ITD to remove terminated employee's email account~~
- ~~ITD notifies IT Coordinator that account has been removed~~

## NOTIFICATION

- ~~LAN Administrator will notify the NDPERS Risk Management Coordinator to remove employee from the account access control matrix.~~

## 4. Information Access Management

- *Isolating Health Care Clearinghouse Functions* – NDPERS shall protect PHI from access by other state government agencies.

### Policy:

Only NDPERS staff is allowed to access NDPERS electronic data/information. No outside employees are to have a system user ID and password. The ITD network staff and Sagitec developers have access to the NDPERS system. Business Associate agreements are in place for these exceptions and new agreements when appropriate are the responsibility of the Executive Director.

- *Access Authorization* – NDPERS shall implement policies and procedures for granting access to PHI.

Policy:

NDPERS will maintain a position specific access control chart for all staff. Access will be determined by NDPERS management and periodically reviewed.

- *Access Establishment and Modification* – NDPERS shall implement policies and procedures that establish, document, review and modify a user's right to access a workstation.

Policy:

NDPERS will maintain a position specific access control chart for all staff. Access will be determined by NDPERS management and periodically reviewed. The workstation containing the NDPERS claims data will have access limited to the Research Analyst and IT system maintenance staff. NDPERS will follow ITD's policy on remote access.

## **NORTH DAKOTA ENTERPRISE ARCHITECTURE**

STANDARD ST002-04.1

EFFECTIVE: May 12, 2004

REVISION #:

REVISED:

### ***REMOTE ACCESS***

#### **PURPOSE**

To provide remote access capability to the enterprise network from any location, for any authorized customer without compromising the network.

#### **STANDARD**

1. All external connectivity to the internal state network must be by VPN.
2. All VPN solutions will be provided by ITD.
3. All VPN connectivity will be authenticated and authorized by the enterprise authentication/authorization process.

#### **POLICY**

To provide remote access to the enterprise network and attached hosts.

#### **APPLICABILITY**

To executive branch state agencies and institutions, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology.

This standard is designed to ensure the integrity of the wide area network, therefore it applies to all entities currently using wide area network services.

#### **DEFINITION**

1. Remote Access is the ability to connect to an internal network from a distant location. Generally, this implies a computer, a modem (dial, cable, dsl, etc.), and some remote access software to connect to the internal network. Remote access means that the remote computer actually becomes a full-fledged host on the internal network.

2. Virtual Private Network (VPN) – a network that is constructed by using public wires to connect nodes. For example, there are a number of systems that enable you to create networks using the Internet as the medium for transporting data. These systems use encryption and other security mechanisms to ensure that only authorized users can access the network and that the data cannot be intercepted.
3. Authentication is the process of identifying a person prior to allowing them to access some resource or service. Authentication in this context is usually a user ID and password.
4. Authorization is the process of granting a person access a protected resources or service.

### **GUIDANCE**

1. Authentication for remote access to servers will be provided by the central authentication server and will require registered user ID's.
2. Agencies will be provided dial access usage reports of their user ID's.
3. ITD will provide VPN to the requesting agency. The VPN will be configured to be able to access only pre-authorized hosts.

### **NON-COMPLIANCE**

Non-compliance with this standard shall be reported to the Office of the State Auditor.

Noncompliance to this standard has been classified as high-risk i.e. having impact on the integrity of enterprise information systems. Violations to this standard will result in ITD operations taking immediate action to prevent enterprise risk prior to the reporting of non-compliance to the Office of the State Auditor.

#### 5. Security Awareness Training

- *Security Reminders* – NDPERS shall provide periodic security updates to all members of its workforce.

Policy:

Security updates and reminders will be emailed to NDPERS staff as changes or updates occur.

- *Software Protection* – NDPERS shall implement procedures to detect and guard against viruses and other malicious software.

Policy:

NDPERS IT division has installed and will update virus protection software. Updates/changes are to be documented. North Dakota ITD updates virus protection software.

## **NORTH DAKOTA ENTERPRISE ARCHITECTURE**

STANDARD ST001-04.1

EFFECTIVE: March 15, 2004

REVISION #:

REVISED:

### **ANTI-VIRUS**

## **Purpose**

Minimize exposure to computer virus attacks.

## **Standard**

1. Anti-virus software shall be installed and active on all servers and workstations and virus signature files shall be kept current.
2. All incoming files will be scanned for viruses. If a file contains a virus and cannot be cleaned, the file will be deleted.
3. All files will be scanned on a weekly basis.
4. Log files will be reviewed on a regular basis.
5. All email entering the state's network from the Internet will be scanned to detect infected or purposely blocked attachments. All emails with infected or purposely blocked attachments will be dropped. They will not be delivered to the recipient.
6. Auto-distribution of signature files to servers and workstations shall be configured where available.

## **Policy**

Implement and maintain an enterprise anti-virus system.

## **Applicability**

To executive branch state agencies and institutions, excluding the institutions under the control of the board of higher education with respect to academic and research uses of information technology.

This standard is designed to ensure the integrity of the wide area network, therefore it applies to all entities currently using wide area network services.

## **Definition**

1. Server – Any computer that supplies files or services.
2. Workstation – Any device that can run an anti-virus client.
3. Virus Signature - The binary pattern of a virus, used by the anti-virus program to detect and eliminate the virus.

## **Guidance**

1. None

## **Non-Compliance**

Non-compliance with this standard shall be reported to the Office of the State Auditor.

Noncompliance to this standard has been classified as high-risk i.e. having impact on the integrity of enterprise information systems. Violations to this standard will result in ITD operations taking immediate action to prevent enterprise risk prior to the reporting of non-compliance to the Office of the State Auditor.

Exceptions will not be granted to this standard.

*This standard supersedes policy S007-02.*

**NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM**  
**ANTI-VIRUS POLICY**

**NDPERS**  
**Anti-Virus/Malware**  
**Policy**

IT-0006

EFFECTIVE: Immediately

REVISION #: #1

REVISED: 09/11/2013

**Purpose**

Minimize the agency's exposure to computer virus attacks.

**Policy**

7. Anti-virus/malware software shall be installed and active on all servers and workstations (including laptops) and virus signature files shall be kept current.
8. All incoming files will be scanned for viruses. If a file contains a virus and cannot be cleaned, the file will be deleted.
9. Files on each workstation and server will be scanned on a nightly basis. Laptops will be scanned during weekly maintenance.
10. Files accessed on floppy drives, external hard drives, flash drives and other such devices will be scanned upon use.
11. Log files will be reviewed on a regular basis.
12. NOTE: All email entering the state's network from the Internet will be scanned to detect infected or purposely blocked attachments. All emails with infected or purposely blocked attachments will be dropped. They will not be delivered to the recipient.
13. Refer to ST001-04.2 Enterprise Architecture Anti-Virus/Malware Standard for further compliance requirements.

**Definitions**

4. Server – Any computer that supplies files or services.
5. Workstation – Any device that can run an anti-virus client.
6. Virus Signature - The binary pattern of a virus, used by the anti-virus program to detect and eliminate the virus.

**Purpose:**

~~It is the intent of the NDPERS to establish an anti-virus policy which will minimize exposure to computer virus attacks.~~

**SERVER**

- ~~—All incoming files will be scanned for virus signatures. If a file contains a virus signature, the file will be~~
- ~~—quarantined to a special location.~~
- ~~—All files will be scanned on a daily basis.~~
- ~~—Log files will be reviewed on a regular basis.~~
- ~~—Current signature files will be updated weekly.~~

## WORKSTATIONS

~~All PC's will have an active anti-virus program installed. The virus signatures shall be keep current. The following item will be the minimum requirements for the installed anti-virus program:~~

- ~~— Shall automatically load at boot up time.~~
- ~~— Shall scan all files as they are written.~~
- ~~— Shall utilize locked setting where appropriate so settings cannot be deactivated or changed without the approval of the anti-virus administrator.~~
- ~~— Shall perform full system scan once a day.~~
- ~~— Shall scan all files accessed on floppies.~~
- ~~— May exclude network drives where a server is already performing its' own scanning for all reads and writes.~~
- ~~— Shall log all detected virus.~~

### **Internet Policy:**

Internet access is available to agency employees for conducting official business, such as researching business issues, accessing business-related data, information and training. The intent of this policy is to ensure our employees will use the Internet appropriately and protect ourselves from being victimized by the threat of viruses.

1. Internet access is limited to official business during business hours. Employees are permitted to access the Internet for personal business, before or after working hours, or during scheduled lunch period in strict compliance with the other terms of this policy. The introduction of viruses, or malicious tampering with any computer system is expressly prohibited.
2. No updates to NDPERS licensed software may be downloaded from the Internet. The IT Division must be contacted before installing any software from the Internet.
3. Precautions need to be taken when accessing files from the Internet.
4. Employees shall contact the IT Division if a virus alert message is displayed when accessing a file from the Internet. All appropriate precautions should be taken to detect a virus and, if necessary, to prevent its spread.
5. Employees shall contact the IT Division before downloading large files from the Internet which may disrupt the operation of the agency network.

NDPERS will conduct staff training on the importance of virus protection.

- *Log-In Monitoring* – NDPERS shall implement procedures to monitor attempts to log-in to any system that holds PHI and to report discrepancies in attempted log-ins.

### **Policy:**

The log-in file for NDPERS workstations will be maintained and periodically reviewed by the NDPERS IT division. ITD will produce a mainframe login report for NDPERS log-ins during off hours. NDPERS IT staff will maintain this file and report any incidents to the executive director.

- *Password Management* – NDPERS shall implement procedures to create, change, and safeguard passwords.

Policy:

Access to NDPERS local area network, email and mainframe applications shall be password protected. A password shall be unique to each user ID and shall not be shared. This password is the responsibility of the user and shall be controlled by the user. Each of the following password characteristics shall be applied.

1. Shall consist of a minimum of eight (8) characters.
2. Shall contain a mix of upper and lower case characters.
3. Shall include at least one (1) alpha character.
4. Shall include at least one (1) numeric character
5. Shall include at least one (1) character in upper case.
6. Shall include at least one (1) character in lower case.
7. Passwords shall have a maximum life of 90 days.
8. Cannot reuse the last 5 passwords.
9. A user ID shall be disabled after no more than three (3) invalid sign on attempts.
10. Disabled ID's must be reset by the IT network administrator.

## 6. Security Incident Procedures

- *Identify and Respond to Security Incidents* - NDPERS shall implement policies and procedures to identify and respond to suspected or known security incidents; ~~mitigate, to the extent practicable, harmful effects of security incidents that are known to NDPERS or a business associate;~~ and document security incidents and their outcomes.

Policy:

NDPERS employees are required to report any security incidents to the NDPERS Security Officer on the standard Risk Management Fund Incident Report (SFN 50508). The Security Officer will investigate the incident and take appropriate actions.

- *Mitigate Known Security Incidents* – NDPERS shall implement policies and procedures to mitigate the effects of any security breach or incident that is known to the covered entity.

Policy:

In the event of a security breach, the NDPERS IT staff will notify the NDPERS staff and shut down the affected system. The incident will be investigated and when determined safe, the system will be brought up. Whenever a system has been compromised or suspected of a compromise by an unauthorized party, system managers must immediately change every password on the involved system. The incident will be evaluated by the NDPERS Data Breach Team and appropriate action taken in accordance with the NDPERS Breach Notification Policy.

- *Document Security Incidents* – NDPERS shall implement policies and procedures that will document each security incident and its outcome.

Policy:

The NDPERS Security Officer will maintain copies of all security incidents and forward copies to the State Risk Management Division if appropriate.

## 7. Contingency Plan

- *Data Backup Plan* – NDPERS shall implement policies and procedures to create and maintain retrievable exact copies of PHI.

### Policy:

NDPERS IT division will backup the network and mainframe systems according to State of ND policy S002-02:

### Critical System Backup

To ensure the protection of daily activity for any critical system, backup and recovery procedures shall be established by the administrator of the system. Such procedures shall provide for the complete and/or partial backup of any critical system on a regular basis. The frequency of such backups shall be determined by the critical and sensitive nature of the system. Backup may be on local media or on the Tivoli Storage Manager System that is administered by ITD.

- *Disaster Recovery Plan* – NDPERS shall establish and implement procedures to restore lost data.

NDPERS has a working draft disaster recovery plan.

### Policy:

NDPERS will backup the network and mainframe systems according to State of ND policy S002-02:

### Disaster Recovery

NDPERS shall implement disaster recovery procedures which will provide for the complete recovery of any critical system after a man-made or natural disaster. These recovery procedures will consist of at least: 1. System replacement requirements and specifications 2. Off-site storage location/site for the complete system backup. 3. A backup media rotation schedule. The NDPERS backup is maintained on the Tivoli Storage Manager system, and will be included in the ITD enterprise backup and disaster plan. Agency procedures include the steps required for recovery of data from the Tivoli Storage Manager system.

- *Emergency Operation Plan* – NDPERS shall establish and implement procedures to enable the continuation of critical business needed to protect the security of PHI while operating in an emergency mode.

### Policy:

NDPERS will follow its disaster recovery plan which has emergency operations provisions including potential alternative work sites.

- *Testing and Revision Procedures* – NDPERS shall implement procedures that allow for the periodic testing and revision of contingency plans.

The NDPERS disaster recovery plan has provisions for testing and updating current systems.

- *Applications and Data Criticality Analysis* – NDPERS shall assess the relative importance of specific applications and data in support of other contingency plan components.

NDPERS IT division has data / application documentation and is responsible for keeping this information current for the NDPERS disaster recovery plan.

