

## **ARTICLE 4. Educational Employees Supplemental Retirement System.**

### **Section 3-4-1. Educational Employees Supplemental Retirement System and Fund established.**

Under the authority of *Code of Virginia*, Chapter 4, Title 51-112 and 51-127.1 et seq., as amended, there shall be hereby established and maintained a retirement system and fund, which is a part of the system, for teachers and other employees of the Fairfax County School Board to be known as the "Educational Employees' Supplemental Retirement System of Fairfax County," hereinafter referred to as the "ERFC." The system, as well as the fund which forms a part of the system, pursuant to the provisions of this Article, shall transact all of its business, in this name. (1961 Code, § 9-119; 9-74-9; 29-77-3.)

### **Section 3-4-2. Administration of system vested in Trustees.**

The general administration and proper operation of the system including the implementation of the provisions of this Article, not including, however, the power to revoke or terminate the system, is hereby vested in the Board of Trustees of the system, subject to the supervision and control of the Fairfax County School Board. (1961 Code, § 9-120; 9-74-9; 29-77-3.)

### **Section 3-4-3. Board of Trustees; membership; method of selection; term of office; vacancy.**

The Board of Trustees shall consist of seven (7) persons, three (3) of whom shall be representatives elected by the members of the system, three (3) of whom shall be representatives appointed by the Fairfax County School Board, and one (1) individual, hereinafter referred to as the "individual Trustee" who is not affiliated with or employed by Fairfax County, the Fairfax County School Board, or any union or similar organization which represents teachers or other employees in Fairfax County, and who shall be chosen by unanimous vote or consent by the other six (6) Trustees, subject to the approval of the Fairfax County School Board, on the basis of the fact that such individual Trustee possesses competent financial and/or investment counseling skills. The individual Trustee shall serve for a one (1) year term (July 1--June 30 annually), subject to removal at any time at the discretion of a majority of the six remaining Trustees. In the event a successor is not appointed by the remaining Trustees prior to June 30, the individual Trustee shall continue to serve until a successor is appointed. The three (3) Trustees currently representing the Fairfax Education Association are hereby discharged from their positions and responsibilities as Trustees of the system, as well as the fund, as of the effective date of the amendments to this Ordinance. In the interim, until new Trustees are elected by members of the system under the procedure prescribed below, the three (3) Trustees appointed by the Fairfax County School Board and the individual Trustee currently serving shall continue to be responsible for the general administration and proper operation of the system, as well as the fund, which forms a part of the system, subject to the supervision and control of the Fairfax County School Board. Within forty-five (45) days after the enactment of this amendment to this Article, a special election shall be held among the members of the system to choose three (3) new Trustees to replace the representatives of the Fairfax Education Association on the Board of Trustees of the system and the fund who have been hereby discharged from their positions as Trustees. Candidates for the three (3) members seats on the Board of Trustees shall be selected from among all of the current members of the system by submitting a nomination petition in a form prescribed by the Fairfax County School Board. The nominating petition, in addition to any other information prescribed by the School Board, shall contain the names, addresses, telephone numbers and signatures of twenty-five (25) current

members of the system who endorse the nomination of the candidate. All elections for choosing member Trustees shall be conducted under the supervision and control of the Fairfax County School Board and be subject to such rules, guidelines and procedures as the School Board in its sole discretion shall promulgate. In the special election to replace the Trustees who have been hereby discharged, the candidate receiving the highest number of votes shall be elected for a term ending June 30, 1980. The candidate receiving the second highest number of votes shall be elected for a term ending June 30, 1979. The candidate receiving the third highest number of votes shall be elected for a term ending June 30, 1978. Thereafter, annual elections shall be held on or before May 30 each year by the members, under the supervision and control of the School Board, to determine the successor Trustee who shall be elected for a term ending June 30 three (3) years following the stated expiration date of his predecessor. In the event a vacancy arises because of death, or because of majority of the Trustees determine that a Trustee is physically or mentally incapable of carrying out his or her duties or has failed to do so, and, accordingly, should be immediately discharged, the vacancy of an individual Trustee shall be filled by unanimous vote or consent of the remaining six (6) Trustees, subject to the final approval of the School Board, and the vacancy of a member Trustee shall be filled by means of a special election conducted by the School Board among the members of the system pursuant to such rules, guidelines and procedures as the School Board in its sole discretion shall promulgate. Prior to the date a new member Trustee has been elected, an interim member Trustee may be appointed by the School Board from among the members of the system to serve as a member Trustee until the new member Trustee has been elected. Any Trustee who is a representative of the Fairfax County School Board shall be appointed by the School Board to serve at its pleasure, subject to removal at any time, or until such time as a successor is appointed by the School Board. (1961 Code, § 9-121; 9-74-9; 29-77-3.)

