**Section 1650.2900 Excess Benefit Arrangement**

a) Adoption and Nature of the Arrangement.

1) The Arrangement. The Teachers' Retirement System of the State of Illinois, pursuant to the authority granted to it by 40 ILCS 5/1-116, hereby adopts the Teachers' Retirement System Excess Benefit Arrangement, effective January 1, 1997.

2) Nature of the Arrangement. This Arrangement is a portion of a governmental plan (as that term is defined in section 414(d) of the Internal Revenue Code of 1986, as amended, and Section 3(32) of the Employee Retirement Income Security Act of 1974, as amended), and is administered as a qualified governmental excess benefit arrangement pursuant to the provisions of Code section 415(m) (26 USC 415(m)).

b) Definitions. Each word or phrase defined in this subsection (b) shall have the following meaning whenever such word or phrase is capitalized and used herein, unless a different meaning is clearly required by the context of the Arrangement. The definition of any term in the singular may also include the plural.

1) "Annuitant" shall mean a person described in 40 ILCS 5/16-111.1.

2) "Arrangement" shall mean the Teachers' Retirement System Excess Benefit Arrangement, as from time to time amended or restated.

3) "Code" shall mean the Internal Revenue Code of 1986, as amended.

4) "Disability Retirement Annuity" shall mean the annuity payable to an Annuitant pursuant to 40 ILCS 5/16-149.2.

5) "Excess Benefit" shall mean the monthly equivalent of the difference between the Unrestricted Benefit and the Maximum Benefit.

6) "Maximum Benefit" shall mean the monthly equivalent of the maximum benefit permitted by Code section 415 to be paid an Annuitant or beneficiary under the Retirement Plan during any limitation year of the Retirement Plan.

7) "Member" shall mean a person who is a Member as that term is defined in 40 ILCS 5/16-107.

8) "Retirement Annuity" shall mean an annuity payable to an Annuitant pursuant to 40 ILCS 5/16-132 through 16-136.4.

9) "Retirement Plan" shall mean the retirement plan administered by the Teachers' Retirement System pursuant to 40 ILCS 5/Art. 16.

10) "Survivor Benefit Annuity" shall mean an annuity payable from the Retirement Plan to a beneficiary or beneficiaries of a Member or Annuitant as a result of the death of the Member or Annuitant pursuant to 40 ILCS 5/16-141 through 16-143.2.

11) "System" shall mean the Teachers' Retirement System of the State of Illinois.

12) "Unrestricted Benefit" shall mean the maximum monthly Retirement Annuity, Disability Retirement Annuity, or Survivor Benefit Annuity benefit payable under Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16], whichever is applicable, determined without regard to the limitation of the Code imposed under Code section 415.

c) Excess Benefits.

1) An Annuitant who is receiving a Retirement Annuity as provided under the Retirement Plan shall be entitled to receive an Excess Benefit for any month in which the Annuitant receives a Retirement Annuity benefit payment.

2) An Annuitant who is receiving a Disability Retirement Annuity as provided under the Retirement Plan shall be entitled to receive an Excess Benefit for any month in which the Annuitant receives a Disability Retirement Annuity benefit payment.

3) Upon the death of a Member or Annuitant whose beneficiary or beneficiaries are eligible for an annuity under the Retirement Plan, the Member's or Annuitant's beneficiary or beneficiaries who are receiving a Survivor Benefit Annuity shall be entitled to receive an Excess Benefit for any month in which the beneficiary or beneficiaries are receiving a Survivor Benefit Annuity.

4) Benefit Payment: A benefit payable under this subsection (c) shall be paid at such time or times and in such form to the Annuitant or his or her beneficiary as the benefit under the Retirement Plan would be paid. The Annuitant shall have the right to receive as a portion of his or her first payment hereunder an amount equal to the sum of the Excess Benefits otherwise payable to him or her since January 1, 1995, had this arrangement been in effect as of January 1, 1995.

d) Administration of the Arrangement.

1) Administrator: The Arrangement shall be administered by the System, which shall have the authority to interpret the Arrangement and issue such regulations as it deems appropriate. The System shall have the duty and responsibility to maintain records, making the requisite calculations and disbursing the payments under the Arrangement through the Comptroller of the State of Illinois. The System's interpretations, determinations, regulations, and calculations shall be final and binding on all persons and parties concerned.

2) Amendment and Termination: The System may amend or terminate the Arrangement at any time, provided, however, that no such amendment or termination shall adversely affect a benefit to which a Member or an Annuitant or his or her beneficiary is entitled under subsection (c) prior to the date of such amendment or termination unless the Member or Annuitant becomes entitled to an amount equal to such benefit under another arrangement, plan or practice adopted by the System.

3) Payments: The System will pay all benefits arising under the Arrangement and all costs, charges, and expenses relating to the Arrangement through appropriations received from the State of Illinois, except those costs normally borne by other agencies or offices of the State of Illinois.

4) Non-assignability of Benefits: The benefits payable under this Section or the right to receive future benefits under the Arrangement may not be anticipated, alienated, pledged, encumbered, or subjected to any charge or legal process.

5) Status of Arrangement: Nothing contained in this Section shall be construed as providing for assets to be held in trust or escrow or any other form of asset segregation for the Annuitant or for any other person or persons to whom benefits are to be paid pursuant to the terms of the Arrangement, the Annuitant's only interest under this Section being the right to receive the benefits set forth in this Section. To the extent the Annuitant or any other person acquires a right to receive benefits under the Arrangement, such right shall be no greater than the right of any unsecured, general creditor of the State of Illinois.

6) Applicable Law: All questions pertaining to the construction, validity, and effect of the Arrangement shall be determined in accordance with the laws of the United States and, to the extent not pre-empted by such laws, by the laws of the State of Illinois.

7) Forfeiture Provisions: All rights to any benefits payable under the Arrangement, including the payment of any unpaid benefit installments, shall be immediately forfeited if the Member's or Annuitant's right to receive an annuity benefit under the Retirement Plan is terminated in accordance with 40 ILCS 5/16-199.

(Source: Amended at 26 Ill. Reg. 11476, effective July 11, 2002)