- *Evaluation* – NDPERS shall perform technical and non-technical evaluations of security policies and procedures in response to environmental or operational changes affecting the security of electronic PHI.

Policy:

NDPERS Risk Management Loss Control Committee will periodically review and revise security policies and procedures.

### **Business Associate Contracts and Other Agreements**

1. NDPERS may permit a business associate to create, receive, maintain, or transmit PHI on its behalf only if it enters into an appropriate written business associate contract or agreement. The business associate contract or agreement must provide that the business associate will:
  - provide satisfactory assurances that the business associate and any subcontractors will appropriately safeguard PHI
  - Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains or transmits on behalf of NDPERS.
  - Ensure that any agent, including a sub-contractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect the PHI.
  - Report to NDPERS any security incidents it becomes aware of.
  - Authorize the termination of the contract by the covered entity, if the covered entity determines that the business associate has violated a material term of the contract.
2. NDPERS plan documents of the group health plan must be amended to incorporate the following provisions:
  - Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI that the plan sponsor creates, receives, maintains or transmits on behalf of the group health plan.
  - Ensure that there is an adequate separation (or fire wall) between the information that is received from the group health plan and other employment information and decisions and this separation is supported by reasonable and appropriate security measures.

- Ensure that any agent, including a sub-contractor, to whom the plan provides this information, agrees to implement reasonable and appropriate security measures to protect the information.
- Report to the group health plan program manager any security incident.

## **II. Physical Safeguards**

### 1. Facility Access Controls

- *Contingency Operations* – NDPERS shall establish and implement necessary procedures to allow access to the facility to support the restoration of lost data under a disaster recovery plan and an emergency mode operations plan.

Contingency operations are part of the NDPERS Disaster Recovery Program.

- *Facility Security Plan* – NDPERS shall implement policies and procedures to safeguard the facility and equipment from unauthorized physical access, tampering and theft.

#### Policy:

NDPERS has a locked door policy and all guests must be registered at the front desk. Visitors must be escorted within the NDPERS office area.

- *Access Control and Validation Procedures* – NDPERS shall implement procedures to control and validate a person's access to facilities based upon their role or function (including visitor control) and to control access to software programs for testing and revision.

#### Policy:

All NDPERS staff functions will be evaluated by management to determine the proper access to software and information. NDPERS will use test data for mainframe applications/changes before using the current data. Visitors will be logged and if appropriate escorted in the NDPERS office area.

- *Maintenance Records* – NDPERS shall implement policies and procedures to document any repairs or modifications to the physical components of a facility which are related to its security (hardware, walls, doors, and locks).

#### Policy:

NDPERS security officer will change the combination to the office door locks upon the termination of any employee with knowledge of the current codes or if there is any indication that the private codes may have been disclosed. Visitors will be logged and if appropriate escorted in the NDPERS office area.

## NDPERS Visitor Sign-In Policy:

At the front desk, a registration sheet is available for visitors to the NDPERS office to sign-in & out. The sheet will be utilized to show all types of visitors to the office, including scheduled appointments, walk-ins, personal visitors to staff and various equipment maintenance personnel. Visitors are to remain in the front desk area until the NDPERS employee they are calling on comes to escort them. Visitors are to be escorted by NDPERS employees to and from the reception area at all times.

### Instructions:

- When at the front desk, the member service representative/staff member should request that the visitor complete the next blank row of the registration sheet. If they are unsure who they will be seeing, they can leave this blank and the member service representative/staff member will write this information in after it is determined who they will be meeting with. The representative/staff member should verify that all items are filled in.
- If the visitor is unable to or does not sign the sheet, the member service representative/staff member will need to write the information on the sheet for the visitor.
- When the visitor leaves, they should be asked to indicate the “time out”, or time that they are leaving. If they do not, the representative/staff member can write the time in if they know when it was. If they don’t, they should call the person the visitor met with and ask them what time the visitor left.
- The sheet should be available at the front desk until all visitors indicated have signed out. Once the registration sheet is completely filled and verified, it can be filed in the NDPERS Registration binder at the front desk.
- Also, if the visitor is simply dropping off a form or check at the front desk, they still should complete the registration sheet. If they do not, the above procedures should be followed, but if you are unsure if it was the member dropping off the form or someone else for them, you can indicate this by saying “form/check # dropped off for member”. The representative/staff member who receives the form/check from the visitor should be indicated under “staff name”. If the form is not reviewed by this staff member, the “NR” box should be checked to indicate that the form was “Not Reviewed” upon receipt. This will act as a future reference for staff in case there is a problem with the form when processing.
- At the end of each day (@ 4:50 p.m.), the front desk representative/staff member should review the registration sheet to make sure that all visitors have signed out. If any remain, the representative/staff member should verify that they have in fact left and are no longer in the office. If this can not be determined the representative/staff member should contact the supervisor who is still in the office. The supervisor contacted will follow-up to determine if the visitor remains or has left.
- Note: this visitor registration sheet should also be picked up with the In/Out Board daily print in the case of an agency evacuation so that all visitors can also be accounted for.

## 2. Workstation Use

- NDPERS shall implement policies and procedures specific to the functions that are to be performed, the manner in which those functions are to be performed, and the physical attributes of the surroundings of the specific workstation or class of workstation that can access PHI.

Use of NDPERS Property - NDPERS property, supplies and equipment are to be used for conducting NDPERS business. State law prohibits the use of NDPERS property for political purposes.

The following policies apply to personal use of NDPERS equipment.

Electronic Mail (e-mail) Policy - E-mail is one of NDPERS internal and external communication methods. E-mail originating from a North Dakota Public Employees Retirement System (NDPERS) e-mail account is to be considered the property of NDPERS. As such, the agency reserves the right to search and access employee e-mail when necessary to ensure the proper use of the system and to protect the interests of the agency. System features such as passwords and delete message functions do not affect the agency's ability to retrieve and right to review e-mail.

Internet Policy: Internet access is available to agency employees for conducting official business, such as researching business issues, accessing business-related data, information and training. An employee is responsible for any charges associated with billable Internet services unless appropriate authorization has been obtained before accruing the charge.

Use of Electronic Communication Devices - The North Dakota Public Employees Retirement System provides Electronic Communication Devices (ECDs) and an IT infrastructure designed to facilitate business communications among the agency, state government, educational entities, political subdivisions and our business contacts. These devices include telephone, facsimile (fax) machines, all computer and network-related hardware (including PDAs), software, and/or peripheral devices to include e-mail, copy machine, personal printers, and Internet. These devices are connected to the State's IT infrastructure and as such, public scrutiny and/or disclosure of usage must not damage the reputation of NDPERS or the state of North Dakota, nor jeopardize the IT system's integrity. Connecting hardware or software not approved by the State of ND and/or NDPERS to the State Network is strictly prohibited.

It is the intent of NDPERS to provide a policy that ensures appropriate use of ECDs. North Dakota state government branches and agencies are responsible for developing and administering policies to prevent or detect abuse and reduce legal exposure related to the use of ECDs. Unless exempted by law, all electronic communications shall follow North Dakota's Open Records Law.

### 1. Authorized Use:

It is the agency's policy to limit the use of ECDs to official business. However, users may be permitted to utilize ECDs provided by NDPERS for personal use, off-duty, and if in compliance with the following terms of this policy:

- a. Does not interfere with the performance of the user's public duties;
- b. Is of nominal cost or value and is consistent with policies contained in Sections 2.8, 2.9, and 2.10.
- c. Does not create the appearance of impropriety;
- d. Is not for a political or personal commercial purpose;
- e. Is reasonable in time, duration, and frequency and is consistent with policies contained in Sections 2.8, 2.9, and 2.10.
- f. Makes minimal use of hardware and software resources; and
- g. Is in compliance with the Standards of Conduct outlined below.

### 2. Standards of Conduct:

The use of ECDs outside the above described authorized uses is a violation of the agency's policy and the user may be held personally liable (legally, financially, or otherwise). ECDs should be used in a professional and ethical manner as noted below:

- a. Must not use ECDs for harassment or similar inappropriate behavior;
- b. Must not use ECDs for accessing sexually explicit, offensive, or erotic material;
- c. Must not create, distribute, copy, store, or knowingly use unauthorized copies of copyrighted material on state of North Dakota computers or transmit them over the state networks;
- d. Must not use ECDs for the purposes of probing or hacking;
- e. Must limit the use of ECDs for non-official business; including but not limited to “streaming” audio & video (which includes Internet radio, stock/news tickers, etc.)
- f. Must not use resource-intensive software such as WeatherBug, WebShots, etc.
- g. Must not use ECDs for any illegal activity, gambling, trading in illegal substances, etc.;
- h. Must not use ECDs to knowingly download copy, distribute, store, or use pirated software or data;
- i. Must not knowingly distribute viruses or bypass any state virus detection system in place;
- j. Must not use unauthorized codes or passwords to gain access to other employees’ files;
- k. Must not place any State of North Dakota material on any publicly accessible internet computer without prior permission from the PERS executive director;
- l. Must not transfer confidential material or messages that contain protected health information (PHI);
- m. Must determine if a message is considered an official record and subject to the records retention schedule;
- n. Must contact the IT Division if a virus alert message is displayed when accessing a file from the internet;
- o. Must contact the IT Division before downloading large files from the internet;
- p. Must conform to state procurement policies when making business related purchases through an ECD.

Violation of these standards of conduct will result in disciplinary action.

Computer Access – It is NDPERS policy that all new employees must read and sign an acknowledgement that they understand and agree to the provisions governing computer access prior to access being granted. These guidelines are referenced in Sections 2.5, 2.6, 2.9, 2.10, 2.11 and 2.13 of this chapter.

If you are on an approved leave of absence (LOA) that exceeds thirty (30) days, system access will be terminated unless otherwise authorized by your supervisor if it is determined that continued access should be allowed based on a business related reason. For those occurrences in which access is terminated, upon return from the LOA the employee will be required to sign a new acknowledgement.

#### Remote Access Policy

Mainframe - It is NDPERS’ policy that no staff member will access the State’s mainframe computer via the IBM OnDemand web client supplied by ITD or by using a TN3270/Telnet client on a remote computer except under the following circumstances:

- Such access is authorized by the staff member’s supervisor, and
- Such access becomes necessary due to implementation of the agency’s disaster recovery plan

If a TN3270/Telnet client is required, the division supervisor will request that the IT Division acquire the software and install it on a laptop assigned to the staff member.

This policy is not intended to guarantee that hardware (i.e. laptop computer) for such a connection will be available. The decision to supply the hardware will be left to NDPERS Management.

Local Area Network (LAN) - It is NDPERS’ policy that no staff member will access STAGEnet (state network) or the NDPERS LAN via remote connection without permission from his/her supervisor. In such case that permission is approved, such access to the LAN must be accessed via Virtual Private Network (VPN). The division supervisor will request that the IT Division acquire the VPN client and install it on a laptop assigned to the staff member.

This policy is not intended to guarantee that hardware (i.e. laptop computer) for such a connection will be available. The decision to supply the hardware will be left to NDPERS Management.

Failure to comply with the above policies will result in disciplinary action.

### 3. Workstation Security

- NDPERS shall implement physical safeguards restricting unauthorized access to authorized users-only information for all workstations that have the ability to access PHI.

#### Policy:

NDPERS workstations and office areas are to be designed to minimize the exposure of confidential information.

- Computer screens facing away from the door.
- Computer screen savers in place.
- Door closed when office is empty and confidential information is in the open.
- Confidential files, tapes, and disks are secured in a closed, possibly locked drawer.
- Computer 'locked' when unattended.
- User ID's and passwords are not to be written down and left in a place where unauthorized persons might discover them.

#### **NDPERS Accounting/IT Division Policy USER IDS AND PASSWORDS**

##### **User ID**

Log in to the agency's local area network, email and mainframe applications shall be controlled by the assignment of user ID's. A unique user ID shall be assigned by the agency LAN administrator to each user. These ID's are not transferable and each user is assigned his/her own ID.

The user ID format shall be: FLNAME (First letter of user's first name plus the first 7 letters of the user's last name). In the event of duplicate usernames the middle initial will be included. (First letter of user's first name plus middle initial plus next 6 letters of the last name)

##### **Password**

Access to the agency's local area network, email and mainframe applications shall be password protected. A password shall be unique to each user ID and shall not be shared. This password is the responsibility of the user and shall be controlled by the user. Each of the following password characteristics shall be applied.

1. Shall consist of a minimum of eight (8) characters.
2. Shall contain a mix of upper and lower case characters.
3. Shall include at least one (1) alpha character.
4. Shall include at least one (1) numeric character
5. Shall include at least one (1) character in upper case.
6. Shall include at least one (1) character in lower case.
7. Passwords shall have a maximum life of 90 days.
8. Cannot reuse the last 5 passwords.
9. A user ID shall be disabled after no more than three (3) invalid sign on attempts.
10. Disabled ID's must be reset by the administrator.

#### 4. Device and Media Controls

- *Disposal* – NDPERS shall implement policies and procedures to address the final disposition of PHI and/or the hardware or electronic media on which PHI has been stored.

Policy:

All media (hard drives, diskettes, tapes, CD's) are to be given to the NDPERS IT division to be erased, reformatted, and shredded using computer software once the data on them is no longer in use. Diskettes, tapes, and CD's are to also be physically destroyed before disposing of in the garbage.

- *Media Re-Use* – NDPERS shall implement procedures for removal of PHI from electronic media before the media is made available for re-use.

Policy:

All media (hard drives, diskettes, tapes, CD's) are to be erased, reformatted, and shredded using computer software once the data on them is no longer in use.

- *Accountability* – NDPERS shall maintain a record of the movements of hardware and electronic media and any person responsible for such movements.

