

**BY-LAWS OF THE RETIREMENT BOARD
OF THE CITY OF MANCHESTER EMPLOYEES'
CONTRIBUTORY RETIREMENT SYSTEM**

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ARTICLE I: ESTABLISHMENT AND ORGANIZATION OF THE BOARD

- 1.01 The Retirement Board of Trustees ("the Board") of the City of Manchester Employees' Contributory Retirement System ("the System") is established pursuant to New Hampshire Chapter 218 (as established by Laws of 1973 , subsequently repealed and reenacted by Laws of 2002), and has full power and exclusive authority to manage the System and control the funds held in trust for the exclusive benefit and in the sole interest of the members and beneficiaries of the System.
- 1.02 The Board consists of seven (7) members whose terms of office and qualifications, and the provisions for the filling of vacancies, are set forth under Chapter 218:5 I through IV.

ARTICLE II: EXECUTIVE OFFICERS OF THE BOARD

- 2.01 The Chairperson shall be the presiding and chief executive officer of the Board. The Board shall elect one (1) of its members to be Chairperson. The Mayor and City Finance Director, as ex officio members of the Board, shall not be eligible for election as Chairperson. The Chairperson shall be elected by a majority vote of the Board, at a meeting duly noticed for the purpose, to be held in the month of January, except for the initial election of the Chairperson upon adoption of these By-Laws. The Chairperson shall serve for a term of two (2) years, or until a successor is elected, but may be removed from that position by a vote of two-thirds (2/3) of the entire Board at a meeting duly noticed for the purpose. Such removal proceedings shall be accompanied by a written bill of particulars. The Chairperson shall execute all contractual documents necessary to carry out the purpose and function of the Retirement System.
- 2.02 The Chairperson shall serve ex officio as a voting member of all committees and shall be counted for purposes of a quorum. The Mayor shall not vote except and unless to break a tie vote of the remaining members of the entire Board.
- 2.03 The Executive Director of the System shall serve as ex-officio Secretary of the Board, and shall have the following responsibilities as Secretary:
- (a) Overseeing the preparation and distribution of notices and minutes of all regular and special meetings of the Board;

- (b) Assisting the Chairperson in developing agenda for Board meetings;
 - (c) Coordinating all Board correspondence, documents and minutes; and
 - (d) Overseeing Board correspondence and notices to System members and beneficiaries City Departments and elected offices.
- 2.04 In cases of a vacancy in the office of Chairperson, the City Finance Director shall serve as non-voting Acting Chairperson until the Board elects a new Chairperson.
- 2.05 Whenever a vacancy occurs or is scheduled to occur in the office of Chairperson, the Secretary shall notify remaining members of the Board and shall cause the nomination of a Chairperson to be placed on the agenda for the next regularly scheduled meeting. At that meeting the Board shall elect one (1) of its members as Chairperson for the remainder of the outstanding term. For purposes of these by- laws, a "vacancy" shall occur upon the expiration of the Chairperson's term, resignation, death, or any disability which, in the opinion of the Chairperson, or a two-thirds (2/3) majority vote of the members of the entire Board, prevents the Chairperson from carrying out his or her duties.
- 2.06 The City Finance Director shall serve during his term in office, as a member of the Administrative and Accounting Committee. The City Finance Director shall have the following responsibilities:
 - (a) Ensuring official copies of all financial records, reports, and filings are maintained by the Board by way of his/her oversight role on the Administrative and Accounting Committee;
 - (b) Monitoring the preparation of all financial statements and reports by way of his/her review of monthly statements prepared for the Board and annually from reports received from independent outside auditors;
 - (c) Reviewing the preparation of annual budgets presented for approval by the Board through his/her seat on the Administrative and Accounting Committee to whom all draft budgets must be presented prior to submission to the full Board;

- (d) Opining from his/her professional prospective on obligations incurred by the System which are reported to the Board monthly against its pro forma budget, and providing financial status reports to the full Board periodically and at such other times as the Board may require;
- (e) Assuming primary responsibility among Board Members in monitoring the budgeting and accounting functions performed by staff;
- (f) Providing limited technical assistance and advice as may be requested or required, to the Executive Director and system staff for the audit of System finances by outside independent auditors;
- (g) Reviewing receipt and disbursement activity of the System at a level deemed necessary to ensure compliance with established business practices, and;
- (h) Assisting in other functions where the skill sets and qualification of a City Finance Director lend themselves to objectives identified by the Board.

2.07 The Board shall adopt and maintain an Ethic Policy which shall include a Code of Conduct and a listing of ethical and professional attributes which shall serve as a standard against which the Code of Conduct may be measured. All amendments to the Ethics Policy and its related documents shall be made in accordance with Article XVII of these By-Laws.

ARTICLE III: ROLES, AND RESPONSIBILITIES

- 3.01 Executive Director: The Executive Director shall be the chief operations officer of the Board and shall be responsible for maintaining records of Board action, hiring and retention of staff at the direction of the Board, and any other duties assigned by the Board.
- 3.02 The selection, duties, remuneration and replacement of the Executive Director shall be established by the Board, as determined by majority vote of the Board.
- 3.03 Legal Counsel: Legal Counsel selected by the Board shall have the following responsibilities:
 - (a) Advising the Board on matters of parliamentary procedure and all other legal matters requested by the Chairperson, the Executive Director, or the Board; and

- (b) Providing adequate representation to the Board in any legal matter, action or proceeding in which the System or Board becomes involved.

3.04 Individual Board Members: Individual Board members sued in their capacity as Board members shall be represented by independent counsel, if appropriate, at the Board's expense.

3.05 Investment Advisor: The role of the Investment Advisor shall be defined by contract in a form and style developed by or acceptable to the Board of Trustees. The contractual obligations of the Investment Advisor should include but are not limited to involvement in or responsibility for:

- ◆ Investment policy, Objectives & Guidelines
- ◆ Asset Allocation
- ◆ Investment Performance Evaluation
- ◆ New/Replacement Manager evaluation and selection
- ◆ Master custodian evaluation and selection process
- ◆ Transition Management
- ◆ Cash Flow Management

3.06 Custodian: The role of the investment custodian shall be defined by contract in a form and style developed by or acceptable to the Board of Trustees. The contractual obligations of the Custodian Bank should include but are not limited to involvement in or responsibility for:

- ◆ Asset valuation
- ◆ Coordination of select unit trust purchases and sales
- ◆ Cash management
- ◆ Providing data to Investment Advisors
- ◆ Providing Outsourced Annuity Payroll Services
- ◆ Providing Outsourced Tax Reporting Services

3.07 Actuary: The role of the actuary shall be defined by contract in a form and style developed by or acceptable to the Board of Trustees. The contractual obligations of the actuary should include but are not limited to involvement in or responsibility for:

- ◆ Performing an annual actuarial valuation using population data provided by the Plan which complies with actuarial standards.
- ◆ Performing periodic studies of the key assumption associated with the Plan.
- ◆ Performing cost estimates on proposed or pending plan amendments to determine the fiscal impact of such amendments before they become subject to a legislative vote.

- ◆ Performing periodic assessments of the cumulative effects of COLAs awarded to the retiree population in order determine the effects of inflation since date of retirement.
- ◆ Conducting site visits to the client in sufficient number to ensure that a clear understanding of actuarial issues is provided.
- ◆ Providing assistance related to administrative implementation of plan changes to ensure compliance with actuarially sound practices.

ARTICLE IV: STANDING COMMITTEES

4.01 The Standing Committees of the Board shall be the following:

- (a) Investment Committee;
- (b) Administrative and Accounting Committee; and
- (c) Communications and Benefits Committee.