#### **Section 3-4-4. Voting; Trustee quorum.**

Each Trustee shall have one (1) vote. If one (1) or more Trustee representatives of the members of the system or the School Board are absent, the three (3) votes to which the member representatives are entitled shall be exercised by the remaining Trustee representatives of such organization that are present. A quorum for the transaction of business by the Trustees shall consist of no less than four (4) Trustee representatives, at least one (1) of whom shall be a representative of the members of the system and one (1) of whom shall be the representative of the School Board. (1961 Code, § 9-122; 9-74-9; 29-77-3.)

#### **Section 3-4-5. Compensation of Trustees.**

The individual Trustee may receive a reasonable rate of compensation fixed by the Board of Trustees and approved by the Fairfax County School Board. The School Board and member Trustees shall not be compensated. (1961 Code, § 9-123; 9-74-9; 29-77-3.)

#### **Section 3-4-6. Functions of the Board of Trustees.**

(a) The Board of Trustees shall be responsible for operating and administering the retirement system (ER-FC) and Fund, which is a part of the system, subject to and consistent with the provisions of this Article, as well as the supervision and control of the School Board, and have the power and duty:

- (1) To adopt and promulgate the rules and regulations as well as amendments thereto pursuant to which the system is to be operated and administered subject to final approval by the Fairfax County School Board;
- (2) To administer the system including the payment of benefits to employees who are

eligible for benefits consistent with the provisions of this Article and the Plan Document, as amended;

(3) To receive and collect all contributions due and payable to the system. In doing so, the Trustees shall have the right to maintain any and all actions and legal proceedings necessary for the collection of required contributions;

(4) Trustees shall have the right to prosecute, defend, compromise, settle, abandon, or adjust by arbitration or otherwise any actions, suits, proceedings, disputes, or claims relating to the retirement system;

(5) To invest and reinvest funds of the system in investments which would be made by prudent men of discretion and intelligence who seek reasonable income and preservation of capital. The investment shall be in accordance with the laws of this Commonwealth as such laws apply to fiduciaries investing such funds.

(6) To cause any investment of the system, whether in the form of securities or other property, to be registered in, or to be sent in the name of the Trustees. The books of the Trustees shall at all times show that such investments are part of and belong to the system;

(7) To consent to the recapitalization, consolidation, sale, merger, dissolution, or readjustment of any corporation, company, or association which has issued securities held by or belonging to the system; to exercise any option or options, make any agreement or subscription, pay any expense in connection with the securities, to hold and retain any property acquired by means of exercising the powers hereinbefore expressed to the extent that the Trustees, in their discretion, deem it acceptable;

(8) To keep true and accurate books of account and records of all transactions of the retirement system, including at least an annual valuation of the assets and liabilities of the system, and to have an audit and report made of all books and records by a certified public accountant, and to have an actuarial valuation made pursuant to the requirements of the United States Internal Revenue Code. The annual valuation by a certified public accountant will be provided to the Board of Supervisors and made available to the Fairfax County School Board and to the participants in the retirement system;

(9) To Submit the Plan Document, as amended, to the Internal Revenue Service, so that it may be ruled to be a qualified and exempt plan under the provisions of the Internal Revenue Code, as they exist or may be amended;

(10) To perform and do any and all such actions that may be properly incidental to the exercising of the powers, rights, duties, and responsibilities of the Trustees, including the power to retain legal counsel, technical and/or advisory counsel. The Trustees may employ an administrator and clerical staff in order to administer the system. (1961 Code, § 9-124; 9-74-9; 29-77-3; 25-86-3.)

### **Section 3-4-7. Protection against fraud and deceit.**

Any person who shall knowingly make false statement or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system shall be guilty of a misdemeanor and shall be punished accordingly. (1961 Code, § 9-125; 9-74-9; 29-77-3.)