Policy:

NDPERS IT staff will maintain an inventory of all hardware and electronic media in the organization.

- *Data Backup and Storage* – NDPERS shall create a retrievable, exact copy of PHI when needed, before movement or transfer of hardware or other electronic media.

Policy:

NDPERS will adhere to the State IT policy on backup procedures.

State of ND policy S002-02:

Critical System Backup

To ensure the protection of daily activity for any critical system, backup and recovery procedures shall be established by the administrator of the system. Such procedures shall provide for the complete and/or partial backup of any critical system on a regular basis. The frequency of such backups shall be determined by the critical and sensitive nature of the system. Backup may be on local media or on the Tivoli Storage Manager System that is administered by ITD.

Disaster Recovery

NDPERS shall implement disaster recovery procedures which will provide for the complete recovery of any critical system after a man-made or natural disaster. These recovery procedures will consist of at least: 1. System replacement requirements and specifications 2. Off-site storage location/site for the complete system backup. 3. A backup media rotation schedule. The NDPERS backup is maintained on the Tivoli Storage Manager system, and will be included in the ITD enterprise backup and disaster plan. Agency procedures include the steps required for recovery of data from the Tivoli Storage Manager system.

### III. Technical Safeguards

#### 1. Access Control

- *Unique User Identifier* – NDPERS shall implement policies and procedures that assign a unique name and/or user number to identify and track user identity.

Policy:

Log in to the agency's local area network, email and mainframe applications shall be controlled by the assignment of user ID's. A unique user ID shall be assigned by the agency LAN administrator to each user. These ID's are not transferable and each user is assigned his/her own ID.

The user ID format shall be: FLNAME (First letter of user's first name plus the first 7 letters of the user's last name). In the event of duplicate usernames the middle initial will be included. (First letter of user's first name plus middle initial plus next 6 letters of the last name)

All NDPERS employees will complete an IT user request form. IT staff will assign a unique name to identify and track user identity. IT staff will maintain a log of these users/ID's.

- *Emergency Access Procedure* – NDPERS shall establish and implement necessary procedures to obtain necessary PHI in an emergency.

Policy:

NDPERS data will be available for emergency access. Backup and Restoration procedures will allow access in cases of data loss/access emergency. The NDPERS disaster recovery plan will contain data restoration procedures.

- *Automatic Log-Off* – NDPERS shall implement electronic procedures that terminate an electronic session after a pre-determined period of inactivity.

Policy:

All NDPERS workstations will have an automatic lock-up function enabled after 20 minutes of inactivity. NDPERS employees are to manually lock-up their computers anytime they leave them unattended.

- *Encryption and Decryption* – NDPERS shall implement a mechanism to encrypt and decrypt PHI.

Policy:

NDPERS will use encryption and decryption when confidential data is sent to or received from an outside organization. The NDPERS FTP site is a secure system that needs no encryption/decryption. The FTP site uses Secure Socket Layers (SSL). This approach allows us to set up "users" for secure access to the site as long as they use the web to logon. Using the web with SSL, a user's password and user-id are validated and once logged on, any transmission between the user and the site is a secure transmission. The site itself is on the statewide network and is therefore protected by the State firewall.

One exception to this is when a user has been given access through "batch mode". In this instance, the file transmission and the logon credentials travel together in a batch making the data file vulnerable unless encrypted. In cases where batch access is requested, we are requiring the sending organization to encrypt their files.

## 2. Audit Controls

- NDPERS shall implement hardware, software, and/or procedural mechanisms that record and examine activity or information systems that contain or use PHI.

### Policy:

All user initiated log-in attempts to connect with NDPERS information systems must be logged. Computer activity and inventory logs must provide sufficient data to support audits, and will be reviewed periodically by the NDPERS auditor.

## **INFORMATION SYSTEMS INCIDENT RESPONSE POLICY**

The IT division shall monitor all security logs and investigate any possible violations. Security logs will be kept for a period of 90 days. During this period, security logs will be secured such that they can not be modified and can only be read by authorized persons.

## 3. Integrity

- NDPERS shall implement electronic mechanisms to corroborate that PHI has not been altered or destroyed in an unauthorized manner.

### Policy:

Only limited NDPERS employees will be granted access ability to change/modify/delete/add PHI records. The NDPERS mainframe journal records any changes made to data.

## 4. User Authentication

- NDPERS shall implement procedures to verify that a person or entity seeking access to PHI is the person or entity claimed.

### Policy:

NDPERS user ID's are unique for system access.

Log in to the agency's local area network, email and mainframe applications shall be controlled by the assignment of user ID's. A unique user ID shall be assigned by the agency LAN administrator to each user. These ID's are not transferable and each user is assigned his/her own ID.

The user ID format shall be: FLNAME (First letter of user's first name plus the first 7 letters of the user's last name). In the event of duplicate usernames the middle initial will be included. (First letter of user's first name plus middle initial plus next 6 letters of the last name)

All NDPERS employees will complete an IT user request form. IT staff will assign a unique name to identify and track user identity. IT staff will maintain a log of these user ID's.

## 5. Transmission Security

- *Integrity Controls* – NDPERS shall implement security measures to ensure that electronically transmitted PHI is not improperly modified without detection until the PHI is disposed of.

Policy:

Only limited NDPERS employees will be granted access ability to change/modify/delete/add PHI records.

- *Encryption* – NDPERS shall implement a mechanism to encrypt PHI whenever it is appropriate.

Policy:

NDPERS will use encryption and decryption when confidential data is sent to or received from an outside organization. The NDPERS FTP site is a secure system that needs no encryption/decryption. The FTP site uses Secure Socket Layers (SSL). This approach allows us to set up "users" for secure access to the site as long as they use the web to logon. Using the web with SSL, a user's password and user-id are validated and once logged on, any transmission between the user and the site is a secure transmission. The site itself is on the statewide network and is therefore protected by the State firewall.

One exception to this is when a user has been given access through "batch mode". In this instance, the file transmission and the logon credentials travel together in a batch making the data file vulnerable unless encrypted. In cases where batch access is requested, we are requiring the sending organization (for example Ameritas) to encrypt their files.

## **Policies & Procedures and Documentation Requirements**

NDPERS shall implement the policies and procedures to comply with the security standards.

NDPERS may change its policies and procedures at any time, provided that the changes are documented and implemented in accordance with the security regulations.

NDPERS shall maintain written policies and procedures that are implemented to comply with the security regulations.

NDPERS shall maintain a written record of any action, activity or assessment required under the security regulations and report to the NDPERS Loss Control Committee.

NDPERS shall retain all documentation required for six years from the date of its creation or the date when it was last in effect, whichever is later.

NDPERS shall make documentation available to those persons responsible for implementing the procedures to which the documentation pertains.

NDPERS shall review documentation periodically and update that information as necessary to respond to environmental or operational changes that affect the security of PHI.

## **POLICY & PROCEDURE: Participant Requests for Confidential Communications**

**Section:  
Privacy**

**Effective Date: April 14, 2003  
Amended: September 19, 2013**

**Reviewed by: NDPERS Board  
Approved by Board: 09/19/2013**

### **POLICY**

**Participants have the right to request restrictions on how and where their Protected Health Information ("PHI") is communicated.**

### **PROCEDURE**

- NDPERS requires a participant who desires their PHI to be communicated in an alternative manner or location than NDPERS would otherwise use, to specify the alternative location or other method of communication, and when appropriate, information as to how payment, if any, will be handled.
- NDPERS requires that the participant clearly state that the restriction is necessary to prevent a disclosure that could endanger the participant.
- NDPERS does not refuse to accommodate such a request unless the request imposes an unreasonable administrative burden.
- The participant may request confidential communication at any time and the request must be in writing.
- The request must be made in writing to the Privacy Officer, 400 East Broadway, Suite 505, Bismarck, ND 58502.
- Written documentation of the participant's request, if granted, will be placed in the participant's record(s).

## **POLICY & PROCEDURE: Disclosure to the Plan Sponsor**

**Section:  
Privacy**

**Effective Date: April 14, 2003  
Amended: September 19, 2013**

**Reviewed by: NDPERS Board  
Approved by Board: 09/19/13**

### **POLICY**

**The Public Employees Retirement System (NDPERS) does not disclose PHI to the Plan Sponsor (NDPERS Board), except in the manner and for the purposes specifically permitted under the Privacy Rule.**

### **PROCEDURE**

NDPERS only discloses PHI to the Plan Sponsor if NDPERS receives written authorization from the participant to disclose PHI to the Plan Sponsor;

NDPERS provides the Plan Sponsor with PHI in the form of aggregate de-identified health information for the purpose of evaluating NDPERS health plan benefits structure, expenditure trends, premium financing and related matters, except PHI that is genetic information for underwriting purposes.

## POLICY & PROCEDURE: Minimum Necessary Disclosures of Protected Health Information

Section:  
Privacy

Effective Date: April 14, 2003  
Amended: September 19, 2013

Reviewed by: NDPERS Board  
Approved by Board:  
12/19/0209/19/13

### POLICY

NDPERS and its Business Associates disclose the minimum amount of Protected Health Information ("PHI") necessary to achieve the purpose of the disclosure.

### PROCEDURE

#### *Routine and recurring disclosures of PHI*

- NDPERS has identified disclosures of PHI it makes on a routine and recurring basis in its Plan Documents, rules, and laws.
- NDPERS has determined the minimum amount of PHI that is needed to achieve the purpose of these requests in its Plan Documents, rules, and laws.

#### *Non-routine disclosures of PHI*

- NDPERS reviews non-routine requests for disclosures of PHI that are subject to the minimum necessary standard on a case-by-case basis.
- The request for disclosure is forwarded to the Privacy Officer (or designee) to determine if the amount of PHI requested is the minimum necessary to achieve the purpose of the disclosure according to established criteria.
- NDPERS relies on representations that the PHI requested is the minimum amount necessary if the request is from a public official for a permitted disclosure; a *Health Care Provider, a Health Plan, or a Health Care Clearinghouse*; or a professional providing services to NDPERS who is a Business Associate and who represents that the PHI requested is the minimum necessary to carry out a function and from whom satisfactory assurances that the information will be appropriately safeguarded have been obtained and documented.
- When necessary or appropriate, the Privacy Officer will speak with a representative from the entity making the request to get clarification and/or modifications.

#### *Disclosures of entire records*

## **POLICY & PROCEDURE: Minimum Necessary Disclosures of Protected Health Information**

- NDPERS does not disclose a participant's entire record in fulfillment of any request subject to the minimum necessary standard for any reason unless a specific justification for such a disclosure is documented.

## **POLICY & PROCEDURE: Requests for an Accounting of Disclosures of Protected Health Information**

**Section:**  
Privacy

**Effective Date:** April 14, 2003,  
[Amended September 19, 2013](#)

**Reviewed by:** NDPERS Board  
**Approved by Board:** [12/19/02](#)  
[09/19/13](#)

### **POLICY**

**Participants have the right to request an accounting of the disclosures of their Protected Health Information ("PHI") for purposes other than treatment, to obtain payment for treatment, for administrative purposes, and to evaluate the quality of care that a participant has received and other exceptions specified in the Privacy Rule.**

### **PROCEDURE**

- Effective April 14, 2003, NDPERS will provide an accounting of disclosures of a participant's PHI for up to [three \(3\) years prior to the date of the participant's request if the request relates to an electronic health record, and for other records](#) six (6) years prior to the date of the participant's request, except for disclosures;
  - To the participant subject to certain limited exceptions;
  - To carry out treatment, payment and health care operations, [except for an accounting of disclosures of electronic health records which will include information about treatment, payment and health care operations](#);
  - Incidental to a use or disclosure otherwise permitted or required by the HIPAA privacy rule;
  - Pursuant to an authorization;
  - For a facility's directory or to persons involved in a participant's care; or,
  - For certain other purposes provided in 45 C.F.R §164.508.
- Requests for an accounting of disclosures must be made in writing to the Privacy Officer, 400 East Broadway, Suite 505, Bismarck, ND 58502.
- When a request for an accounting of disclosures of PHI is received, it will be provided within sixty (60) days. If necessary, this time frame may be extended for thirty (30) days. The participant requesting the accounting will be informed in writing, within sixty (60) days of the original request, of the reason(s) for the delay and the date by which action will be taken upon the request.
- A participant may receive an accounting of disclosures once during any twelve (12) month period for no charge.

## **POLICY & PROCEDURE: Requests for an Accounting of Disclosures of Protected Health Information**

- If a participant requests more than one accounting within the same twelve (12) month period, a reasonable, cost-based fee may be charged by NDPERS. The participant will be informed of the fee in advance and will be provided the opportunity to modify or withdraw the request.

The accounting for each disclosure includes:

- The date of the disclosure;
- The name of the entity or person to whom the disclosure was made and their address (if known);
- A brief description of the PHI disclosed;

One of the following:

- A brief statement of the purpose of the disclosure;
  - A copy of the participant's written authorization; or
  - For a disclosure for which an authorization was not required, a copy of the written request for the disclosure from DHHS or from the appropriate entity.
- If the accounting includes multiple disclosures to the same person/entity for a single purpose or under a single authorization, the accounting will include only the frequency or number of disclosures and the date of the last disclosure made during the accounting period for all disclosures after the first disclosure.
- NDPERS maintains the information that is required to be included in an accounting of PHI for six (6) years from the date of its creation or the date when it was last in effect, whichever is later.
  - Written accountings provided to individuals in response to a request are maintained for six (6) years from the date of the creation or the date when it was last in effect, whichever is later.
  - NDPERS maintains the titles of the persons/offices responsible for receiving and processing requests for an accounting for a period of six (6) years.