4.02 Committee activity is advisory and shall be approved by a majority of the Board before it becomes the action or position of the Board. Recommendations and motions shall be reported, as adopted, to the Board.

4.03 The purpose of the Investment Committee shall be to provide general oversight of the investment of the System's Fund assets. Its specific responsibilities shall include the following:

- (a) Recommending investment guidelines and actively monitoring the investment portfolio; and
- (b) Reviewing the performance of custodians, investment managers and consultants, and recommending to the Board, the retention or dismissal of these managers, and or additional managers when appropriate.

4.04 The Chair of the Investment Committee, appointed pursuant to Section 5.01 hereunder, is authorized, in consultation with the Chairperson of the Board, to establish sub-committees to carry out specific assignments within the scope of the Investment Committee's overall responsibilities. The functions of the Investment Committee shall include oversight and periodic evaluation of the performance of the investment managers, the custodian(s), and the investment consultant. Such oversight shall include any request for an increase in fees. The functions shall also include recommending to the Board the following:

- (a) Overall asset allocation strategy;
- (b) Long term investment policies; and
- (c) Suitable investment media.

4.05 The Investment Committee shall be responsible for ensuring that the Executive Director, staff, investment consultant, custodian, and managers provide the Board with the following:

- (a) Measurements of the performance results of each manager as well as the overall portfolio;
- (b) Comparison of overall investment performance with actuarial requirements;
- (c) Comparison of each manager's performance with his or her stated investment strategies, and with goals determined by the Board;
- (d) Review of all portfolios to ensure compliance with investment guidelines;
- (e) Supervision of the custodian to ensure appropriate settlement of all transactions, accurate record keeping in the investment area and adequate accounting and auditing safeguards for investments;
- (f) Recommendations on execution of contracts with outside investment advisors after review by legal counsel; and
- (g) Oversight of the review process for selection of additional outside investment managers in order to make recommendations to the Board on a final pool of candidates.

4.06 The **Administrative and Accounting Committee** shall be responsible for the following matters, and shall report these matters to the Board for its action upon consultation with the Executive Director:

- (a) Determining requirements for office space, equipment, location, and estimating costs, presenting alternatives, and making recommendations on these matters;
- (b) Determining alternatives and making recommendations to the Board regarding record keeping requirements, procedures, and filing systems;
- (c) Monitoring and oversight of payment of Board expenditures in conjunction with the Treasurer;
- (d) Defining options and recommending overall staff requirements to the Board;

- (e) In conjunction with the Treasurer, planning for the preparation and distribution of required financial reports (such as annual reports, financial statements, and actuarial statements) and estimating System costs of such preparation and publication;
- (f) Implementing final audit reports upon receipt from the Board;
- (g) Developing and recommending to the Board an annual plan and operating budget, including oversight mechanisms for staff, expenses and related matters, and recommending to the Board signing authority for expenditures under the approved budget;
- (h) Coordinating Board efforts, in conjunction with the Treasurer, to determine location of ultimate responsibility for payment of current benefits, including conducting research and reporting on the functional responsibility for fund management, benefit administration and reporting;
- (i) Oversight of employee election of members of the Board; and
- (j) Evaluating the Executive Director.

4.07 The **Benefits and Communications Committee** shall be responsible for the following matters, and shall report these matters to the Board for its action:

- (a) Identifying, persons with an interest in the System (such as members, beneficiaries, and the Board of Mayor and Aldermen), and summarizing and reporting on relationships among those groups;
- (b) Defining communications channels between the System and interested persons and specifying the appropriate respondent to inquiries from various sources;
- (c) Preparing a System communications plan, determining the appropriate tone and style of System communications, and specifying the schedule of action for System communications;
- (d) Determining and specifying the System's responsibility for reporting to members and beneficiaries, the City, and other interested parties;
- (e) Overseeing the current and projected demographics of the System's members and beneficiaries, and, in conjunction with

the Executive Director and System's actuaries, projecting benefits and costs in future years for further action by the Board; and

- (f) Managing the process of selecting and hiring the Executive Director and outside service providers, and recommending to the Board candidates for these positions.

ARTICLE V: STANDING COMMITTEE MEMBERSHIP

- 5.01 Within thirty (30) days after the election of the Chairperson, he or she shall appoint the Chairs of each Standing Committee of the Board. The Chairperson shall not chair any of the Standing Committees. The designated Committee Chair shall select the remaining Committee members.
- 5.02 Membership on Standing Committees shall be at least three (3) Board members. The Chairperson shall be an ex officio voting member of every Standing Committee. The Executive Director shall be an ex-officio non-voting member of every Standing Committee. Vacancies in the membership of a Standing Committee shall be filled by the Chair of the Committee.
- 5.03 The Chairperson, Committee Chairs, and the Board shall endeavor to distribute committee responsibility as evenly as possible among the members of the Board. In no event shall a member of the Board concurrently chair more than one (1) Standing Committee.
- 5.04 The Mayor as an ex officio member of the Board shall not be eligible to be appointed as Chair of any Standing Committee; however, he or she may participate in Board meetings and may serve as a member of one (1) or more special or standing committees.
- 5.05 For the purposes of conducting meetings of any standing committee, any two voting members shall be sufficient to constitute a quorum.

ARTICLE VI: SPECIAL COMMITTEES

- 6.01 Upon motion of any Board member, duly seconded, and approved by a majority of the Board, the Chairperson shall nominate members and the Chair of any ad hoc special committee organized and established for the consideration of matters specified in the motion.
- 6.02 Every motion to create any ad hoc special committee shall specify the scope of the committee's responsibility and authority, the number of members to be appointed to the committee, and the term for which the committee shall serve. Unless specifically approved by the Board, no special committee shall

have more than three (3) members. Special committees shall serve for no longer than one (1) year, unless an extension for a time certain is approved by the Board. Vacancies in the membership of a special committee during its term shall be filled by the Chair of the special committee.

ARTICLE VII: PARTICIPATION BY BOARD MEMBERS IN COMMITTEE MEETINGS AND HEARINGS

- 7.01 Each Board member may attend meetings of any standing or special committee, and may participate in its deliberations and discussions, but only named members of that committee, including the Chairperson, may make motions or cast votes and be counted for purposes of a quorum.
- 7.02 All Board members shall receive notice of the place, time, and agenda for all committee meetings. Notice shall be in writing at least five (5) days, including Saturdays and Sundays, prior to the meeting, except in an emergency situation as determined by the Committee Chair there may be verbal notice or shorter advance written notification.
- 7.03 The Chair of each committee (special and standing) shall provide that minutes be prepared of all committee meetings and that the minutes be made available to committee members no later than five (5) days, including Saturdays and Sundays, prior to the next committee meeting. Copies of such minutes of committee meetings shall be filed with the Chairperson and the Executive Director for further distribution to all interested members of the Board upon request.

ARTICLE VIII: STAFF

- 8.01 Assignments to, removal from, and the renumeration of the staff of the Board, shall be determined by the Executive Director, subject to further action by the Board in its discretion.

ARTICLE IX: BOARD MEETINGS

- 9.01 All meetings of the Board shall be held in the System's offices unless otherwise designated by the Board.
- 9.02 A majority of the Board present and voting at any Board meeting may reschedule any meeting to another time, day, or place.
- 9.03 Notice of time, date and place of the meeting shall be sent to Board members at least five (5) days, including Saturdays and Sundays, prior to the meeting. The Chairperson and the Executive Director shall finalize the agenda for the meeting to be included in such prior notice.

