**Section 1650.391 Optional 2.2 Upgrade of Earned and Credited Service**

a) Electing to upgrade.

1) A member's 2.2 upgrade cost becomes fixed on the date the member elects to upgrade and remains fixed until the expiration of the 60-month period commencing on the August 15 following election or full payment of the upgrade cost, whichever is first. The 60-month period will be extended due to suspension of a payroll deduction agreement as provided in Section 1650.1202(d).

2) Once a member has elected to upgrade his or her service credit in accordance with Section 16-129.1 of the Illinois Pension Code [40 ILCS 5/16-129.1], the member is prohibited from electing another upgrade until the fixed cost period described in subsection (a)(1) for the upgrade election has expired.

3) After filing an upgrade election, a member may upgrade any optional or refunded service added to the member's service credit record within the period provided in subsection (a)(1) at the same salary rate used to determine the original upgrade cost, provided the additional service is purchased within the same five-year period.

b) Determining the contribution necessary for upgrade.

1) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the election occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].

2) When determining the contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.

3) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the election occurs, and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.

4) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the optional contribution necessary for the upgrade feature.

c) Failing to make contribution.

1) A member has failed to make the full contribution in a timely fashion:

A) if the full contribution is not paid within the effective period of the election; or

B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the election be terminated at least 4 months after ceasing to teach.

2) If the member has failed to make the full contribution in a timely fashion, the election shall be terminated and shall be no longer in effect.

3) *If the member has failed to make the full contribution in a timely fashion, the payments made under this Section shall be refunded to the member, without interest* [40 ILCS 5/16-129.1]. However, if the member is able to re-elect, and does re-elect, for the 2.2 upgrade feature prior to the refund being made, the amount of the refund shall be used as a partial lump sum contribution towards the cost of the 2.2 upgrade feature.

4) *If the member dies before making the full contribution, the payments under this Section, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138* of the Pension Code [40 ILCS 5/16-129.1].

d) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1 based upon the earliest to the latest payments.

e) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 32 Ill. Reg. 13534, effective August 6, 2008)