## **POLICY & PROCEDURE: Participant Requests for Access to Protected Health Information for Inspection and/or Copying**

**Section:  
Privacy**

**Effective Date: April 14, 2003**

**Reviewed by: NDPERS Board  
Approved by Board: 09/19/2013**

### **POLICY**

**Participants have the right to request to inspect or obtain a copy of their Protected Health Information ("PHI") in the designated record set.**

### **PROCEDURE**

- NDPERS requires and informs participants that requests for access to PHI must be made in writing to the NDPERS Privacy Officer, 400 East Broadway, Suite 505, Bismarck, ND 58502.

When a request for access to PHI is received, it will be acted upon according to the following time frames:

- Within thirty (30) days after receipt of the request:
- If NDPERS is unable to take action required as stated above, the time for such action may be extended by no more than 30 days.
- If the request is granted, NDPERS informs the participant and provides the access requested, within the time frames above.
- If the extension is necessary, NDPERS will provide the participant, within the time frames above, a written statement that specifies the reason(s) for the delay and the date by which the participant may expect to receive a decision on the request to access the PHI
- NDPERS documents the records that comprise the designated record set that is subject to access requests and maintains these records for a period of six (6) years from the date they were created or were last in effect, whichever is later.
- NDPERS maintains the titles of the persons/offices responsible for receiving and processing access requests for a period of six (6) years.

**When NDPERS denies a request for access (in whole or in part):**

## **POLICY & PROCEDURE: Participant Requests for Access to Protected Health Information for Inspection and/or Copying**

The participant is given a statement written in plain language that includes:

- the reasons for the denial decision;
- if applicable, the participant's right to a review of the decision with an explanation of how to exercise this right; and
- a description of how the participant may file a complaint with NDPERS and Department of Health and Human Services (DHHS), including the title and telephone number of a NDPERS contact person.
- To the extent possible, NDPERS will grant access to other PHI for which there are no grounds to deny access.
- If the denial is reviewable and the participant requests such a review, NDPERS will designate a licensed health care professional, not involved in the original denial decision, to serve as a reviewing official. Upon receipt of a review request, NDPERS will promptly refer the denial to the reviewing official for reevaluation. NDPERS will provide written notice to the participant of the reviewing official's determination.
- If NDPERS denies access because it does not maintain the PHI requested but knows where the requested PHI is maintained, NDPERS will inform the participant of where to direct the request.

### **When a request for access is accepted (in whole or in part):**

- The participant is notified of the decision and may choose to inspect the PHI, copy it, or both, in the form or format requested.

The individual will be provided with access to the PHI in the form and format requested, if it is readily producible in such form and format; or, if not, in a readable hard copy form or such other form and format as agreed to by NDPERS and the individual.

- If the access to the requested PHI is in one or more designated record sets electronically and if the individual requests an electronic copy, NDPERS will provide the individual with access to the PHI in the electronic form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by NDPERS and the individual.

NDPERS and the participant will arrange a mutually convenient time and place for

## **POLICY & PROCEDURE: Participant Requests for Access to Protected Health Information for Inspection and/or Copying**

the participant to inspect and/or obtain a copy of the requested PHI.

NDPERS will transmit a copy of PHI directly to another person designated by the individual. The individual's request must be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of PHI.

- NDPERS will mail a copy of the requested PHI if the participant prefers this method of obtaining a copy.

Fees charged by NDPERS for access to PHI:

NDPERS charges a reasonable, cost-based fee that includes:

- Labor for copying whether in paper or electronic media.
- Supplies for creating a paper copy or electronic media if the individual requests that the electronic copy be provided on portable media. Postage when the participant requests the copy, summary or explanation be mailed.
- No fee is charged for retrieving or handling the PHI or for processing the participant's access request.
-

## POLICY & PROCEDURE: Use of Authorizations

Section:  
Privacy

Effective Date: April 14, 2003  
Amended: September 19, 2013

Reviewed by: NDPERS Board  
Approved by Board:  
12/19/0209/19/2013

### POLICY

Authorizations are required for the use and disclosure of Protected Health Information ("PHI") for purposes other than payment and health care operations or to request PHI from another Covered Entity for the recipient's purposes.

### PROCEDURE

NDPERS uses an authorization form in the following circumstances:

- if You or Your personal representative requests that Your PHI be disclosed to a third party;
  - when NDPERS asks a participant for permission to use or disclose their PHI to the Plan Sponsor (NDPERS Board) for purposes other than payment or health care operations or as permitted by law; or
  - when NDPERS asks participants for permission to request their PHI from another Covered Entity solely for NDPERS own purposes.
- 
- When authorization is needed, the participant is provided with a copy of the authorization form and asked to sign it.
  - Signing the authorization form is voluntary and the participant may refuse to sign it.
  - A copy of the signed authorization is provided to the participant.
  - The participant may revoke the authorization, in writing, at any time.
  - The permissions granted in the authorization may not be acted upon if the authorization has been revoked, ~~or if it has expired,~~ if any material information in the authorization is known by NDPERS to be false, or the authorization otherwise violates the requirements of the HIPAA privacy rule.
  - The authorization is documented and retained for a period of six (6) years after it was created or expired, whichever date is later.

## POLICY & PROCEDURE: Participant Privacy Rights

Section:  
Privacy

Effective Date: April 14, 2003  
[Amended: September 19, 2013](#)

Reviewed by: NDPERS Board  
Approved by Board: [12/19/02](#)  
[09/19/13](#)

### POLICY

The North Dakota Public Employees Retirement System (NDPERS) has implemented policies and procedures to ensure participant privacy rights as required by and specified in the Privacy Rule of the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996.

### PROCEDURE

Participants of NDPERS have the right to:

- Receive a paper copy of the NDPERS Notice of Privacy Practices ("Notice"), even if participant has agreed previously to receive the Notice electronically;
- Request restrictions on the uses and disclosures of Protected Health Information ("PHI");
- Request to receive confidential communication of PHI subject to certain limitations;
- Access documents in the designated record set for inspection and/or copying;
- Request that NDPERS amend Your health information if you believe your information is incorrect;
- Obtain a list in certain instances when we have disclosed health information about you; and
- [Look at or get a copy of health information about You that NDPERS may use to make decisions about You.](#)
- [Receive notice of any breach of unsecured PHI about participant of which NDPERS is aware.](#)

NDPERS adheres to policies and procedures developed and implemented to ensure participant privacy rights.

NDPERS provides workforce members who perform plan administration functions with annual training regarding participant rights with respect to their PHI.

## **POLICY & PROCEDURE: Privacy of the PHI of Deceased Participants**

**Section:  
Privacy**

**Effective Date: September 23,  
2013**

**Reviewed by: NDPERS Board  
Approved by Board: 09/19/2013**

### **POLICY**

**NDPERS protects the Protected Health Information ("PHI") of deceased Health Plan participants in the same manner and to the same extent as it did prior to the participant's death.**

### **PROCEDURE**

- Protection of the privacy of a deceased participant's PHI is provided for as long as NDPERS maintains this information or for 50 years from time of death, whichever is less.
- A personal representative of the deceased participant (someone with legal authority to act on behalf of the deceased participant or his or her estate) may exercise the deceased participant's rights with respect to PHI.
- Disclosure to a family member, other relative, or a close personal friend of the individual, or any other person identified by the individual who were involved in the individual's care or payment for health care prior to the individual's death may have access to PHI that is relevant to such person's involvement, unless doing so is inconsistent with any prior expressed preference of the individual that is known to the covered entity.

# North Dakota Public Employees Retirement System

## HIPAA Privacy - Data Breach Notification Policy

### I. POLICY STATEMENT

The purpose of this policy is for NDPERS to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”), the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and all regulations implementing HITECH and HIPAA. NDPERS is required to notify certain individuals and entities upon discovery of potential Breach of Protected Health Information (PHI).

### II. DEFINITIONS

A. *Protected Health Information (“PHI”)*: Any data elements that may be used, individually or in combination, to identify the individual who is the subject of the data (name, address, social security number, telephone number, medical record number, or patient account number), anything about the individuals past, present, or future medical condition, treatment, and/or payment for the provision of health care services. Unsecured PHI is protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals under standards issued by the U.S. Secretary of Health and Human Services as determined by the NDPERS Security Officer. Note that data contained in an “encrypted” format is deemed secured, even if lost or stolen.

B. *Breach*: (1) Breach means the unauthorized acquisition, access, use or disclosure of unsecured PHI in a manner not permitted by HIPAA which compromises the security or privacy of the PHI. The term “Breach” excludes:

- a. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a CE or a BA, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted by HIPAA;
- b. Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or BA to another person authorized to access PHI at the same covered entity (“CE”) or (“BA”), or organized health care arrangement (“OHCA”) in which the CE participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under HIPAA;
- c. A disclosure of PHI where a CE or BA has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information;
- d. A use or disclosure of a Limited Data Set (“LDS”), as long as the LDS excludes date of birth and zip code.

(2) Except as provided in paragraph (1) of this definition, an acquisition, access, use, or disclosure of protected health information in a manner not otherwise permitted is presumed to be a breach unless the CE or BA, as applicable, demonstrates that there is a low probability that the protected health information has been compromised based on a risk assessment of at least the following factors:

- a. The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
- b. The unauthorized person who used the protected health information or to whom the disclosure was made;
- c. Whether the protected health information was actually acquired or viewed; and
- d. The extent to which the risk to the protected health information has been mitigated.

(3) A Breach is considered to have been “discovered” by a CE as of the first day on which such Breach is known to the CE, or, by exercising reasonable diligence would have been known to the CE. A CE is deemed to have knowledge of a Breach if such Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is a workforce member or agent of the CE.

**C. *Compromises the security or privacy of the PHI:*** Poses a significant risk of financial, reputational or other harm to the individual.

**D. *Limited Data Set:*** A limited set of identifiable individual medical information that may be disclosed to an outside party if certain conditions are met. The purpose of the disclosure may only be for research, public health or health care operations and the person (entity) receiving the information must sign a data use agreement.

**E.** Any capitalized term or terms not otherwise defined herein shall have the definition established by the HIPAA privacy regulations or security regulations.

**F. *Business Associate:*** A BA is a party with whom the CE enters into a contract in order to perform a service that the CE would otherwise perform for itself. The contract is called a “Business Associate Agreement” (BAA). The BA is responsible to protect PHI, including the responsibility to report a Breach to the CE.

### **III. PROCEDURES TO IMPLEMENT**

#### **A. Breach - Internal Notification and Communication**

1. The Privacy Officer (PO) and/or Security Officer shall be notified of all potential unlawful or unauthorized access to, use of, or disclosure of potentially identifiable individual medical information as soon as detected.

2. In the event a BA suffers a Breach, the BA must immediately notify the NDPERS Privacy or Security Officer. NDPERS may consider the Breach discovered when the BA notifies the CE (and not when the BA discovered the Breach).
3. If the Privacy or Security Officers are not available, NDPERS Executive Director shall lead the effort to ensure all information is gathered and reported timely.
4. The NDPERS “Data Breach Team” shall consist of, at a minimum:
  - a. NDPERS PO and/or his/her designees
  - b. NDPERS Security Officer and/or his/her designees
  - c. NDPERS Executive Director and/or his/her designees
  - d. NDPERS General Counsel and Consultants

## **B. Breach - Investigation and Performance of Risk Assessment**

1. The Data Breach Team shall investigate and perform a risk assessment to determine whether a Breach has occurred and, if so, whether notification to Individuals is required. (Refer to **Breach Investigation Guidelines – Attachment A.**) All Breach investigations will be reported to the NDPERS Loss Control Committee for further evaluation.
2. The Data Breach Team shall take immediate steps to mitigate harm. Mitigation steps may include but are not limited to:
  - a. The return or retrieval of lost or stolen data;
  - b. Determining who used the PHI and whether the PHI was re-disclosed; and
  - c. Obtaining satisfactory assurances from a recipient of Breached PHI that the information will not be further used or disclosed, or that the PHI will be or has been destroyed.
3. The Data Breach Team shall gather documentation, conduct interviews, and perform other actions as needed to obtain evidence.
4. Investigation results shall be reported to the appropriate members of the Data Breach Team as soon as possible in order to determine whether the incident (a) is a violation of any applicable State Breach law or regulation and (b) requires notification.
5. The Data Breach Team members will work together to create an assessment of the results of the investigation.
6. When a PHI Breach occurs at a BA, in addition to other requirements, the NDPERS PO shall notify the NDPERS legal counsel immediately to discuss mitigation efforts, potential indemnification / reimbursement by BA for costs and expenses related to the BA’s Breach, and whether changes in the BAA and the BA relationship are required.

7. Based on the Data Breach Team’s assessment, one of the following determinations will be made by the Privacy and Security Officer and the NDPERS legal counsel and Consultants:

a. **Report unfounded** – no violation has occurred.

b. **HIPAA Breach Notification violation only** - a violation of the HIPAA unsecured PHI Breach notification requirements has occurred. Notification to the individual who is the subject of the PHI (or his/her personal representative, if appropriate) and Department of Health and Human Services (HHS) is required. Refer to Section III “Notification of a Breach under HIPAA” for additional guidance.

c. **State Breach Notification violation only** - a violation that does not meet the HIPAA Breach notification requirements, but does meet a State specific Breach notification requirement, has occurred. Notification is required under State law. Consult with NDPERS legal counsel regarding any State notification requirements.

d. **HIPAA Breach Notification Required** - a violation that requires notification under HIPAA and State Breach notification requirements has occurred. Notification under HIPAA and State law is required. Refer to Section III “Notification of a Breach under HIPAA” for additional guidance and consult with NDPERS legal counsel regarding State notification requirements.

e. **No HIPAA Breach**, but possible HIPAA policy violations have occurred. No notification is required. Consult with Privacy and Security Officer and legal counsel regarding appropriate compliance response.