- 9.04 If deemed necessary by the Chairman or by at least four (4) Board members, a special meeting of the Board shall be called. If a request is made by four (4) Board members, they may file in the office of the Executive Director their written request to the Chairperson setting forth the agenda for the special meeting. Notice of the meeting shall be provided as set forth in Section 9.03 and the meeting shall be subject to the quorum requirements and shall otherwise be conducted as provided in these bylaws.
- 9.05 Immediately upon the delivering of a request for a special meeting, the Executive Director shall notify the Chairperson and other Board members of the filing of the request.
- 9.06 If, within two (2) business days after the filing of a request for a special meeting, the Chairperson does not call and notice a requested special meeting to be held within seven (7) days after the filing of the request, the requesting Board members may file in the office of the Executive Director their written notice of a special meeting of the Board to be held, specifying the date, hour, place, and agenda of that special meeting. The Board shall meet on that date and hour provided at least five (5) days prior written notice thereof is sent to members of the Board.
- 9.07 The Chairperson, a quorum of the Board not being present at any additional or special meeting, shall reschedule that meeting to another time, day, or place. A majority of the Board present at any meeting may reschedule any additional meeting to another time, day, or place except that special meetings cannot be rescheduled without the express approval of the members who originally requested the special meeting.
- 9.08 When attendance in person is not reasonably practical, a Trustee may participate at any Board or committee meeting and vote by telephone or other communications equipment provided that all participants, whether present in person or telephonically, can simultaneously hear each other during the meeting. Participation in a meeting by such means constitutes presence in person at the meeting but does not count towards the quorum requirement. The reason for participation from some place other than the location of the meeting shall be stated in the minutes of the meeting. Any member participating remotely must identify all other persons present at the place from which the member is participating. All votes taken during a meeting in which any member participates remotely shall be by roll call vote. Such attendance must not violate any applicable provisions of New Hampshire RSA 91-A, the New Hampshire Right-to-Know Law.

ARTICLE X: QUORUM

- 10.01 A majority of voting Board members (four members) shall constitute a quorum for the transaction of Board business; however, the Mayor, as an ex-officio non-voting member of the Board, shall not be counted towards such quorum. Board meetings cannot begin nor can business be transacted until a quorum is ascertained by the Chairperson. For purposes of a Board meeting, until a quorum is present, no debate or motion shall be in order except to recess to locate absent members.
- 10.02 After a quorum is ascertained, the meeting shall proceed unless a Board member raises the absence of a quorum, whereupon the Chairperson shall direct the calling of the roll and shall announce the result. After a recess to locate absent members, the roll shall be called again. If a quorum is not then present, the meeting shall be adjourned.
- 10.03 A Board member who recuses himself or herself from the transaction of business does not count towards the four member quorum requirement and four Board members must be present to transact business after the recusal excluding the Mayor.
- 10.04 Except in an emergency, a quorum shall be physically present at the location specified in the meeting notice as the location of the Board meeting. For purposes of this paragraph, an "emergency" means that immediate Board action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the Board chairperson, and the facts upon which that determination is based shall be included in the minutes of the meeting. Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of New Hampshire RSA 91-A, relating to public meetings, and shall not circumvent the spirit and purpose of the public meeting requirements as expressed in RSA 91-A:1.

ARTICLE XI: TRANSACTION OF BUSINESS

- 11.01 The Board and its committees shall take official action or transact other business of the System only at meetings duly called under the provisions of these By-Laws, unless, at a prior meeting of the Board, the Board duly and specifically authorizes action to be taken in another manner or at another time, or unless, at a subsequent meeting of the Board, the Board determines that an emergency situation warranted immediate action be taken in another manner and unanimously ratifies such action.
- 11.02 Except as otherwise provided under Article XVII herein, all matters coming before any meeting of the Board or its committees shall be decided by a majority of those Board members present and entitled to vote thereat, a quorum being ascertained. (Amended April 12, 1994)

- 11.03 Proxies shall not be permitted for voting or for obtaining a quorum.
- 11.04 The Board shall take up business, after a quorum is ascertained in the following order:
- (a) Approval of the minutes of the previous meeting;
 - (b) Approval of the immediate meeting agenda.
 - (c) Chairperson Comments
 - (d) Report of the Executive Director;
 - (e) Reports of Standing Committees;
 - (f) Reports of Special Committees;
 - (g) Consent agenda items and business previously placed on the agenda; and
 - (h) New business not previously placed on the agenda.
- 11.05 The Board shall take up business in the order set forth in the agenda.
- 11.06 The Chairperson may, without objection or upon the vote of a majority of the Board members present and voting, take up any item of business out of order.
- 11.07 If requested by a Board member, a motion made at a meeting shall be reduced to writing, delivered to the Executive Director or Chairperson, and read.
- 11.08 Any motion may be withdrawn or modified by the maker at any time before the Board votes on the motion or an amendment to the motion.
- 11.09 All meetings of the Board and its Committees shall be conducted in accordance with the then most current edition of Robert's Rules of Order, except in the event of conflict with these By-Laws.
- 11.10 Points of order shall be debatable only at the discretion of the Chairperson. If the Chairperson permits debate, he or she shall have the authority to limit it.
- 11.11 An appeal may be taken from any decision of the Chairperson. The Board member appealing shall state his or her reason for appeal. The Chairperson may then respond. The appeal shall be voted upon immediately. An affirmative vote of a majority of the Board members present and voting shall be required to override the Chairperson.

- 11.12 No Board member wishing to speak in order to give notice, to make a motion, to submit a report, or to accomplish any other purpose shall proceed until the Board member has addressed and been recognized by the Chairperson, after which the Board member may address the Board.
- 11.13 No Board member shall be permitted to speak more than once on any subject until every Board member desiring to be heard on the subject has been allowed to speak.
- 11.14 The Chairperson may recognize members or beneficiaries of the System, members of the public, employees of the Board, or employees or officials of the City government if the participation of such persons would, in the judgement of the Chairperson or a majority of the Board present and voting, enhance the Board's understanding of the matter under consideration.
- 11.15 Limitation of debate not otherwise provided for in these By-Laws shall be effected by moving the previous question. Notwithstanding, during Board meetings, debate on pending questions, or a series of pending questions, may be limited by moving to:
- (a) reduce the number of speeches permitted:
 - (b) reduce the length of time permitted for each speech; and/or
 - (c) requiring that at a time certain or after a specified length of time, debate shall be closed and the question shall be put to vote. To limit debate, the motion shall be seconded and carried by an affirmative vote of a two-thirds (2/3) majority of the Board members present and voting.
- 11.16 Voting shall be in the form of, "Aye", "Nay", "No Vote/Abstain", or "Present" and shall be recorded by the Executive Director or his/her designee in manner indicating how each member voted.
- 11.17 Votes shall be by voice with the result determined by the Chairperson unless a Board member demands a roll call.
- 11.18 If a Board member demands a roll call, the Executive Director shall call the roll of the Board members so that the Board member whose name is called first is the same Board member who requested the roll call, and then so on through the roll, around the table, starting to the left of the person who called the roll. Notwithstanding, the Mayor shall be called last, and then only for the purpose of breaking a tie vote as provided under Section 2.02 hereof.
- 11.19 When a Board member demands a division of the house, the names of those Board members voting "Yes", "No", "Aye", "Nay", "No Vote/Abstain", or "Present" shall be recorded.

