

Article III — Participation & Service

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Article III — Participation & Service

§ 18-301 Participation.

(a) Active Participants.

(1) **Eligibility Conditions.** In order to be eligible to become an Active Participant in this Plan, a person must simultaneously satisfy all of the following conditions:

(A) the person is a Qualified Employee;

(B) the person is age 21 or older; **and**

(C) the person has credit for at least one Year of Service (*see* § 18-302) which has not been cancelled under § 18-302(c).

(2) Entry Dates.

(A) **Continuing Active Participants.** A Qualified Employee who was actively participating under the Provisions of the Defined Benefit Plan immediately before the Conversion Date shall continue as an Active Participant under this amended, restated, and converted Plan.

(B) **New Employees.** After the Conversion Date, and before December 31, 2023, a person shall become an Active Participant as of the first December 31 that he satisfies all of the conditions described in paragraph (1). On and after December 31, 2023, a person shall become an Active Participant as of the first date that he satisfies all of the conditions described in paragraph (1).

(C) Rehired Employees, Transferees, etc. Notwithstanding subparagraph (B), a person who becomes a Qualified Employee at a time when he has already satisfied the age and service conditions of paragraph (1) (and, if before December 31, 2023, after the first December 31 following the date he first satisfied those conditions), shall become an Active Participant as of the day he becomes a Qualified Employee.

(This subparagraph may apply, for example, to an employee rehired after a prior period of employment, and to a person who becomes a Qualified Employee after working for the Employer in a position not included within the definition of “Qualified Employee.”)

(D) Uniformed Service. A Qualified Employee who Separates from Service as a result of service in the uniformed services of the United States and who returns to employment with the Employer at a time when the Employer is legally obligated to reemploy the person under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 *et seq.*, shall be treated as not having incurred that Separation from Service, shall be treated as having been a Qualified Employee during the period of such uniformed service, and shall be treated as having remained an Active Participant during the period of such uniformed service.

(b) Discontinuation. A Participant shall remain an Active Participant only so long as he remains a Qualified Employee. After he ceases to be a Qualified Employee, he shall become an Inactive Participant until all of his Plan accounts are distributed, or until he becomes an Active Participant again.

(c) Required Information. The Administrator may require a Qualified Employee to submit relevant information to the Plan in connection with his entry into participation. The Administrator shall be fully protected from any loss which may result from the Qualified Employee’s failure to submit such information or from the Plan’s reliance on incorrect information.

(d) Voluntary Disclaimer. Any Qualified Employee may voluntarily disclaim participation in this Plan for any reason, unless, in the opinion of counsel for the Administrator, such disclaimer could jeopardize the qualification of the Plan under Code § 401(a) at that time or in the foreseeable future. Such a disclaimer must be made in writing on forms provided by the Administrator after the Qualified Employee has received an absolute and full disclosure of both his right to participate and benefits under the Plan. The disclaimer may only be made at the time the Qualified Employee first becomes eligible to become an Active Participant in this Plan. Further, the disclaimer must acknowledge such disclosure and be witnessed by a notary public. Once an employee has disclaimed participation in this Plan, he may never again become eligible to participate in any aspect of this Plan throughout his employment with the Employer or any Related Employer.

[Ords. 415 10-29-2003, 561 01-29-2020, 582 10-11-2023]

§ 18-302 Year of Service.

(a) Persons Hired Before 1/30/2020. A person who was originally hired before January 30, 2020 is credited with one Year of Service for each Computation Period (*see* § 18-304) during which he is credited with at least 1000 Hours of Service (*see* § 18-305). The Year is generally credited as of the end of the Computation Period. However, if a person Separated from Service

during the Computation Period and had already been credited with at least 1000 Hours of Service, the Year will be credited as of the date of the Separation from Service.