## C. Breach – External Notification of a Breach under HIPAA

### 1. Notification (45 CFR Section 164.404)

#### a. Letters to Individuals

i. Without unreasonable delay and in no case later than 60 calendar days after the discovery, the PO shall complete and mail a patient Breach notification letter via first-class mail to all impacted individuals (or the individuals personal representative, as applicable), at the individuals last known or address, or, if the individual agrees to electronic notice and such agreement has not been withdrawn, by electronic mail. If the individual is known to be deceased, written notice by first-class mail may be sent to either the next of kin or personal representative of the deceased individual.

ii. The template patient notification letter (**Attachment B**) contains all of the data elements required by applicable law and regulation and must be used for all notifications to individuals required by this policy.

- iii. A copy of the letter and all associated materials (investigation notes, audit results, interview notes, and copies of any media notices and website notices) must be maintained by the PO for a minimum of six (6) years. An accounting of disclosure (AOD) must be maintained by NDPERS when a Breach has been determined to have occurred.

**b. Insufficient Contact Information: Notice to Fewer Than Ten (10) Individuals (45 CFR Section 164.404(d)(2)(i))**

- i. If there is insufficient or out-of-date contact information that prevents direct written communication with the individual, a substitute form of notice (e.g., telephone call) shall be utilized if fewer than ten patients are involved. Substitute notice need not be provided in the case in which there is insufficient or out-of-date contact information that precludes written notification to the next of kin or personal representative of the individual.

**c. Insufficient Contact Information: Substitute Notice to More Than Ten (10) Individuals (45 CFR Section 164.404(d)(2)(ii))**

- i. If ten (10) or more individuals are involved, a conspicuous posting for 90 days on the provider's web site home page or notice in major print or broadcast media where the individuals affected by the Breach are likely to reside should be provided.
- ii. The substitute notice shall include a toll-free telephone number that is active for 90 days where an individual can learn whether or not his or her unsecured PHI was possibly included in the Breach.
- iii. If NDPERS utilizes major print or broadcast media, the PO shall work with appropriate personnel as soon as possible to begin the coordination of such activities.
- iv. In situations where notification is required by HIPAA, NDPERS shall prepare one letter that contains all of the elements required by both regulatory schemes and shall submit a single notification letter satisfying the earliest of the applicable due dates.
- v. In any case determined to require urgency because of possible imminent misuse of unsecured PHI, information may be provided to individuals by telephone or other means, as appropriate, in addition to the written notice.

**d. Media Notification – Breaches Involving 500+ Individuals (45 CFR Section 164.406)**

- i. In the case of a single Breach event involving 500 or more individuals in the

same State or jurisdiction, notice must be provided to prominent media outlets serving the area in question. Such notice must be provided without unreasonable delay and in no case later than sixty (60) days after discovery of a Breach.

ii. The media notice must contain the same informational elements as are contained in the template notification letter (**Attachment B**).

iii. If a media notice will be required, the PO shall work with the appropriate NDPERS personnel as soon as possible to begin the coordination of such notification activities.

**e. HHS Notification (45 CFR Section 164.408)**

i. **500 or More Individuals Impacted Per Breach:** Notice shall be provided to the Secretary of HHS by NDPERS without unreasonable delay and in no case later than 60 calendar days in the case of a single Breach event involving 500 or more individuals, regardless of the location of the individuals. For HHS/OCR Region VIII-Denver, HHS only accepts notification of “breaches” under HIPAA via the online HHS reporting process in **Attachment C. Fewer than 500 Individuals Impacted Per Breach:** For single events involving less than 500 individuals, NDPERS shall maintain a log of each HIPAA Breach occurrence. NDPERS PO shall update the log each time a Breach occurs. The log must be submitted to HHS no later than 60 days past the end of the calendar year in the manner specified on the HHS website.

**2. Delayed Notification**

Notice shall be delayed if law enforcement informs NDPERS that disclosure of a Breach would impede a criminal investigation or cause damage to national security. If a request for delayed notification is made in writing and specifies the time during which the delay is required, the notice shall be delayed as requested. If a request for delayed notification is made orally, the statement and the identity of the official making the statement shall be documented and the notice shall be delayed no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time. The required notice shall be provided without unreasonable delay after the law enforcement agency communicates to NDPERS its determination that notice will no longer impede the investigation or cause damage.

## Attachment A

### Data Breach Investigation Guidelines

The PO and the data breach team performing the Risk Assessment should consider:

1. Is the incident a violation of the HIPAA Privacy Rule?
  - a. Was the information PHI?
  - b. Did the use or disclosure of PHI fall within an exception to the definition of “Breach”?
  - c. Was the use or disclosure of PHI impermissible under the HIPAA privacy regulations?
  - d. If the information was not PHI, does the information trigger NDPERS data breach obligations because it meets the definition of personal information under NDPERS?
2. Does the violation compromise the security or privacy of the PHI?
3. What type(s) and amount of PHI and other information were lost?
  - a. *Examples:* Dates of birth (DOBs), Social Security Numbers (SSNs), last name and first initial or first name, address, diagnosis or diagnostic codes, account numbers, dates of admission, email, etc.
4. Does the violation pose a significant risk of financial, reputational, or other harm to the individual?
  - a. Will the information embarrass the individual or hurt his/her reputation?
  - b. What is the likelihood the individual could suffer economic harm, such as identity theft (including medical identity/medical insurance theft)?
  - c. Could notification cause the individual greater emotional and/or physical harm than failing to notify the person?
    - i. *Example:* Mentally ill woman (schizophrenic paranoid, poorly controlled) is seen in emergency room following a car wreck, and is treated for a broken arm (confirmed by x-ray). Nurse accidentally staples to another patient’s discharge instructions a sheet of paper containing the woman’s full name, date of birth and x-ray results concerning her broken arm, but no other information. No other information was disclosed about the woman. No risk of identity theft exists. The risks to the woman’s mental health if she is notified appear to outweigh the risks of not informing her, particularly in light of the limited information disclosed. [ISU must account for the disclosure in compliance with 45 CFR Section 164.528.]
5. Who used the information and was it re-disclosed, and if so, to whom?
6. Was mitigation successful in significantly reducing or eliminating the risk of harm to the individual?
  - a. If mitigation efforts eliminate or reduce the risk of harm to the individual to less than a “significant risk” of financial, reputational or other harm, then the privacy of the PHI was not compromised and no breach has occurred.

## Attachment B

### Template Member Notification Letter

[USE APPROPRIATE LETTERHEAD]

Dear \_\_\_\_\_ [potentially affected NDPERS member]:

We are writing to you because of a recent security incident at NDPERS. [Describe general information about the nature of the incident, when it happened, and the scope of the breach to the extent known.] Based on our investigation thus far it appears that the following types of individually identifiable information may have been accessed [or disclosed or stolen]... [Describe in general terms the type of personally identifiable information accessed or disclosed as a result of the breach].

Immediately upon learning of this incident NDPERS [explain what action has been taken to control the breach and reduce harm from the breach]. NDPERS also plans to [describe additional actions regarding future security protection and action to minimize the harm from this breach].

NDPERS will assist you by [provide a general description of any assistance offered]. In addition, you can take the following action to further protect yourself and your personal or financial information [especially if bank account number, date of birth, or other similar information is disclosed -- possible actions include arranging for credit monitoring or the fraud prevention tools if there is a risk of identity theft because of this particular breach.] [Also, NDPERS should provide information on how to change a member's identification number, or other identification number disclosed as a result of the breach].

Additional sources of information to assist you in protecting against identity theft or invasion of privacy, we suggest that you visit the Web site of the Office of Attorney General, Consumer Protection Division, go to [www.ag.nd.gov](http://www.ag.nd.gov) and click on the Consumer Protection Division's web page, or call (701)328-3404; Toll-free (800)472-2600; TYY (800)366-6888 or go to the Federal Trade Commission at – [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft).

If you have any further questions regarding this incident, you should contact NDPERS and someone will be available to answer your questions and provide further information regarding your privacy concerns: please call 328-3900 or (800)803-7377 (outside the Bismarck/Mandan calling area). Also, NDPERS will post periodic updates with information about this incident on the NDPERS web site – <http://www.nd.gov/ndpers/>.

When NDPERS became aware of this incident and an initial investigation indicated a breach may have occurred, NDPERS immediately contacted the Information Technology Department, the State Highway Patrol, and the office of Attorney General. NDPERS also notified the regional Office of Civil Rights in the Department of Health and

Human Services, regarding potential disclosure of protected health information. *(This should be done only after consulting with legal counsel.)*

If you're not satisfied with our response to this security breach, you may file a complaint with the OCR regional office in Denver, [\[if the breach involves disclosure of protected health information\]](#) or contact the office of Attorney General. [Give e-mail addresses and telephone information].

In closing let me assure you that NDPERS takes privacy seriously. We are making every effort to determine the scope of the breach, minimize the harm from the breach, and prevent any future accidental or intentional breach of privacy and security.

Sincerely,

Kathy Allen [\[appropriate person or title\]](#)  
NDPERS

## **Attachment C**

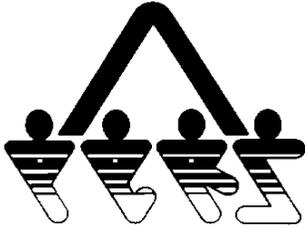
### **HHS BREACH NOTIFICATION REQUIREMENTS**

The U.S. Department of Health and Human Services (HHS) requires that entities report Breaches (as defined by HIPAA and this policy) using only the automated process/questionnaire posted on the HHS website. For instance, HHS will not accept written letters notifying HHS of a Breach.

The online HHS Breach reporting process is found at:  
<http://ocrnotifications.hhs.gov/>

If the website address above is not accurate at the time of use, refer instead to the following website address to determine the correct online reporting process:  
<http://www.hhs.gov/ocr/privacy/index.html>

It is the policy of NDPERS that a report of a Breach to HHS may only be made by the PO in compliance with this policy.



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# Memorandum

**TO:** PERS Board  
**FROM:** Sparb  
**DATE:** September 10, 2013  
**SUBJECT:** Medicare Part D Risk Scores

At the last meeting during the discussion of the Medicare Part D rates for 2014 (attachment #1) the question was asked how the Projected Risk Score (on page 3 of the attached) is calculated and how is it used in the rate calculation. Here is the response I received on the risk scores:

The risk score takes the revised model risk score provided by CMS and adjusts for normalization and coding intensity. The risk score model change was the largest impact on the projected risk score at about an 8% decrease. The normalization was about a 3% decrease, but this was offset by about a 2% increase in coding intensity.

BCBS will be at the Board meeting to discuss this further.

**North Dakota Public Employees Retirement System**  
2014 Renewal for Group Prescription Drug Plan

Enrollment on 6/30/2013	2013		2014		Rate Change
	Monthly Premium	Annual Income	Monthly Premium	Annual Income	
7,790	\$57.20	\$5,347,056	\$57.40	\$5,365,752	0.3%

**Notes for 2014 Renewal:**

- The Centers for Medicare and Medicaid Services (CMS) reported on July 30, 2013 the national average monthly bid amount for standard Part D individual coverage of \$75.88 and the Part D base beneficiary premium for 2014 (average individual premium) of \$32.42.

Further information on this topic can be found at the CMS website:

<http://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/PartDandMABenchmarks2014.pdf>

- The NDPERS Group Prescription Drug Plan (GPDP) has been rated for 2014 based on prior claim experience from 2012.
- Effective January 1, 2013, the manufacturer discount program will apply to employer group Part D plans. This reduction in premium is included in the 2014 renewal calculation.

**North Dakota Public Employees Retirement System**  
2014 Renewal for Group Prescription Drug Plan

1. Allowed Claims Amounts (Incurred 1-1-12 thru 12-31-12)	16,088,493
2. Incurred Allowed Claims for base period	16,088,493
3. Member Months Exposed (1-1-12 thru 12-31-12)	89,421
4. Adjusted Experience Period Allowed Claims PMPM [ (2) / (3) ]	179.92
5. Trend [ 24 months @ 2.0% annual ]	1.040
6. Rating Period Allowed Claims PMPM [ (4) x (5) ]	187.19
7a. Rating Period Member Cost Share PMPM [ (6) x 0.2815 ]	52.69
7b. Manufacturer Discount Program Paid PMPM [ (6) x 0.098 ]	18.34
7. Total of Member Cost Share and Manufacturer Discount PMPM [ (7a) + (7b) ]	71.04
8. Rating Period Plan Paid PMPM [ (6) - (7) ]	116.15
9. Estimated 2014 Rx Drug Rebate PMPM	23.89
10. 2014 Plan Payments PMPM [ (8) - (9) ]	92.26
11. 2014 Anticipated Loss Ratio	87.5%
12. 2014 Gross Premium to BCBSND [ (10) / (11) ]	105.44
13. CMS Payments to BCBSND	48.08
14. Calculated Member Premium [ (12) - (13) ]	57.36
15. Rounded to Nearest \$0.10	57.40

**North Dakota Public Employees Retirement System**  
 2014 Renewal for Group Prescription Drug Plan  
 Data Request

**2012 and 2013Q1 Rebates for NDPERS**

Q1-2012	\$382,602
Q2-2012	\$401,878
Q3-2012	\$423,435
Q4-2012	\$457,060
Q1-2013	\$410,505
<b>Total</b>	<b>\$2,075,479</b>

**2012 and 2014 projected risk scores for NDPERS**

2012 Risk Score	0.8320
2014 Projected Risk Score	0.7597

**January 2012 - December 2012 Costs for NDPERS**

Month	Total Cost	Member Cost	Plan Cost
Jan-12	\$1,373,491	\$413,629	\$959,863
Feb-12	\$1,273,212	\$376,554	\$896,658
Mar-12	\$1,359,218	\$393,351	\$965,868
Apr-12	\$1,389,972	\$377,724	\$1,012,248
May-12	\$1,430,638	\$368,428	\$1,062,209
Jun-12	\$1,213,535	\$307,474	\$906,061
Jul-12	\$1,347,605	\$316,552	\$1,031,053
Aug-12	\$1,325,089	\$315,622	\$1,009,468
Sep-12	\$1,213,678	\$277,533	\$936,145
Oct-12	\$1,476,629	\$318,826	\$1,157,804
Nov-12	\$1,319,766	\$283,436	\$1,036,331
Dec-12	\$1,365,659	\$282,342	\$1,083,317
<b>Total</b>	<b>\$16,088,493</b>	<b>\$4,031,470</b>	<b>\$12,057,023</b>



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# Memorandum

**TO:** PERS Board  
**FROM:** Rebecca  
**DATE:** September 11, 2013  
**SUBJECT:** **Flu Shot Clinic**

The UND Center for Family Medicine will be offering flu vaccinations again this fall to NDPERS covered employees, retirees and their eligible family members participating in the NDPERS health insurance plan.