- 11.20 Any Board member or staff person who believes that any proposed action of the Board may constitute a conflict of interest regarding a Board member, staff, or other person under the Board's Code of Ethics shall expeditiously disclose this information in writing to the Chairperson. In circumstances where time prevents a written communication, the member or staff person may verbally inform the Board, with a written statement setting forth the representation to be delivered to the Chairperson or Executive Director within three (3) business days of the verbal representation.
- 11.21 Any Board member may, as a matter of personal privilege, speak for a period not longer than ten (10) minutes upon matters that may collectively affect the System or Board, its rights, its dignity, and/or the integrity of its proceedings, or the rights, reputation, and conduct of its individual members.
- 11.22 No Board member shall engage in private discourse or commit any other act tending to distract the attention of the Board from the business before it. Board members shall further confine their remarks to the questions under discussion or debate, and shall avoid personal remarks.
- 11.23 The Chairperson shall maintain order in the meeting room, and if, in the Chairperson's opinion, the removal of any non-member of the Board is necessary for the maintenance of order, the Chairperson may, after warning, order the removal of any disorderly person.
- 11.24 All meetings of the Board at which official action of any kind is taken shall be open to the public. No rule, regulation, resolution, or other official action shall be effective unless enacted or taken at an open meeting.
- 11.25 The Board may, upon the affirmative vote of two-thirds (2/3) of the Board members present and voting, meet in non-public session. If a non-public session is scheduled to be conducted during a regular meeting of the Board, the notice for the Board meeting should so state. The Board may determine during the course of a regular meeting to enter non-public session. Non-public sessions shall not be recorded unless approved by a unanimous vote of the Board. A non-public session shall be closed to the public, and all materials received, and transcripts of discussions held, shall be confidential to the extent permitted by RSA 91-A.
- 11.26 Any meeting, or portion of a meeting, may be held in non-public session, if the matters to be discussed during the meeting satisfy the criteria for a non-public session set forth in RSA 91-A. Any motion to go into non-

public session must include a specific reference to the appropriate section in RSA 91-A. The roll call vote to adopt a motion to go into non-public session, and the statutory basis for doing so, must be recorded in the minutes of the meeting. Minutes of non-public sessions are required. The minutes to the non-public session (including any decisions made) must be disclosed within 72 hours unless two-thirds of Board members present determine that divulgence of the information would: (i) likely adversely affect the reputation of any person other than a member of the body or agency itself; (ii) render the proposed action ineffective; or (iii) pertain to terrorism. A vote by two-thirds of the Board members present to seal the minutes must be recorded in the minutes to the non-public session, together with the reasons for non-disclosure.

11.27 A written transcript or minutes shall be kept for all meetings of the Board and its committees at which official action of any kind is taken, and shall be made available to the public during the normal business hours of the System Copies of the written transcript or minutes shall be made available upon request to the public at reasonable cost.

11.28 All Board meetings shall be initially recorded via a digital audio recorder.

ARTICLE XII: AGENDA

12.01 The agenda for each Board or respective committee meeting shall be circulated to all Board members at least five (5) days, including Saturdays, Sundays and holidays, prior to the Board or respective committee meeting. This provision may be waived by the Board in emergency situations. The Chairman or the respective Committee Chair shall determine whether an emergency exists. Any material to be distributed in connection with matters to be taken up at a scheduled meeting which is deemed by the Chair to be Confidential shall be marked as such and sealed in an envelope separate from the agenda and other non-confidential materials so distributed.

12.02 Any matter which any Board member or committee wishes the Board to consider for action at the meeting at which the matter is introduced or otherwise first brought to the attention of the Board shall be placed on the agenda for that meeting by filing with the Executive Director at least seven (7) days before the meeting a brief description of the proposed action together with the appropriate supporting documentation.

12.03 The Chairperson and Executive Director shall prepare a consent agenda for each meeting that shall include matters which the Chairperson believes will be approved by unanimous vote.

12.04 Any Board member may strike any matter from the consent agenda at a meeting prior to vote, and this action shall require that the matter be considered as a regular agenda item. The matters remaining of the consent agenda shall be considered by the Board at the meeting as provided in Section 11.04(g) of these By-Laws.

12.05 Approval of the consent agenda during the meeting shall include the unanimous approval of all matter included on the consent agenda.

ARTICLE XIII: LENGTH OF MEETINGS

Meetings of the Board and its Committees, or consecutive meetings thereof, may not exceed three (3) hours on any given day; provided, however, that upon motion, duly seconded, and approved by a majority of Board members present, a Board meeting may continue for a period longer than three (3) hours.

ARTICLE XIV: PROPOSED RULES

14.01 Proposed rules, regulations, and resolutions may be introduced by a Board member, and shall be introduced in typewritten form, signed by the Board member introducing it, and in substantial compliance with the form required for final adoption. Proposed rules, regulations, and resolutions may also be introduced by the Executive Director for consideration by the Board.

14.02 Proposed rules, regulations, and resolutions governing the System and any amendments thereto may be introduced by any of the following methods:

- (a) Reading the short title of the proposed rule, regulation, or resolution during the period of a meeting of the Board designated for introductions; or
- (b) Filing the signed original of the proposed rule, regulation, or resolution in the office of the Executive Director during normal business hours.

14.03 The Executive Director shall distribute to each Board member a copy of each measure introduced.

14.04 During each meeting of the Board, during the period designated for introductions, the Executive Director shall read to the Board a list of the short titles of proposed rules, regulations, and resolutions, if any, that have been introduced since the preceding meeting. The Executive Director shall petition the Board to entertain a motion allowing the release of any proposals to the general public and authorizing a public hearing on such proposals.

- 14.05 Proposed rules, regulations, and resolutions filed with and read by the Executive Director, as well as proposed rules, regulations, and resolutions read by Board members for introduction, shall not be debated or amended at this reading. An amendment to a pending proposed rule, regulation, or resolution shall be introduced in writing or, if moved verbally by a Board member in a meeting of the Board or in a meeting of a committee to which the proposed rule, regulation, or resolution has been assigned, shall be reduced to writing and distributed by the Executive Director.
- 14.06 The Board shall, at least thirty (30) days before the adoption of any rule or regulation other than an emergency measure, publish notice of the intended action and post at regular places of City employment of the System's membership in order to afford interested persons an opportunity to submit data and make their views known either orally or in writing, as may be specified in the notice; provided, that less than thirty (30) days notice may be given upon good cause found and published with the notice.
- 14.07 Any Board member recorded as having voted with the prevailing side on a question may move to reconsider the question at any time, except that in the case of a rule or regulation, reconsideration may only occur prior to the date the rule or regulation is to become effective. A motion to reconsider shall require the approval of a majority of the Board members present and voting.
- 14.08 Any interested person petitioning the Board requesting the promulgation, amendment, or repeal of any rule, regulation, or resolution shall submit the petition, in a form prescribed by the Board, to the office of the Executive Director, who shall place it on the agenda for the next Board meeting and report this action to the person petitioning the Board.
- 14.09 Rules and regulations adopted by the Board shall be filed in the System offices, available for public inspection.
- 14.10 The Executive Director shall maintain accurate and up-to-date records of all official Board actions, including but not limited to proposed rules, regulations, and resolutions, amendments to rules regulations, and resolutions, committee reports on rules, regulations, and resolutions, and amendments thereto, as adopted by the Board.

ARTICLE XV: PUBLIC HEARINGS AND NOTICES

- 15.01 The Chairperson may call public hearings to consider any matter properly before the Board.

- 15.02 No speaker shall address a Board member except through the Chairperson, who shall conduct the hearing. Each speaker shall confine his or her remarks to the question under discussion or debate and shall avoid personal remarks.
- 15.03 The Chairperson shall maintain order in the meeting room, and, if in the Chairperson's opinion, the removal of any member of the public is necessary for the maintenance of order, the Chairperson may, after warning, order the removal of any disorderly person.
- 15.04 Where not otherwise required by these By-laws, or by provisions of law to be done in specific fashion, notice of intended actions, hearings, and meetings may be given in any of the following ways:
- (a) Posting, in prominent places in City Hall or other public buildings or public posting places;
 - (b) Publication in a newspaper or newspapers of general circulation;
 - (c) Filing in the City Clerk's Office;
 - (d) Mailing notices to an established mailing list of organizations and interested individuals as established and maintained by the Executive Director.
 - (e) Providing notices through other media;
 - (f) In any other manner the Board considers appropriate; or
 - (g) Any combination of the above.
- 15.05 Whenever appropriate, written notice of each public meeting or hearing shall be provided not less than fourteen (14) days or more than twenty-one (21) days prior to the date of the meeting.