(b) Persons Hired On or After 1/30/2020. To determine the number of Years of Service credited as of any given day to an individual originally hired on or after January 30, 2020, one divides the total number of calendar days the person was employed by the Employer as a Qualified Employee through that given day by three hundred sixty-five and one-quarter (365.25), and rounds down to the next whole number (*e.g.*, a calculated 2.99 rounds down to 2 Years of Service). For this purpose, time is generally measured for any continuous period of employment as a Qualified Employee from the first day the person performs an hour of service as a Qualified Employee to the last day the person performs an hour of service as a Qualified Employee, and time in non-continuous separate periods of employment as a Qualified Employee are aggregated.

(c) Cancellation of Years of Service.

(1) In General. Years of Service may be cancelled if a person incurs a Lengthy Break in Service (*see* § 18-303). Specifically, all Years of Service credited to a person as of the last day before a Lengthy Break in Service shall be **cancelled** as of the *later* of—

(A) the date the person incurs the Lengthy Break in Service;

(B) the date he Separates from Service; or

(C) the date he has no vested right to any portion of his accounts in the Plan (*see* Article III) (other than his Employee Contribution Account), or has a zero balance in such accounts.

(2) Service before Effective Date. All Years of Service cancelled or disregarded under the Provisions of the Defined Benefit Plan shall be treated as cancelled under this Amended and Restated Plan as of the date they were originally cancelled or disregarded.

(3) Service Before Adoption of the Plan. Notwithstanding anything to the contrary contained in this Article, all Years of Service before a Break in Service which occurred before the Plan (including the Provisions of the Defined Benefit Plan) was first adopted shall not be counted. All such Years shall be treated as having been cancelled as of the day before the Plan was adopted.

[Ords. 415 10-29-2003, 561 01-29-2020]

§ 18-303 Break in Service.

(a) In General. A person incurs a Break in Service if he is not credited with more than 500 Hours of Service (*see* subsection (c)) during a Computation Period (*see* § 18-304).

(b) Lengthy Breaks in Service. A person incurs a Lengthy Break in Service if he incurs a Break in Service in each of a number of consecutive Computation Periods (*see* § 18-304) equal to the greater of—

(1) five (5), or

(2) the number of Years of Service credited to the person as of the beginning of the series of consecutive Breaks in Service.

The Lengthy Break in Service is incurred at the end of the above series of consecutive Computation Periods.

(c) Hours of Service—Special Rule.

(1) In General. For purposes of this § 18-303 **only**, the term “Hours of Service” shall mean—

(A) each hour credited to a person under § 18-305 (relating to Hours of Service), **plus**

(B) each hour for which the person normally would have received credit under § 18-305 *but for* the fact that the person was absent on a Parental Leave (*see* subsection (d)). (If normal hours cannot be determined, then 8 hours shall be credited for each day)

(2) Limitation. No more than 501 hours shall be credited under paragraph (1)(B) for any one period of Parental Leave.

(3) Computation Period to which Parental Leave is Credited. If a person is credited with fewer than 501 hours under paragraph (1)(A) for the Computation Period in which his/her Parental Leave begins, all of the hours credited under paragraph (1)(B) for any one period of Parental Leave shall be credited in the Computation Period in which his/her Parental Leave begins. Otherwise, all of the hours credited under paragraph (1)(B) for any one period of Parental Leave shall be credited in the first Computation Period after the Computation Period in which the person’s Parental Leave begins.

(d) Parental Leave.

(1) In General. For purposes of this § 18-303, a “Parental Leave” occurs when a person is absent from work or terminates employment due to:

(A) her pregnancy,

(B) the birth of his or her child,

(C) the placement of a child in connection with its adoption by him or her, **or**

(D) the caring of such a child during the period immediately following its birth or placement for adoption.

(2) Administrative Determination. The Administrator shall determine whether a person’s termination of employment or absence from work is due to a Parental Leave and the duration of such Leave based on information provided to the Administrator by the person. All information required by the Administrator to determine whether a Parental Leave has occurred shall be provided within such reasonable time, and all determinations under this section shall be made under such reasonable rules, as the Administrator may establish for each group of persons similarly situated. Nothing in this subsection shall be construed to affect in any way the Employer’s employment policy with respect to Parental Leaves.