The Center has tentatively scheduled 5 clinics to be held at the UND Center for Family Medicine. The information on the dates and times is as follows:

<i>Thursday</i>	<i>September 26<sup>th</sup> 4-6 PM Individuals with last names beginning with O-Z</i>
<i>Tuesday</i>	<i>October 1<sup>st</sup> 4-6 PM Individuals with last names beginning with A-G</i>
<i>Thursday</i>	<i>October 10<sup>th</sup> 4-6 PM Individuals with last names beginning with H-N</i>
<i>Tuesday</i>	<i>October 15<sup>th</sup> 4-6 PM Open to those members that remain to be immunized</i>
<i>Thursday</i>	<i>October 24<sup>th</sup> 4-6 PM Open to those members that remain to be immunized</i>

In addition to the above dates, they have tentatively scheduled a 1-day clinic at the Capitol on October 16 from 9:00 a.m. to 12:00 p.m. & 12:30 p.m. to 5:00 p.m. (closed from 12:00-12:30 p.m.). The 1-day clinic will be held in the Fort Lincoln Room.

As in previous years, information about the clinics will be posted on the NDPERS website. Email notices will be sent to employers in the Bismarck/Mandan area to forward to their employees. In addition, the email notices will be sent to the retiree associations to provide notice to their members.

This is informational only and does not require action by the Board. I will be present at the Board meeting to answer any questions that you may have.



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# Memorandum

**TO:** PERS Board

**FROM:** Rebecca

**DATE:** September 9, 2013

**SUBJECT:** **SERW WELLNESS & BENEFITS FAIR**

State Employee Recognition Week (SERW) was held for state employees September 9-13, 2013. Activities were sponsored by the Council of State Employees (COSE) throughout the week to recognize state employees for their efforts. As in previous years, NDPERS sponsored a Wellness & Benefits Fair at the State Capitol for employees to attend. The fair this year was on September 10, 2013. Attached is the flyer that provides details on vendor attendance, services and screenings provided, as well as presentations conducted.

This is informational only and does not require action by the Board. I will be present at the Board meeting to answer any questions that you may have.



# WELLNESS & BENEFITS FAIR



Tuesday, September 10<sup>th</sup>, 2013  
 Capitol Building: Ground Floor, West End

**9:00 a.m. to 3:00 p.m.\***

*\*Cholesterol, blood sugar and PSA screening will begin at 8:15 a.m. Fasting for at least 10 hours prior to screening will provide more accurate results.*

*All other screenings, services and vendor tables will be available at 9:00 a.m. Note: Providers are subject to change.*

Presentations			
Who	What	When	Where
BCBS	<b>"HealthyBlue Website"</b> (30-35 minutes) Learn more about the wellness website available to members through BCBS.	9:00 am 1:30 pm	Lewis & Clark Room
American Heart Association	<b>"Your Life is on the Line: Call 911"</b> (25-30 minutes) Learn the signs and symptoms of a heart attack and what you should do. The session will include learning hands only CPR.	11:00 am 1:00 pm	Peace Garden Room
Mid-Dakota Clinic	<b>"Pre-Diabetes – a Serious Condition"</b> (25-30 minutes) Learn about pre-diabetes and steps you can take to avoid this condition.	9:30 am 2:00 pm	Fort Totten Room
ADP	<b>"Debit Card"</b> (10-15 minutes) How to use your card and validate expenses in the NDPERS Flex Comp Plan.	10:00 am 10:30 am 11:00 am 12:00 pm 1:00 pm 1:30 pm 2:00 pm	Missouri River Room

Screenings & Services				
Who	What	When	Cost	Where
WorkLife Inc	Cholesterol & Blood Sugar*	8:15-3:00	\$5.00	Brynchild-Haugland
WorkLife Inc	Prostate Specific Antigen (PSA)*	8:15-3:00	\$48.00	Brynchild-Haugland
BCBS	HealthyBlue Website Demo	9:00-3:00	Free	Lewis & Clark Room
St. Alexius Stroke Center	Blood Pressure & Stroke Screening	9:00-3:00	Free	Brynchild-Haugland
Capital Chiropractic	Thermo Spinal & Foot Scan	9:00-3:00	Free	Brynchild-Haugland
About the Patient	Heart Attack & Diabetes Risk Assessment and/or Medication Review	9:00-3:00	Free	Brynchild-Haugland

## Information Booths – Ground Floor Hallway – West End

- The Eye Clinic of North Dakota
- BCBS
- RSVP+ Central ND
- Missouri Valley Family YMCA
- Great Plains Rehabilitation Services
- St. Alexius Clinical Research Services
- West Central Human Services
- Sanford Sleep Disorder Center
- Village Business Institute EAP
- St. Alexius Sleep Center
- Delta Dental
- Wellness Plus
- ING Employee Benefits (until 1:30 pm)
- St. Alexius EAP
- American Heart Association
- Dakota Pharmacy & Natural Health Center
- Superior Vision Services
- ADP
- Bismarck Cancer Center
- Mid-Dakota Clinic

❖ **Employee participation is subject to agency approval**



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# Memorandum

**TO:** PERS Board

**FROM:** Stacy & Rebecca

**DATE:** September 9, 2013

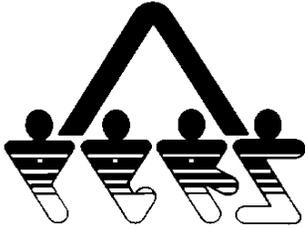
**SUBJECT:** RETIREE WELLNESS FAIR

A Retiree Wellness Fair will be conducted on November 7, 2013 in Bismarck at the Bismarck Public Schools Career Academy. The Fair will be held from 8:30-11:30 a.m. The following vendors have already confirmed their participation:

- Dakota RX & Dakota Natural Health Ctr – Blood Pressure, Cholesterol, Bone Scan, info on natural medicine
- Sanford Health Sleep Disorder Ctr – Sleep Screening information
- RSVP+ Central ND – Volunteer Services
- The Eye Clinic of ND – Eye Health information
- YMCA – Health Club
- St Alexius Medical Center Clinical Research Services – Clinical Trial Opportunities
- BCBSND – Benefits, Wellness info
- NDPERS - Benefits

Additional vendors have been invited. These vendors include Mid-Dakota Clinic, other area fitness facilities, Bismarck Burleigh Public Health, the Bismarck Cancer Center and other area chiropractic clinics. At this time, they have not yet confirmed their participation.

This is informational only and does not require action by the Board. We will be present at the Board meeting to answer any questions that you may have.



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# Memorandum

**TO:** PERS Board

**FROM:** Sparb & Kathy

**DATE:** September 10, 2013

**SUBJECT:** Flex Comp Survey

Since the last meeting the results of the flex survey has been shared with ADP. They will be at the October meeting to review with the Board how they intend to respond to the concerns presented in the survey.



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# Memorandum

**TO:** PERS Board  
**FROM:** Sparb & Kathy  
**DATE:** September 10, 2013  
**SUBJECT:** Flex Comp Participation

Several months ago I met with the Higher Education Human Resources Council. I meet with them at least once a year to update them on changes with the PERS programs. One of the items I reviewed with them was the flex comp change to ADP and the new options. I also reviewed with them the RFP process we went through. In follow-up, they requested additional information on the selection process. I shared with them the analysis we went through in selecting ADP. In those subsequent discussions the concept emerged that those in Higher Education who were interested in changing their existing processing method could use ADP as well. As a result, we asked ADP if it would be okay for Higher Education to use them based upon our award (price and terms). ADP indicated it would.

To implement this option for Higher Education, an amendment to our contract will be added that will allow Higher Education groups to participate with ADP pursuant to the same terms and conditions as PERS. The attached is the draft of that amendment.

First Amendment

To

Master Services Agreement

Between

**ADP, INC.**

and

**STATE OF NORTH DAKOTA**

**ND PUBLIC EMPLOYEES RETIREMENT SYSTEM**

This Amendment ("First Amendment"), made as of September \_\_\_\_\_, 2013 (the "First Amendment Effective Date"), between ADP, Inc. ("ADP") and the State of North Dakota Public Employees Retirement System ("Client"), contains changes, modifications, revisions and additions to the terms and conditions of the Master Services Agreement dated October 22, 2012, as amended (collectively, the "Agreement"), between the parties hereto.

In consideration of the mutual covenants contained in the Agreement and herein, and for other good and valuable consideration, ADP and Client hereby agree as follows:

1. **Annex Z Pricing Exhibit/Service and Fee Schedule.** Annex Z shall be amended by adding the following text under Section 1 so as to add a new member to the Client Group:

"North Dakota University System  
10th Floor, State Capitol  
600 East Boulevard Ave, Dept. 215  
Bismarck, ND 58505-0230".

Except as expressly amended by this First Amendment, all terms and conditions contained in the Agreement shall remain in full force and effect. In the event of any conflict between the terms and conditions contained in the Agreement and the terms and conditions contained in this First Amendment, the terms and conditions contained in this First Amendment shall prevail. The terms defined in the Agreement and used in this xxx Amendment shall have the same respective meanings as set forth in the Agreement unless otherwise clearly defined in this First Amendment.

**IN WITNESS WHEREOF**, the parties hereto have caused this First Amendment to be duly executed by its authorized representatives as of the date first above written.

**ADP, INC.**

**STATE OF NORTH DAKOTA  
ND PUBLIC EMPLOYEES RETIREMENT SYSTEM**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



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# Memorandum

**TO: NDPERS Board**

**FROM: Kathy**

**DATE: September 9, 2013**

**SUBJECT: FlexComp Vendors – Voluntary Products**

We have conducted our annual review of our vendors for the voluntary insurance products approved for pretax premiums under our Section 125 FlexComp Plan. We sent all current vendors a request to confirm the products they wished to offer, provide a brief description and verify whether it is eligible to be a pretax product. All current vendors responded by the stated deadline of September 6<sup>th</sup>. Following is a list of those respondents:

Total Dental Administrators	Colonial Life
Central United	Conseco
AFLAC	USABLE

Included for your information is a grid for each vendor that outlines the products available for payroll deduction, a summary description, and certification by the vendor that it is or is not eligible to be pretaxed. No new products are being proposed by any of the participating companies. Therefore, the eligible products for all vendors remain the same as were in place this past year.

Staff recommends that the vendors and their eligible products be approved for inclusion as pretax benefits under the FlexComp program for the 2014 plan year.

## **Board Action Requested**

Determine what products are eligible to be pretaxed for the FlexComp 2014 plan year.