ARTICLE XVI: FORMER TRUSTEES AND STAFF

- 16.01 Former trustees and former staff shall not knowingly act as agent for or otherwise represent any other person or entity in any formal or informal appearance before the Board, or make any oral or written communication on behalf of any other person or entity with the intent to influence the Board in connection with any particular matter involving that specific party in which the matter had come before the Board during the prior two (2) year period preceding the date of termination of the former trustee or former staff member from service on behalf of the System.

16.02 On receipt of information regarding a possible violation of this Article, and/or the Board's Code of Ethics, and after a determination by the Board that such information appears substantiated, the Board may refer the matter to legal counsel for independent investigation and recommendation to the Board concerning the violation. If it is subsequently determined that a violation has in fact occurred the Board may:

- (a) Prohibit the individual, and the firm thereof, from appearing before the Board again; and/or
- (b) take other appropriate disciplinary action.

ARTICLE XVII: AMENDMENT OF BY-LAWS

17.01 Subsequent to adoption, these By-Laws of the Board may be altered, amended or repealed, or a new By-Law made, at any meeting of the Board duly called and upon a two-thirds (2/3) vote in favor thereof by all the members of the Board, provided due notice of the proposed amendment is given in the call of the meeting and otherwise satisfies the notice requirements of Article XIV hereof.

ARTICLE XVIII: ELECTION OF THREE (3) MEMBERS OF THE BOARD

18.01 On October 1, or the next working day, the Executive Director or his/her designee shall notify the City of Manchester City Clerk (hereafter "City Clerk") by mail of the dates of the filing period, shall include Declaration of Candidacy or Nomination forms, and shall be authorized to request the City Clerk to contact election officials for the upcoming elections. Once the City Clerk identifies the election officials, the Executive Director or his/her designee shall notify them by mail of specific instructions with regard to the election.

- (a) Nomination for the position of citizen representative elected member of the Board shall be made on the nomination form referred to in the preceding paragraph of this section 18.01. Said form can be obtained at the Retirement office on October

1 or the first business day thereafter. Such nomination form shall contain the name and domicile of the candidate and shall be signed by a minimum of ten people who are eligible to vote in the election for which the candidate is being nominated. Such eligible voters shall not sign more than one nominating petition.

No Trustee or member of the Staff of the City of Manchester Employees' Contributory Retirement System shall sign a nomination form.

Each nomination form with no less than ten signatures shall be submitted to the City of Manchester Employees' Contributory Retirement System at its offices for verification that the individuals whose signatures are contained thereon is qualified to vote in the particular election involved. Each nomination form shall be submitted to the City of Manchester Employees' Contributory Retirement System at its offices, complete with no less than ten signatures, on the second Wednesday before the end of the filing period. The purpose of this time period is to give the Executive Director, or his designee, the time needed to qualify the signatories as eligible voters in the particular election. The Executive Director, or his designee, shall certify the nomination forms in a timely fashion, so that their certification shall be complete for each candidate, together with any objections to the nomination form submitted, no later than 5:00 PM on the Wednesday before the end of the filing period. The purpose of this time period is to give the candidate an opportunity to make any necessary correction before the end of the filing period. Once the signatures are verified, the Executive Director or his designee will notify the City Clerk and the candidates so that the latter can go to the City Clerk to sign the form "Attest to Candidacy for Citizen Representative;" during said filing period. Said form can not be signed until the verified nomination form is received by the City Clerk.

- (b) A candidate for employee representative shall file a "Declaration of Candidacy" form with the City Clerk within the filing period.

18.02 On October 1, or the next working day, notices which are suitable for posting shall be sent to each department of the City of Manchester (hereafter "the City") for the purpose of

informing them of the election date. Similar notices to members who are deferred shall be mailed to them directly, informing them of the date of the next election (second Thursday in December), filing period (fourth Monday in October through that Friday), polling places (JFK Coliseum and City Hall), and the availability of absentee ballots. Notices for retirees shall be distributed with their monthly pension check or non-negotiable statement through the services of the payment agent. Said notices shall clearly indicate that any beneficiary recipients are not eligible to vote.

- 18.03 A member eligible to vote, who is absent from the City on the date of the election, or who is unable to appear in public because of observance of a religious commitment, or who is unable to vote in person by reason of physical disability may vote at the December election as provided in section 18.10.
- 18.04 On the first Monday after the filing period ends, the City Clerk delivers, faxes, emails or mails to the Executive Director, or his/her designee, copies of the Declarations of Candidacy or Nomination forms. On that day, notices which are suitable for posting shall be sent to each department of the City, for the purpose of informing them of the election date, identifying the candidates and informing them of the location of the polling place. Similar notices to members who are deferred shall be mailed to them directly. Notices for retirees shall be distributed with their monthly pension check or non-negotiable statement through the services of the payment agent. Said notices shall clearly indicate that any beneficiary recipients are not eligible to vote. The same information shall also be posted to the Retirement System's website at <https://www.manchesterretirement.org/news.asp>
- 18.05 Election officials shall be provided by the City Clerk who shall appoint Moderators for the polling places at JFK Coliseum and at City Hall, who shall take oaths of office. At least two additional election workers shall be appointed for each location. Each election worker shall take an oath of office, and perform such duties and have such powers as the Moderator may delegate to them. It shall be the duty of the Moderator to oversee the voting. No member, whether an employee who is actively making contributions, or whether retired, shall serve as a worker or official at the election.

- 18.06 Hours of Polling. The polls shall be open no later than 10:00 A.M. and shall close no earlier than 6 P.M.
- 18.07 An election shall be held on (the second Thursday in December) even when there is no candidate's name printed on the ballot, due to the write-in votes that may be cast. The official checklist of eligible voters, as prepared by the Executive Director, is to be delivered to the City Clerk or his/her designee the day prior to the election by 4:00 P.M., who shall sign a receipt with date and time of delivery. I-9 shall be supplied by the Executive Director or his/her designee. The City Clerk or his/her designee is responsible for instructions to the elected officials as well as election signage, directions and other statutory regulations as required by law.

18.08 Voting Procedure.

- (a) All persons whose names are on the checklists are entitled to vote unless they are successfully challenged. Only a person on the checklists may vote unless it appears his/her name has been left off the checklist by clerical error or mistake. The Moderator shall contact the City Clerk's Office who shall then contact the Retirement Office. Once it has been verified by the Retirement Office the Moderator shall add the name to the checklist and allow that voter to cast their ballot.
- (b) The Moderators and election officials shall have the responsibility for managing the polling places and procedures, in a manner consistent with good election practices, including but not limited to checking the checklists, admitting voters, obtaining a ballot, setting up the voting booths, assisting disabled voters, collecting the ballots, counting the ballots, announcing the results, preparing an election return, preserving ballots and other election materials, conducting a recount, furnishing proper supplies and conveniences, including a ballot box and a guardrail.