(3) Credit Only Granted for Post-1984 Parental Leaves. Notwithstanding paragraph (1), the term “Parental Leave” does not include any period of absence from work which began before January 1, 1985.

§ 18-304 Computation Period.

Computation Periods shall be determined separately for each person. Each of the following periods of time shall constitute a Computation Period for any given person:

(a) The one year period which begins on the first day the person is credited with one Hour of Service under § 18-305(a) for the performance of duties.

(b) Each Plan Year which begins after a period described in subsection (a) and before the person has service cancelled under § 18-302(c). Accordingly, the first Plan Year under this subsection is the Plan Year which includes the first anniversary of the first day of the period described in subsection (a). Thus, a person who is credited with at least 1000 Hours of Service in both the initial Computation Period under subsection (a) and the first Plan Year which commences after the first day the person is credited with one Hour of Service for the performance of duties, will be credited with two (2) Years of Service as of the end of such Plan Year.

(c) The one year period which begins on the first day the person is credited with one Hour of Service under § 18-305(a) after service during a prior period of employment was cancelled for purposes of this Plan (*see* § 18-302(c)).

(d) Each Plan Year which begins after a period described in subsection (c) and before the person has service cancelled under § 18-302(c). Accordingly, the first Plan Year under this subsection is the Plan Year which includes the first anniversary of the first day of the period described in subsection (c).

[Ord. 415 10-29-2003]

§ 18-305 Hour of Service.

A person is credited with an Hour of Service for each of the following, as administered in accordance with the rules set forth in Section 2530.200b-2 of the Department of Labor Regulations relating to Minimum Standards for Employee Benefit Plans (Title 29, Code of Federal Regulations):

(a) **Work Time.** Each hour for which the person is paid, or entitled to payment, for the performance of duties for the Sponsor or any Related Employer (regardless of whether the Related Employer has adopted this Plan). These hours will be credited to the employee for the computation period in which the duties are performed;

(b) **Compensated Time Off.** Each hour, up to 501 hours for any single continuous period, during which the person performs no duties but is directly or indirectly paid or entitled to payment by the Sponsor or any Related Employer (regardless of whether employment has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence; *excluding*, however, any period for which a payment is made or due under this Plan or under a plan maintained solely for the purpose of complying with workmen's compensation or unemployment compensation or disability insurance laws, or solely to reimburse the person for medical or medically-related expenses. A person shall be deemed to be "directly or indirectly paid, or entitled to payment" by the Sponsor or any Related Employer regardless of whether such payment is (1) made by or due from the Sponsor or Related Employer

directly, or (2) made indirectly through a trust fund, insurer or other entity to which the Sponsor or Related Employer contributes or pays premiums;

(c) **Back Pay.** Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Sponsor or any Related Employer. However, Hours of Service credited under subsections (a) or (b) shall not be duplicated under this subsection (c). Periods for which back pay is awarded or agreed to which correspond to periods described in subsection (b) shall be subject to the same 501 hour restriction for single continuous periods which applies under subsection (b). These hours will be credited to the employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement, or payment is made.

(d) **Military Time.** Each hour for which the person normally would have received credit *but for* the fact that the person was performing service in the uniformed services of the United States, *provided that*—

(1) such service immediately follows service with the Employer or any Related Employer as a Qualified Employee; and

(2) the person returns to employment with the Employer or any Related Employer at a time when the Employer or any Related Employer is legally obligated to reemploy the person under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 *et seq.*, and any amendments, supplements, or successor legislation.

Credit under this subsection (d) shall be granted upon the person's return to employment with the Employer or Related Employer, but shall be applied to the Computation Periods in which the person would have received credit under subsections (a) or (b) but for the performance of uniformed service.

[Ords. 415 10-29-2003, 561 01-29-2020]