<b>AFLAC</b>  <b>Product Name</b>	<b>Company Representative – Carrie Palczewski</b>  <b>1100 College Drive Ste 207</b> <b>Bismarck ND 58501</b> <b>701-258-6040</b> <b>E-Mail: carrie-palczewski@us.aflac.com</b>  <b>Product Description</b>	<b>Pretax Eligibility</b>
Cancer	Cancer indemnity policies providing benefits for diagnosis of skin cancer, internal cancer as well as annual screening benefits.	Yes
Hospital Confinement	Indemnity benefits whether hospitalized days or weeks.	Yes
Hospital Intensive Care	Provides coverage in the event of a sickness or injury and is admitted to the ICU unit.	Yes
Accident	Accident indemnity policies providing benefits for accident/injury.	Yes
Lump Sum Critical Illness	Pays a lump sum benefit for code red major critical illness event. (Heart attack, stroke, coma, paralysis, major organ transplant, end stage renal failure. Riders available for cancer, sudden cardiac death.)	Yes
Personal Sickness Indemnity	Indemnity policy for sickness related hospital confinement, major diagnostic exams, in & out-patient surgeries.	No
Specified Health Event	Critical care, recovery indemnity policies for major critical illness.	Yes
Disability	All disability policies that are specific replacement of income benefits.	No
Dental	Voluntary dental. No networks, no deductibles, no pre-certifications.	No
Vision Now	Vision indemnity policy providing vision insurance, vision correction benefits.	No
Life	All life policies.	No



Critical Illness	Specified disease product with a lump sum benefit upon diagnosis of a covered specified disease with a choice of plan options for reoccurrence, cancer, face amounts, and optional riders.	No
Life	All life insurance policies.	No

<b>Conseco</b>	<b>Company Representative –Odell Braaten</b>	
<b>Product Name</b>	<b>E-Mail: ombraaten@gmail.com</b>	<b>Pretax Eligibility</b>
	<b>Product Description</b>	
Cancer Insurance	Cancer Benefits/ICU	Yes

<b>Total Dental Administrators</b>	<b>Company Representative – Logan Stucki</b>	
<b>Product Name</b>	<b>E-Mail: _____</b>	<b>Pretax Eligibility</b>
	<b>Product Description</b>	
Elite Choice	Fully insured dental program.	Yes

<p style="text-align: center;"><b>USABLE</b></p> <p style="text-align: center;"><b>Product Name</b></p>	<p style="text-align: center;"><b>Company Representative – Peg Dickelman</b></p> <p style="text-align: center;"><b>Noridian Insurance Services Inc.</b>  <b>4510 13 Ave S</b>  <b>Fargo ND 58121</b>  <b>701-277-2319</b></p> <p><b>E-Mail: <a href="mailto:peggy.dickelman@noridian.com">peggy.dickelman@noridian.com</a></b></p> <p style="text-align: center;"><b>Product Description</b></p>	<p style="text-align: center;"><b>Pretax Eligibility</b></p>
<p>Accident Elite</p>	<p>Employees can get help prevent financial hardship due to medical/travel expenses caused from an accident. Payments direct to employee.</p>	<p style="text-align: center;">Yes</p>
<p>Cancer Care Elite</p>	<p>Payments direct to employee for new and experimental treatment, travel, lodging, out of pocket medical costs, deductibles, co-pay amounts.</p>	<p style="text-align: center;">Yes</p>
<p>Hospital Confinement Plan</p>	<p>Payment direct to employee for costs related to intensive care, hospitalization, birth of a child, accidents.</p>	<p style="text-align: center;">Yes</p>



**North Dakota**  
**Public Employees Retirement System**  
400 East Broadway, Suite 505 • Box 1657  
Bismarck, North Dakota 58502-1657

**Sparb Collins**  
Executive Director  
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# Memorandum

**TO:** PERS Board

**FROM:** Deb & Sparb

**DATE:** September 11, 2013

**SUBJECT:** Administrative Rules

Attached are the proposed administrative rules developed by staff for your final review. The proposed rules resulted in response to legislation that was passed since the last time the rules were promulgated as well as to reflect Board policy, and clarify or update existing language as noted in the attached summary. Also, two additional changes were made on last month's draft, relating to QDROs (71-08-04-02 and 71-05-08-02) to ensure continuity of administration on QDROs for the Main system, the DC plan and the Highway Patrol Plan.

Jan Murtha has advised us that NDPERS does not need to complete a Regulatory Analysis or a Takings Assessment. However, we did conduct a Small Entity Regulatory Analysis which is attached for your review. Please note that the Highway Patrol is exempt from the above analysis requirements, so was not included in the review.

Please review these rules and provide direction to staff regarding your approval and authorization to continue with the promulgation process. Subject to your approval, notice of the hearing will be placed in the newspapers and the rules will be sent to the Legislative Council.

Please contact me if you have questions or concerns. Staff will also be available at the Board meeting to address any questions.

## Small Entity Regulatory Analysis

- 1. Was establishment of less stringent compliance or reporting requirements for small entities considered? Yes. To what result?** It was determined that the only proposed administrative rule change implicated by this question was an amendment to 71-03-07-07 that grants small entities more flexibility by expanding the circumstances under which they may discontinue participation in group insurance plans without additional payment. This proposed rule change reflects the amendment made to N.D.C.C. § 54-52.1-03.1 by H.B. 1059 (2013).
- 2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? This question is not applicable to the amendment to 71-03-07-07. To what result?**
- 3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? This question is not applicable to the amendment to 71-03-07-07. To what result?**
- 4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? This question is not applicable to the amendment to 71-03-07-07. To what result?**
- 5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? This question is not applicable to the amendment to 71-03-07-07. To what result?**

## NOTICE TO ADOPT AND AMEND ADMINISTRATIVE RULES

TAKE NOTICE that the North Dakota Public Employees Retirement System will hold a public hearing to address a proposed addition and amendments to existing rules in the North Dakota Administrative Code as follows: 71-01-02-04 relating to election notification; 71-01-02-13 relating to electronic voting; 71-02-01-01 relating to the definition of termination of employment for purposes of benefit payments; 71-02-04-01 relating to applications for retirement benefits in the Public Employees Retirement System ; 71-02-04-04.1 relating to removal of the level social security benefit option; 71-02-04-09 relating to dual membership in retirement plans; 71-02-10-02 relating to processing qualified domestic relations orders in the Public Employees Retirement System; 71-03-03-08 relating to supplemental life insurance coverage; 71-03-04-02 relating to information provided to employees; 71-03-05-10 relating to determining the amount of premium overpayments and underpayments; 71-03-07-07 relating to participation by political subdivisions in the group health insurance program; 71-04-03-01 relating to enrollment in the deferred compensation plan; 71-04-05-02 relating to payroll deductions; 71-05-05-01 relating to applications for normal and early retirement benefits in the Highway Patrol Retirement System; 71-05-08-02 relating to processing qualified domestic relations orders in the Highway Patrol Retirement System; 71-07-01-01 relating to updates to the Pretax Benefits plan document; 71-08-04-02 relating to processing qualified domestic relations orders in the Defined Contribution plan. The purpose of the proposed addition and amendments is to implement new statutory provisions, comply with federal law and update existing language relating to administrative process. The proposed rulemaking implements bill numbers 1059 and 2060, enacted during the most recent legislative session, concerning withdrawal of a political subdivision from the uniform group insurance program, and removal of the level social security retirement benefit option under the public employees retirement system. Specific sections affected and explanations for proposed revisions are summarized below. The hearing will be held at 11:00 a.m. on Wednesday, November 6, 2013, in the NDPERS Conference Room at 400 E Broadway, Suite 505, Bismarck, North Dakota. The hearing will continue until 12:00 p.m. or until no further testimony is offered, whichever occurs last. The proposed rule changes are not expected to have an impact on the regulated community in excess of \$50,000. The proposed rules may be viewed online at [www.nd.gov/ndpers](http://www.nd.gov/ndpers) or at the NDPERS office at the following location:

North Dakota Public Employees Retirement System

400 E Broadway, Suite 505

P.O. Box 1657

Bismarck, ND 58502

Written or oral comments on the proposed rules sent to the above address or below referenced telephone number and received from November 6 – 18, 2013 will be fully considered. A copy of the proposed rules and small entity regulatory analysis may also be obtained by accessing them on the PERS website at [www.nd.gov/ndpers](http://www.nd.gov/ndpers), or by writing to the above address, or by calling the North Dakota Public Employees Retirement System at 701-328-3900 or by emailing \_\_\_\_\_ . If you plan to attend the public hearing and will need special accommodations or

assistance relating to a disability, please contact the Public Employees Retirement System at the above address or telephone number at least three business days prior to the public hearing.

Section	Description	Reason
<b>71-01-02-04. Election notification.</b>	Updates rule to reflect current language in the statute regarding who is eligible to receive election notification.	Administrative revision
<b>71-01-02-13. Election voting.</b>	New section adds option for electronic ballots.	Administrative revision
<b>71-02-01-01(27) Definitions.</b>	Clarifies when a refund may be applied for relating to a re-employed employee.	Administrative revision
<b>71-02-04-01. Retirement benefits – Application</b>	Adds process used if a birth certificate is not available for purposes of applying for retirement benefits.	Administrative revision
<b>71-02-04-04.1. Benefit modifications.</b>	Removes reference to repealed retirement benefit option (repealed by SB2060.)	Legislative, to comply with provisions of SB2060 relating to the removal of the level social security retirement benefit option under the public employees retirement system.
<b>71-02-04-09. Dual membership - Receipt of retirement benefits while contributing to the teachers' fund for retirement, the highway patrolmen's retirement system, or the teachers' insurance and annuity association of</b>	Formalizes procedure that is already in use regarding receipt of retirement benefits for an individual with dual membership.	Administrative revision

<b>America - college retirement equities fund.</b>		
<b>71-02-10-02. Qualified domestic relations orders procedures.</b>	Provides processing guidelines for NDPERS relating to when a refund is being requested and a QDRO is pending.	Administrative revision
<b>71-03-03-08. Continuation of life insurance after retirement.</b>	Clarifies that supplemental life for retirees can continue until 65 to be consistent with existing board policy.	Administrative revision
<b>71-03-04-02. Information to employee</b>	Removes reference to paper forms because electronic forms are now available and in use.	Administrative revision
<b>71-03-05-10. Determining amount of premium overpayments and underpayments.</b>	Establishes a time period for determining amount of premium overpayments or underpayments to make all NDPERS insurance plan procedures consistent.	Administrative revision
<b>71-03-07-07. Minimum requirements for political subdivisions.</b>	Language added pursuant to law change under amendment to NDCC 54-52.1-03.1 by HB 1059.	Legislative, to comply with provisions of HB1059 relating to the withdrawal of a political subdivision from the uniform group insurance program.
<b>71-04-03-01. Enrollment.</b>	Removes reference to paper forms because electronic forms are now available and in use.	Administrative revision
<b>71-04-05-02. Payroll deductions.</b>	Removes reference to paper forms because electronic forms are now available and in use and replaces with notice from NDPERS.	Administrative revision
<b>71-05-05-01. Normal and early retirement benefits - Application.</b>	Adds process used if a birth certificate is not available for purposes of applying for retirement benefits.	Administrative revision

<b>71-05-08-02. Qualified domestic relations orders procedures.</b>	Provides processing guidelines for NDPERS relating to when a refund is being requested and a QDRO is pending.	Administrative revision
<b>71-07-01-01. Plan document.</b>	Revises schedule for reviewing the plan document from annual to as needed due to changes in federal law.	Legislative, to comply with federal law.
<b>71-08-04-02. Qualified domestic relations orders procedures.</b>	Provides processing guidelines for NDPERS relating to when a refund is being requested and a QDRO is pending.	Administrative revision

## CHAPTER 71-01-02 ELECTION RULES

### Section

71-01-02-01	Election Committee
71-01-02-02	Eligible Voters
71-01-02-03	Candidate Eligibility
71-01-02-04	Election Notification
71-01-02-05	Petition Format
71-01-02-06	Procedure for Completing and Filing Petitions
71-01-02-07	Election Ballots
71-01-02-08	Election
71-01-02-09	Canvassing Rules
71-01-02-10	Notification of Election Results
71-01-02-11	Special Elections
71-01-02-12	Penalties
<u>71-01-02-13</u>	<u>Election Voting</u>

Section 71-01-02-04 is amended as follows:

#### **71-01-02-04. Election notification.**

1. The director of the North Dakota public employees retirement system shall ensure that notification of an active member vacancy and the election is given to all employees through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions. The director shall ensure that notification of the vacancy of a retiree member and the election is given to all persons who have accepted a retirement allowance ~~or who are eligible to receive deferred vested retirement benefits~~ through publication of a notice in the North Dakota public employees retirement system newsletter and any other method of communication as deemed appropriate by the director at least three weeks in advance of a filing date for nomination petitions.
2. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of election, and where to obtain the nomination petitions for filing.

**History:** Effective April 1, 1992; amended effective July 1, 2000; April 1, 2008; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

Section 71-01-02-13 is created as follows:

**71-01-02-13. Election voting.** In lieu of sections 71-01-02-07 and 71-01-02-08, the retirement board may allow for a process by which electronic ballots are submitted to elect an active or retiree candidate to the board.

**History:** Effective \_\_\_\_\_, 2013

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-03

Subsection 27 of Section 71-02-01-01 is amended as follows:

27. "Termination of employment" for the purposes of determination for eligibility for benefit payments means a severance of employment by not being on the payroll of a covered employer for a minimum of one month. Approved leave of absence or if reemployed by any covered employer prior to receiving a lump sum distribution of the member's account balance does not constitute termination of employment.

**History:** Amended effective September 1, 1982; November 1, 1990; September 1, 1991; January 1, 1992; September 1, 1992; June 1, 1993; July 1, 1994; June 1, 1996; July 1, 2000; April 1, 2002; May 1, 2004; July 1, 2006; July 1, 2010; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52

Section 71-02-04-01 is amended as follows:

**71-02-04-01. Retirement benefits - Application.** Except as provided in section 71-02-04-02 for retirement options, applications for retirement, surviving spouse, and disability benefits must be filed at the public employees retirement system office at least thirty days before the retirement date or before the commencement of benefits. A member shall file a photocopy of the member's birth certificate, and if a benefit election is an optional benefit under subsection 1 or 2 of section 71-02-04-04, the member must provide a photocopy of the spouse's birth certificate and marriage certificate with the office. A surviving spouse shall file a photocopy of the surviving spouse's birth certificate, deceased spouse's birth certificate and certified copy of the death certificate, and marriage certificate if a benefit election is under subdivision b of subsection 6 of North Dakota Century Code section ~~54-54-17~~54-52-17. If a birth certificate is not available, a member or surviving spouse may submit other documentation based on policy and procedure adopted by the board.