- (c) The arrangement of the polling places shall be specified in RSA 658:9 as amended from time to time.
- (d) No person who is a candidate for office or who is representing or working for a candidate shall distribute or post at a polling place any campaign material in the form of a poster, card, handbill, placard, picture or circular which is intended to influence the action of the voter within the building where the election is being held. No person who is a candidate for office or who is representing or working for a candidate shall distribute any campaign materials or perform any electioneering activities or any activity which affects the safety, welfare and rights of voters within a corridor ten (10) feet wide and extending a distance from the entrance door of the building as determined by the Moderator where the election is being held. No election officer shall electioneer while in the performance of his official duties. For the purpose of this section, "electioneer" shall mean to act in any way specifically designed to influence the vote of a voter on any question or office.
- (e) No person shall interfere or attempt to interfere with any voter when such voter is in the space within the guardrail.

18.09

When the City Clerk or his/her designee has received the returns, he/she shall examine, record and total such returns, and, on the day after election day, the City Clerk or his/her designee shall deliver the official results to the Executive Director or his/her designee. The Executive Director or his/her designee shall send notices suitable for posting to each department of the City with instructions that they be placed on each department's bulletin board. Notification of the election results to retired and deferred members shall be available by accessing the Retirement System's

website at:

<https://www.manchesterretirement.org/news.asp>.

or by calling the Retirement System office at 624-6506 during business hour.

18.10 ABSENTEE VOTING

- (a) Application. Prior to any election, the City Clerk or his/her designee, shall prepare the appropriate application forms for absentee ballots worded as follows in quantities deemed sufficient:

To the City Clerk of Manchester, I _____, hereby apply for an official absentee ballot. I am a member of the City of Manchester Employees' Contributory Retirement System and entitled to vote in the City of Manchester Contributory Retirement System election of board members.

Please check one:

Active Member--Department _____
 Retired Member
 Deferred Member

Mail absentee ballot to:

Signature _____
Mailing Address _____
City, State, Zip code _____

- (b) Procedure by applicant. An application form for an absentee ballot shall be mailed to any person who applies therefore to the City Clerk's Office. It shall be filled out by the applicant and sent to the City Clerk's Office.
- (c) Absentee Ballots. Prior to the election, the City Clerk or his/her designee shall prepare the following forms in such quantity as he deems necessary:

- (1) Absentee ballots in the same form as nearly as practicable as the official ballot to be used at said election. Said absentee ballots shall have the words "absentee ballot" printed on them and shall be similarly endorsed and printed on paper of the same color as that used for official ballots.
- (2) Affidavit envelopes, of sufficient size to contain the ballots, on which shall be printed the following:

Absence from City. A person voting by absentee ballot because of absence from the city in which he/she is entitled to vote shall fill out and sign the following certificate:

I do hereby certify under the penalties for voting fraud set forth below that I am a Member of the City of Manchester Employees' Contributory Retirement System;

Please check one:

- Active Member--Department _____
- Retired Member
- Deferred Member

that I will be absent on election day from said city and will be unable to vote in person; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind).

Signature _____

Absence Because of Religious Observance or Physical Disability. A person voting absentee ballot because of religious observance or physical disability

shall fill out and sign the following certificate:

I do hereby certify under the penalties for voting fraud set forth below that I am a Member of the City of Manchester Employees' Contributory Retirement System;

Please check one:

Active Member--Department _____
 Retired Member
 Deferred Member

that I will be observing a religious commitment which prevents me from voting in person or that on account of physical disability I am unable to vote in person; that I have carefully read (or had read to me because I am blind) the instructions forwarded to me with the ballot herein enclosed, and that I personally marked the ballot within and sealed it in this envelope (or had assistance in marking the ballot and sealing it in this envelope because I am blind-).

Signature _____

In accordance with RSA 659:34, the penalty for knowingly or purposefully providing false information when registering to vote or voting is a class A misdemeanor with a maximum sentence of imprisonment not to exceed one year and a fine not to exceed \$2,000. Fraudulently registering to vote or voting is subject to a civil penalty not to exceed \$5,000.

- (3) Return envelopes, of sufficient size to contain the preceding envelope, addressed to the City Clerk. On the envelopes shall be printed ENCLOSED IS THE BALLOT OF AN ABSENTEE VOTER and, at the top thereof, 4 blank spaces with the words "~~Please Print~~ Name, Voting Address, City, State, Zip Code; Status (please check one):

___ActiveMember--Department___,
___Retired Member
___Deferred Member

appropriately printed thereon.

- (4) Such explanatory matter and instructions for voters as the Executive Director or the City Clerk or their designee shall deem appropriate to carry into effect the purposes hereof.
 - (5) Mailing envelopes large enough to contain all the above materials in which they can be delivered or mailed to absentee voters.
- (d) Procedure for absentee voting. Upon receipt of a properly executed application for an official absentee ballot, the City Clerk, or his/her designee, shall forthwith ascertain if the applicant is eligible to vote. If so, the City Clerk or his/her designee, shall send the materials provided for in section 18.10(a); if not, then the City Clerk, or his/her designee, shall refuse to certify as provided in section 18.10(e). Before the City Clerk or his/her designee refuses to certify the request they will contact the Executive Director or his/her designee for verification. If the address to which the absent voter's ballot is sent is outside the United States, such papers shall be sent by air mail. The City Clerk, or his/her designee, shall keep lists of the names and addresses of all applicants to whom official absentee voting ballots have been sent and shall identify those official absentee voting ballots which have been returned to the City Clerk.
- (e) Refusal to certify. If the City Clerk, or his/her designee, refuses to certify the application, the applicant is to be notified in writing within 7 days to that effect. The City Clerk, or his/her

designee, shall preserve the application until 60 days after the election or any recount, whichever occurs last.

- (f) Procedure by Voter. After marking the ballot, the voter or the person assisting a blind voter shall enclose and seal the same in the affidavit envelope. The voter shall execute the affidavit on it. The voter or person assisting the blind voter shall enclose and seal said envelope in the return envelope. The voter shall then endorse thereon his/her name, address and status and shall affix postage and mail the envelope or personally deliver it to the City Clerk.
- (g) Procedure by Clerk. Upon receipt of a returned envelope purporting to contain an official absentee voting ballot, the City Clerk shall attach thereto the application for an absentee ballot submitted by said voter, and shall preserve all such envelopes unopened until election day.
- (h) Cutoff. No absentee ballots shall be accepted by the City Clerk after 5 P.M. on election day. Ballots received after this time shall be retained by the Clerk unopened until the time set for destruction of the election ballots, at which time the envelopes shall likewise be destroyed, unopened and unexamined.
- (i) Delivery to Moderator. On election day, prior to the closing of the polls, the City Clerk shall deliver all such envelopes and the applications therefore received by City Clerk, to the Moderator at the polling places at JFK Coliseum or City Hall, taking a receipt from the Moderator.
- (j) Death of a Voter. If the officers charged with the duty of processing absentee ballots know that a voter has died prior to the opening of the polls, they shall not open the envelope

containing the absentee ballot.

- (k) Preserving of Absentee Ballots. Absentee ballots must be processed prior to tabulation of the votes, and once it has commenced processing shall continue without interruption until completed. The election official receiving ballots from other voters shall not simultaneously be involved in processing absentee ballots,
- (1) The Moderator must make a public announcement that he/she is about to open the envelopes provided to him/her.
 - (2) The Moderator shall remove the affidavit envelope and shall compare the signature on the affidavit envelope with the signature on the application for the ballot.
 - (3) If the name of the voter is on the checklist, the affidavit on the envelope appears to be properly executed, the signature on the affidavit appears to be executed by the same person who signed the application and the signatures appear to be the signatures of a person who has not voted at the election, then the Moderator shall publicly announce the name of the absentee voter.
 - (4) All absentee ballots may be challenged after the Moderator announces the name of the absent voter but not after the ballot is removed from the envelope. A person making a challenge shall state a reason for the challenge. The Moderator shall write on the affidavit envelope containing the ballot the word "challenged" and the name

and address of the person making the challenge and the basis of the challenge. The Moderator shall also number each such envelope consecutively, marking the first challenged ballot "Challenged Ballot No. 1". If the Moderator then decides the challenge is well-grounded, he shall not open the envelope, but shall preserve it with the other ballots cast at the election. If the Moderator decides the challenge is not well-grounded, he shall open the affidavit envelope so the affidavit thereon is not destroyed, and proceed first to mark on the reverse of the folded ballot the corresponding challenge number as previously marked on the envelope and shall preserve the affidavit envelope with the ballots cast at the election. The Moderator shall then cross off the name of the absentee voter on the checklist and write therewith the letters "A.V." in red ink and shall then proceed to deposit the ballot, in the ballot box.

- (5) If the Moderator finds the absentee voter is not entitled to vote, he shall not open the envelope and shall mark across the face of the envelope the reason the ballot is rejected, such as "rejected as not a voter" or "voted in person" or "affidavit improperly executed" or "not signed by proper person" or whatever the reason is. The Moderator shall save all the unopened envelopes and shall preserve the envelopes with the ballots cast at the election.
- (6) The Moderator shall reject no absentee ballot for any immaterial addition, omission or irregularity in the preparation or execution of any writing

or affidavit required by these By-laws.

- (7) Once a red ink "A.V." has been properly placed next to a voter's name, that voter shall not be permitted to vote in person.

- 18.11 Certificate of Checklist. After the closing of the polls at an election, the Moderator shall certify on the checklists used that such checklists are in fact the ones used at said election and that they contain a correct and complete list of the voters legally authorized to vote in the election.
- 18.12 Election Returns. After the tabulation of votes has been completed the Moderator and other elected officials shall complete the paperwork provided by the City Clerk or his/her designee and affix their names thereto. The final count of all votes should be announced by the City Clerk or his/her designee. The City Clerk or his/her designee shall prepare the official election returns which shall include the name of each person voted for and the number of votes cast and information relating to the number of voters and to the number of ballots cast at the election. The City Clerk or his/her designee shall prepare the return in duplicate and shall sign and certify such return. The election return shall be kept by the City Clerk and shall be open to public inspection at reasonable times.
- 18.13 Sealing and Certifying Ballots. Immediately after the ballots cast at an election have been tabulated and the results have been announced and the paperwork has been completed, the Moderator or his/her designee shall place the absentee envelopes and requests, cast, cancelled and uncast ballots in containers provided and shall seal and lock such container. The Moderator or his/her designee shall then enter in the appropriate blanks on each container the number of cast, cancelled and uncast ballots and that absentee envelopes are in such container and shall endorse in the appropriate place on the container a certificate which states as follows:

Enclosed are the ballots from the Retirement Board Election held in the City of Manchester on the _____ day of December 20____ from the _____ polling location.

The Moderator and other election officials shall sign their name in the appropriate blanks on the certificate.

- 18.14 Preservation of Checklists. The Moderator shall certify the marked checklists that was used in the election that day and shall turn it over to the City Clerk or his/her designee who shall then deliver the checklists to the Executive Director or his/her designee who shall preserve such checklists in his/her custody as a public record for a period of no less than five (5) years.
- 18.15 Preservation of Ballots. The Moderator shall, after they have sealed and certified the election ballots, as provided in 18.12 above, deliver the sealed containers to the City Clerk, or to his/her designee, who shall in their presence enter in the appropriate place on each sealer the time of day and shall sign his name in the appropriate blank on the sealer. The City Clerk or his/her designee shall, without breaking the seals or otherwise changing the condition of the containers, keep the containers in City Hall for a period of sixty (60) days, after which they shall be destroyed.
- 18.16 Preservation of Absentee Voting Materials. The affidavit envelopes and application materials referred to in 18.10 shall be preserved in accordance with RSA 659:101.
- 18.17 Recounts.
- (a) Any candidate for whom a vote was cast or who was named in the ballot and who is not elected, according to the count made by the officials, may apply to the City Clerk for a recount of the votes cast, provided that the application is received within two (2) days after the election results.

- (b) Upon the date set for the recount, the ballots shall be counted by the City's Board of Recount which is established by the City Charter in Article V. The time and notice for the recount and conduct of the recount shall be as provided in City Charter Article V, 5.31 and 5.32 as from time to time amended.
- (c) The result of the recount shall be declared and costs of the recount assessed as provided in City Charter Article V, 5.33(c).

ARTICLE XIX INDEMNIFICATION POLICY

Section 19.01 Purpose. The purpose of this Indemnification Policy of the City of Manchester Employees' Contributory Retirement System (the "System") is to establish guidelines for the indemnification of those Individuals who have a Proceeding brought against them arising out of their performance of duties as a Trustee on behalf of the members and beneficiaries of the System or as an employee of the System. The System's Board of Trustees has determined that (1) highly competent persons have become more reluctant to serve as Trustees unless they are provided with adequate protection through insurance or indemnification against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the System; (2) the increased difficulty in attracting and retaining qualified Trustees is detrimental to the best interests of the System and its members and beneficiaries, and that the System should act to assure such persons that there will be increased certainty of such protection in the future; and (3) it is reasonable, prudent and necessary for the System to indemnify, and to advance expenses on behalf of, Trustees and employees of the System as hereinafter set forth so that they will serve or continue to serve the System free from undue concern that they will not be so indemnified, in all cases as permitted or required by New Hampshire law. This Indemnification Policy is intended to enhance and supplement the fiduciary liability insurance policy of the System, and nothing herein is intended or should be construed to replace, supplant or reduce any coverage provided by such insurance policy. It is the intent of the System that the fiduciary liability insurance policy shall be the primary source of recourse for an Individual for matters covered thereby and this Indemnification Policy.

Section 19.02 Definitions. As used in this Indemnification Policy:

- (a) “Board of Trustees”, “Trustees”, or “Trustee” refers to the System’s Board of Trustees, or a duly appointed member of the Board, charged with the administration of the System pursuant to New Hampshire 1973 Laws, Chapter 218, as amended, through 2011 Laws, Chapter 21 and as may be amended thereafter.
- (b) The term “Corporate Status” shall mean the status of an Individual who is or was (1) a member of the Board of Trustees or (2) an employee of the System.
- (c) The term “Expenses” shall include, without limitation, those reasonable attorneys’ fees, retainers, court costs, transcript costs, fees of experts, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees and other disbursements or expenses of the types customarily incurred in connection with a Proceeding, that are actually incurred by an Individual.
- (d) The term “Individual” shall mean any natural person who is or was (1) a Trustee as of the Effective Date of this Indemnification Policy and thereafter or (2) an employee of the System as of the Effective Date of this Indemnification Policy and thereafter.
- (e) The term “Indemnification Policy” shall mean Sections 19.01 through 19.15 of Article XIX of the System’s bylaws.
- (f) The term “Liability” shall mean the obligation to pay a judgment, settlement, or penalty, excluding however, fines, punitive damages, and exemplary damages.
- (g) The term “Proceeding” shall mean any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitratve or investigative, and whether formal or informal.

Section 19.03 Indemnification of Liability and Expenses.

- (a) Except as set forth in Section 19.05, the System shall indemnify an Individual, if he or she was, or is threatened to be made a party, subject, defendant or respondent in a Proceeding because of his Corporate Status, against that Liability and the Expenses incurred in the Proceeding if the Board of Trustees determines that: (i) he or she conducted himself or herself in good faith; and (ii) he or she reasonably believed that the conduct was in the best interests of the members and beneficiaries of the System; and (iii) he or she has not

acted with fraud, willful or deliberate misconduct or gross negligence, and (iv) in the case of any criminal Proceeding, only if a majority of the System's Board of Trustees vote in favor of such indemnification, he or she is not found to be guilty of a criminal violation, or did not enter a plea of guilty or nolo contendere.