**History:** Amended effective November 1, 1990; July 1, 1994; May 1, 2004; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-04.1 is amended as follows:

**71-02-04-04.1. Benefit modifications.** A member may elect as provided in section 71-02-04-02 to receive one of the following benefit modifications:

1. ~~**Level social security option.** A member who retires prior to receiving social security benefits may elect the level social security option. Under this option, the member's monthly benefit is adjusted so the combined benefits received from the fund and social security remain level before, and after, the date social security benefits begin. The adjusted benefit payable from the fund must be determined on an actuarial equivalent based on an age no earlier than sixty-two and no later than full retirement age as specified by the social security administration as chosen in writing by the member. A member shall submit an estimated benefit from social security that was computed no more than six months before commencement of retirement benefits. A member may only select this option if the member has selected to receive a single life/normal retirement option.~~
2. **Partial lump sum option.** The partial lump sum option will only be available to members who retire on or after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is equal to twelve monthly payments determined under the single life annuity option. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04 for ongoing benefits. The ongoing benefits will be actuarially reduced to reflect the partial lump sum payment.
32. **Deferred normal retirement option.** The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04. The ongoing benefits will be actuarially increased to reflect the lump sum.
43. **Graduated benefit option.** The graduated benefit option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for

retirement. The member is permitted to choose one of the optional forms of payment for ongoing benefits as defined in section 71-02-04-04. The ongoing benefits will be actuarially reduced to reflect the election of the graduated benefit option.

**History:** Effective July 1, 2010; amended effective \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04, 54-52-17

**Law Implemented:** NDCC 54-52-17

Section 71-02-04-09 is amended as follows:

**71-02-04-09. Dual membership - Receipt of retirement benefits while contributing to the teachers' fund for retirement, the highway patrolmen's retirement system, or the teachers' insurance and annuity association of America - college retirement equities fund.** Dual members must select one of the following options:

1. Begin receiving retirement benefits from one plan prior to ceasing employment covered by the alternate plan, subject to termination of employment or termination of participation.
2. Begin receiving retirement benefits from one plan and begin work in a job covered by the alternate plan. If this option is chosen, benefits will be calculated based on the method provided in subsection 2 of North Dakota Century Code section 54-52-17.2.
3. Continue as a dual member and begin receiving retirement benefits from both plans after ceasing employment.

**History:** Effective June 1, 1996; amended effective May 1, 2004; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04, 54-52-17, 54-52-17.2

**Law Implemented:** NDCC 54-52-17, 54-52-17.2

Section 71-02-10-02 is amended as follows:

**71-02-10-02. Qualified domestic relations orders procedures.**

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall send an initial notice to each person named therein, including the member and the alternate payee named in the order, together with an explanation of the procedures followed by the fund.
2. If a member who is not in pay status at the time the proposed domestic relations order, or notice of intent to submit a proposed domestic relations

order, was received from the member, the member's legal representative or an individual authorized to receive confidential information under subsection 8 of North Dakota Century Code section 54-52-26, makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, or until the North Dakota public employees retirement system office receives notice that a proposed domestic relations order will not be submitted, whichever occurs first.

3. Upon receipt of a domestic relations order, the public employees retirement system shall review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
4. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
5. If the order becomes qualified, the executive director shall:
  - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
  - b. Comply with the terms of the order.
6. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.
  - a. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.

- b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

**History:** Effective November 1, 1990; amended effective July 1, 1994; July 1, 2006; April 1, 2012; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04

**Law Implemented:** NDCC 54-52-17.6

Section 71-03-03-08 is amended as follows:

**71-03-03-08. Continuation of life insurance after retirement.** An employee who is enrolled in the group life insurance program may continue the basic and supplemental life insurance coverage upon retirement or disability if the employee is entitled to a retirement allowance from an eligible retirement system by making application and remitting timely payments to the board. Supplemental life insurance coverage can only be continued until age 65.

**History:** Effective October 1, 1986; amended effective June 1, 1996; May 1, 2004; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-03

Section 71-03-04-02 is amended as follows:

**71-03-04-02. Information to employee.** Each agency shall inform its employees of their right to group insurance and the process necessary to enroll. ~~The agency shall provide each eligible employee such forms as necessary to enroll in the group insurance program.~~

**History:** Effective October 1, 1986; amended effective November 1, 1990; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-03

Section 71-03-05-10 is amended as follows:

**71-03-05-10. Determining amount of premium overpayments and underpayments.**

1. The amount of the health premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the

month the change in premium should have occurred, or July of the earliest contract period still open, whichever is more recent.

2. The amount of the life premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.
3. The amount of the dental premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.
4. The amount of the vision premium overpayment or underpayment will be determined by calculating the difference between the premium that was paid and the premium that should have been paid, retroactively to the month the change in premium should have occurred, or the first day of the first month of the earliest contract period still open, whichever is more recent.

**History:** Effective April 1, 2002; amended effective April 1, 2008; \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52.1-08

**Law Implemented:** NDCC 54-52.1-08

Section 71-03-07-07 is amended as follows:

**71-03-07-07. Minimum requirements for political subdivisions.** An enrolled political subdivision must extend the benefits of the group insurance program to its eligible employees and paid members of its board, commission, or association subject to minimum requirements established by the retirement board and a minimum period of participation of sixty months. If the political subdivision withdraws from participation before completing sixty months of participation, unless federal or state laws or rules are modified or interpreted in a way that makes participation by the political subdivision in the uniform group insurance program no longer allowable or appropriate, the political subdivision must make payment to the retirement board equal to the expenses incurred on behalf of that political subdivision's employees which exceed the income received by the retirement board on behalf of that political subdivision's employees during the time of participation. For purposes of this section:

1. "Expenses incurred" means:

- a. Claims incurred by the political subdivision during the enrolled period and paid during or within three months after the enrolled period and includes capitated payments to providers;
  - b. Reasonable administrative expenses as incurred by the public employees retirement system and the claims administrator as set forth in the master contract; and
  - c. The cost of any premium buy-down provided.
2. "Income received" means all premiums paid by the political subdivision to the retirement board.

Full payment is due within three months after receipt of notice from the executive director, unless an alternative payment schedule has been approved by the retirement board. A late payment charge must be assessed on all money due on an account at a rate of one and three-fourths percent per month.

**History:** Effective June 1, 1996; amended effective \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04, 54-52.1-03.1

**Law Implemented:** NDCC 54-52.1-02, 54-52.1-03, 54-52.1-03.1

Section 71-04-03-01 is amended as follows:

**71-04-03-01. Enrollment.** Public employees may enroll in the deferred compensation plan by completing a participant agreement and submitting the agreement to the retirement board. ~~The employee must also complete the necessary forms required by the provider and submit them to the retirement board for signature by the plan administrator.~~

**History:** Effective April 1, 1989; amended effective \_\_\_\_\_, 2013.

**General Authority:** NDCC 28-32-02, 54-52.2-03.2

**Law Implemented:** NDCC 54-52.2-03

Section 71-04-05-02 is amended as follows:

**71-04-05-02. Payroll deductions.** The employer shall authorize employee payroll deductions only after receiving a ~~completed and signed participant agreement~~ notification from the public employees retirement system. The participant agreement ~~must be signed by a designated representative of the retirement board and~~ indicate the date the payroll deduction is to start, the provider, and the contribution amount. Payroll deductions must be remitted to the retirement board within ten days after each payroll period. Along with each payment, the employer must provide the retirement board with a listing of deferred compensation deductions for all employees

participating in the deferred compensation plan using the deferred compensation transmittal of deduction form or the approved electronic format.

**History:** Effective April 1, 1989; amended effective July 1, 2006; \_\_\_\_\_, 2013.

**General Authority:** NDCC 28-32-02, 54-52-03.2

**Law Implemented:** NDCC 54-52.2-02

Section 71-05-05-01 is amended as follows:

**71-05-05-01. Normal and early retirement benefits - Application.** Except as provided in section 71-05-05-02 for retirement options, applications for retirement, surviving spouse, and disability benefits must be filed at the public employees retirement system at least thirty days before normal or early retirement date or before the commencement of benefits. A member shall file a photocopy of the member's birth certificate and, if the member is married, a photocopy of the member's spouse's birth certificate and marriage certificate. A surviving spouse shall file a photocopy of the surviving spouse's birth certificate, deceased member's birth certificate, and marriage certificate for a benefit election under subsection 6 of North Dakota Century Code section 39-03.1-11. If a birth certificate is not available, a member or surviving spouse may submit other documentation based on policy and procedure adopted by the board.

**History:** Effective October 1, 1991; amended effective May 1, 2004; \_\_\_\_\_, 2013.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-11

Section 71-05-08-02 is amended as follows:

**71-05-08-02. Qualified domestic relations orders procedures.**

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall send an initial notice to each person named therein, including the member and the alternate payee named in the order, together with an explanation of the procedures followed by the fund.
2. If a member who is not in pay status at the time the proposed domestic relations order, or notice of intent to submit a proposed domestic relations order, was received from the member, the member's legal representative or an individual authorized to receive confidential information under subsection 8 of North Dakota Century Code section 39-03.1-28, makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, or until the North Dakota public employees retirement

system office receives notice that a proposed domestic relations order will not be submitted, whichever occurs first.

3. Upon receipt of a domestic relations order, the public employees retirement system shall review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.
4. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
5. If the order becomes qualified, the executive director shall:
  - a. Send notice to all persons named in the order and any representatives designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
  - b. Comply with the terms of the order.
6.
  - a. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.
  - b. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of eligible employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.
  - c. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

**History:** Effective October 1, 1991; amended effective July 1, 1994; July 1, 2006; April 1, 2012; \_\_\_\_\_, 2013.

**General Authority:** NDCC 39-03.1-06

**Law Implemented:** NDCC 39-03.1-14.2

Section 71-07-01-01 is amended as follows:

**71-07-01-01. Plan document.** The board must prepare a plan document for the pretax benefits program. The plan document must meet applicable requirements of the Internal Revenue Code. The board must annually review ~~the~~any plan document updates prior to the beginning of each new plan year if necessary due to changes in federal law. Modifications must be made to reflect changes in the program and to maintain a qualifiable program pursuant to the Internal Revenue Code.

**History:** Effective April 1, 1992; amended effective \_\_\_\_\_, 2013.

**General Authority:** NDCC 54-52-04, 54-52.3-02

**Law Implemented:** NDCC 54-52.3-02

Section 71-08-04-02 is amended as follows:

**71-08-04-02. Qualified domestic relations orders procedures.**

1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall:
  - a. Send an initial notice to each person named therein, including the member and the alternate payee named in the order, with an explanation of the procedures followed by the fund.
  - b. If a member who is not in pay status at the time the proposed domestic relations order, or notice of intent to submit a proposed domestic relations order, was received from the member, the member's legal representative or an individual authorized to receive confidential information under subsection 8 of North Dakota Century Code section 54-52-26, makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, or until the North Dakota public employees retirement system office receives notice that a proposed domestic relations order will not be submitted, whichever occurs first.
  - c. Review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.

2. The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.
3. If the order becomes qualified, the executive director shall:
  - a. Send notice to all persons named in the order and any representative designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.
  - b. Comply with the terms of the order.
  - c. Allow the alternate payee to choose the appropriate investment options for the alternate payee's account.
  - d. Allow the alternate payee to choose the same payout options allowed for the member.
4. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.
  - a. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.
  - b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.

**History:** Effective July 1, 2000; amended effective July 1, 2006; April 1, 2012; \_\_\_\_\_, 2013.

**General Authority:** NDCC 28-32-02(1)

**Law Implemented:** NDCC 54-52.6-12



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# Memorandum

**TO:** PERS Board  
**FROM:** Sharon Schiermeister  
**DATE:** September 12, 2013  
**SUBJECT:** PERS Update

Here is an update on some of the larger PERS activities that are underway or recently completed.

## **Member Annual Statements**

The 2012-2013 Summary Annual Statements were mailed out in August to 36,530 non-retired members. A detailed annual statement is available to view or print through PERSLink Member Self Service (MSS). This year, we encountered an issue that understated benefit estimates for “dual members” (i.e. member has service in Main plan and HP or Judges plan). We are working with our software vendor to resolve this issue. Updated benefit estimates are being provided to members upon request. We also had several statements returned as a result of outdated addresses. No attempt is being made to re-send these statements, since the detailed annual statement is available to the member through MSS.

## **PERSLink Member Self Service (MSS)**

NDPERS began rolling out our full version of PERSLink MSS to our active members in April 2013. We have been rolling out PERSLink MSS to select employer groups each month and will continue through September 2013. It is our goal that all employees have access to the full version of PERSLink MSS by October for the 2014 Annual Enrollment Season. The deployment schedule is as follows:

- April – District Health Units and Other Political Subdivisions
- May – School Districts
- June – Cities
- July – Higher Education – Universities
- August – Counties

- September – State Agencies (scheduled for last week of September)

As part of the deployment to State Agencies, we are also completing work on an interface from PeopleSoft to PERSLink to eliminate the need for agency HR/payroll staff to enter employee demographic data and employment data into both systems.

As of the end of August, we have a total of 9,331 people who have logged into MSS; 6,683 are active members and 2,648 are retirees.

### **Annual Enrollment for 2014 Plan Year**

The Annual Enrollment Season for the 2014 plan year will run from Monday, October 21 through Friday, November 8, 2013. Employees will receive a post-card at their home address to announce Annual Enrollment. This post-card is scheduled to be mailed the week of October 14<sup>th</sup>.

The NDPERS Annual Enrollment Season gives eligible employees the opportunity to:

- Enroll in insurance plans for which they are eligible but not currently enrolled
- Add dependents
- Increase coverage levels
- Enroll in the NDPERS FlexComp plan for 2014 (required each year of participation)

The post-card will direct the employee to the NDPERS website to obtain enrollment information regarding the NDPERS FlexComp, deferred compensation, health, life, dental and vision plans. The post-card will also announce that Annual Enrollment will be conducted through the use of the PERSLink Member Self Service (MSS). For those individuals that are unable to complete their enrollment through MSS, enrollment forms can be accessed from the NDPERS website.