- (b) The termination of a Proceeding by judgment, order, or settlement, is not, of itself, determinative that the indemnitee did not meet the relevant standard of conduct described in this Section 19.03.

Section 19.04 Advancement of Expenses. If a majority of the System's Board of Trustees vote in favor, and subject to the Trustees' fiduciary duties to the System and to the extent permitted by applicable law, the System may pay in advance of the disposition of the Proceeding the Expenses of an Individual that the Board of Trustees has reasonably determined may be entitled to indemnification hereunder, provided however, that the System's Board of Trustees shall condition such advance upon certain certifications by the Individual, a written undertaking to repay the advanced Expenses, and security for such advances, in each case as it reasonably determines. The determination to advance Expenses may be immediately withdrawn at any time (with notice to the Individual).

Section 19.05 Exceptions to Right of Indemnification and Advancement of Expenses. Notwithstanding anything to the contrary in this Indemnification Policy, no indemnification for Liability or Expenses, or advancement of Expenses, shall be paid to an Individual:

- (a) to the extent expressly prohibited by New Hampshire law, or the System's Code of Ethics as in effect from time to time;
- (b) or the amount of Liability or Expenses paid to or on behalf of an Individual under a valid and collectible insurance policy maintained by the System, the Individual or otherwise for the benefit of the Individual;
- (c) based upon or attributable to an Individual gaining any benefit, advantage, or thing of value to which he or she was not entitled under law or permitted under the Code of Ethics of the System as in effect from time to time;
- (d) to the extent that an Individual has been adjudicated not to have acted in good faith with a reasonable belief that his actions were in the best interests of the members and beneficiaries of the System;

- (e) to the extent that an Individual has been adjudicated to have acted with fraud, willful or deliberate misconduct, or gross negligence;
- (f) in any action in which the System is the plaintiff, or moving party, against the Individual who might otherwise be entitled to indemnification hereunder; or
- (g) in any action in which the Individual is the plaintiff against the System or Board of Trustees.

Section 19.06 Indemnification of Expenses of Successful Party. Except as set forth in Section 19.05, if an Individual has been successful, on the merits, in the defense against the imposition of any Liability under a Proceeding to which he or she was a party because of his Corporate Status, the Individual shall be indemnified against all reasonable Expenses incurred by him in connection with such Proceeding.

Section 19.07 Partial Indemnification. If an Individual is entitled under any provision of this Indemnification Policy to indemnification by the System for some or a portion of any Liability or Expenses, but not, however, for the total amount thereof, the System shall nevertheless indemnify an Individual for that portion thereof as may be determined and authorized by a majority vote of the System's Board of Trustees.

Section 19.08 Notification and Defense of Proceeding.

- (a) Notice. Promptly upon receipt by an Individual of notice of the commencement of any Proceeding, an Individual shall, if a claim for indemnification or advancement of Expenses in respect thereof is to be made against the System under this Indemnification Policy, notify the System of the commencement of the Proceeding. Such notice to the System shall be made as soon as practicable, but in no event later than twenty (20) business days of the Individual's receipt of notice of the commencement of the Proceeding.
- (b) Defense. With respect to any Proceeding against an Individual, the System will be entitled to participate in the Proceeding at its own expense. To the extent the System so wishes, it may assume the defense thereof with counsel of its choosing. After notice from the System to an Individual of its election to assume the defense of any Proceeding, the System shall not be liable to the Individual under this Indemnification Policy, or otherwise for any Expenses subsequently incurred by an Individual in connection with the defense of such Proceeding other than as otherwise provided below. An Individual shall have the right to employ legal counsel in such

Proceeding, but all Expenses related thereto incurred after notice from the System of its assumption of the defense shall be at the Individual's expense unless: (i) the employment of legal counsel by the Individual has been authorized by the System, which may be as a result of a determination by the System's counsel that a conflict of interest exists between the Individual and the System in its defense of the Proceeding; or (ii) the System shall not in fact have employed counsel to assume the defense of such Proceeding and the Individual is otherwise entitled to indemnification as set forth in this Indemnification Policy.

- (c) Settlement of Claims. The System shall not be liable to indemnify an Individual under this Indemnification Policy or otherwise for any amounts paid in settlement of any Proceeding effected without the System's written consent as authorized by its Board of Trustees. The System shall not settle any Proceeding in any manner that would impose any Liability or limitation on an Individual without the Individual's written consent, which consent shall not be unreasonably withheld. If the Individual fails to consent to any settlement of a Proceeding recommended by the System, then i) the Individual and the System shall equally share Expenses (other than those to resolve a Proceeding) incurred thereafter with respect to a Proceeding and ii) the Individual shall be responsible to pay all Expenses payable to a third party to resolve the Proceeding above the amount of the settlement offer to which the Individual failed to consent. The System shall not be liable to indemnify an Individual who is entitled to indemnification under this Indemnification Policy with regard to any amount payable in resolution of a Proceeding if the System was not given a reasonable and timely opportunity to participate in the defense of such Proceeding.

Section 19.09 Subrogation. In the event of indemnification or advancement of Expenses to an Individual under this Indemnification Policy, the System shall be subrogated to the extent of such payment to all of the rights of recovery of an Individual, who shall execute all papers required and shall do everything that may be necessary to secure such rights, including the execution of such documents necessary to enable the System effectively to enforce such rights.

Section 19.10 No Duplication of Payments. The System will not make any indemnification payments to the extent the Individual is entitled to, or has otherwise received a) payment or advancement of Expenses under any insurance policy, statutory indemnification, or otherwise, or b) payment of Liability otherwise indemnifiable hereunder. In the case of a Trustee that

is also an employee of the City of Manchester, New Hampshire, the System shall coordinate with the City of Manchester, New Hampshire to determine the availability, priority and payment of Liability or Expenses hereunder, if any.

Section 19.11 Severability. If any provision (or portion thereof) of this Indemnification Policy shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. To the fullest extent possible, the provisions of this Indemnification Policy (including, without limitation, each portion of this Indemnification Policy containing any provision held to be invalid, void, or otherwise unenforceable, that is not itself invalid, void, or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, void, or unenforceable.

Section 19.12 Governing Law. The Indemnification Policy and all actions taken thereunder shall be governed by and construed and enforced in accordance with the laws of the State of New Hampshire without regard to the principles of conflict of laws thereof.

Section 19.13 Reservation of Rights with respect to Indemnification Policy. No Individual shall have a vested right arising out of or pursuant to this Indemnification Policy, and the System's Board of Trustees reserves the right to amend, modify or terminate this Indemnification Policy at any time in its sole and absolute discretion. However, it is the intention of the Board that this Indemnification Policy will remain in place and that the System will continue to purchase an insurance policy to protect the System's Board of Trustees from personal liability.

Section 19.14 Notices. All notices or other communications required by or otherwise with respect to the Indemnification Policy shall be in writing and shall be deemed to have been duly given when delivered (a) in-hand, (b) by certified mail, (c) by confirmed telefax, or (d) by a recognized commercial delivery service at the following notice addresses:

To Board of Trustees:	ATTN: Chair, Board of Trustees The City of Manchester Employees'
Contributory	Retirement System 1045 Elm Street, Suite 403 Manchester, New Hampshire 03101-1824 Fax: (603) 624-6342
To System:	ATTN: Executive Director

