

# Retirement Report

Update for Nebraska School Employer Contacts

Fall 2014

## Changes to Member Eligibility Requirements

The passage of LB263 in 2013 modified the criteria to determine eligibility and participation in the plan. Previously, employment and hours of work at *all* participating school districts, Educational Service Units (ESU), or State of Nebraska agencies/positions participating in the plan was combined when determining eligibility per the 20 hour per week criteria. In addition, an employee who became eligible due to employment at any participating entity was automatically eligible at *all of them*, regardless of the number of hours worked.

**Effective 4/25/2013**, hours worked or plan participation at a **different** school district, ESU, or State agency will no longer be used to determine eligibility for new hires.

**The statutory definition of a regular employee now states:**

*An employee hired as described in this subdivision to provide service for less than twenty hours per week but who provides service for an average of twenty hours or more per week in each calendar month of any three calendar months of a plan year shall, beginning with the next full payroll period, commence contributions and shall be deemed a regular employee for all future employment with the **same employer**.*

The addition of the “same employer” language requires eligibility to be determined *separately* for each participating school district, ESU, or State of Nebraska agency/position using the 20 hour per week criteria.

### FAQ FREQUENTLY ASKED QUESTIONS

- Q. If an employee is participating in the plan at a different school district (or other participating employer such as an ESU, etc.) and begins working for our school for less than 20 hours per week on an ongoing basis, do we take contributions?**
- A.** No. They would only have contributions taken at the school or employer where they have established membership by meeting the 20 hour eligibility requirement.
- Q. If an employee works 10 hours per week at 3 different school districts, would we allow plan participation?**
- A.** No. Each school will need to monitor their hours worked at that school district only and enroll them into the plan if they meet the 20 hour eligibility requirement.
- Q. If an employee works 10 hours per week at 3 different schools in the same district, would they begin plan participation?**
- A.** Yes. When each school is part of the same district, you would enroll them when the combined hours meet the 20 hour eligibility requirement.

## Changes to Member Eligibility Requirements

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The online school manual for reporting agents and eligibility estimator have been updated to reflect this change in legislation.

### Please Note!

NPERS recommends reporting agents review all part-time employees working under 20 hours per week as soon as possible. If employees were enrolled in the plan on or after 4/25/13 (please refer to the Frequently Asked Questions), NPERS will refund contributions received for individuals enrolled in error due to this change in statute. After 12/31/14, we will resume the standard refund protocol as outlined in NPERS Rules & Regulations.

### Rules & Regulations Chapter 18

**03.01** If NPERS determines that a retirement system has received an excess employee contribution, then NPERS shall return the excess employee contribution to the employer, and the employer shall return the excess employee contribution to the employee. Adjustments due to excess employee contributions shall be made within one year of the date the excess contribution was received by NPERS. If more than one year has passed since the date the contribution was received, the excess contribution shall not be adjusted.

**003.02** If NPERS determines that a retirement system has received an excess employer contribution, then NPERS shall either provide a refund or credit the excess employer contribution against future employer contributions. Adjustments due to excess employer contributions shall be made within one year of the date the excess contribution was received by NPERS. If more than one year has passed since the date the contribution was received, the excess contribution shall not be adjusted.

### Eligibility Questions

Due to the complexity of this topic, it would be best to continue to contact Linda directly with your eligibility questions at 402-471-9497, or email [linda.turner-minchow@nebraska.gov](mailto:linda.turner-minchow@nebraska.gov).

As issues arise, we will continue to update the online School Employer Reporting Manual and eligibility estimator. Please be sure to first refer to those resources for answers to your questions.

## FAQ FREQUENTLY ASKED QUESTIONS

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- Q. What about employees working less than 20 hours per week who we previously enrolled due to hours worked or plan membership at a different school district, ESU, or state agency? Do we continue membership/contributions?**
- A.** *If the employee was enrolled prior to 4/25/2013*, then they were properly enrolled per the legislation in effect at that time and contributions should continue to be taken for all hours worked. Credit will be granted for this salary and service when calculating their retirement benefit.
- If the employee was enrolled after 4/25/2013*, the hours worked or plan participation at the other school district, ESU or state agency should not have been utilized to determine eligibility. Contributions should no longer be taken for this part-time employee. Please immediately notify NPERS (no later than 12/31/14) and cease taking contributions for this part-time employee. No salary or service credit will be granted and prior contributions made by the employee and employer will be refunded.
- Q. What if a full time employee who is a participating plan member at our school drops to under 20 hours per week? Do we continue taking contributions regardless of the number of hours worked?**
- A.** Yes. You would continue taking contributions for all the hours worked as they have established membership *at your school district*.
- Q. What if an employee who is participating plan member at our school terminates employment and then returns to work for us at a later date? Do they need to now meet the 20 hour requirement or would we resume taking contributions regardless of the number of hours worked?**
- A.** *If they did not take a refund or begin drawing a retirement benefit*, then you would resume taking contributions as they have previously established membership *at your school district*.
- An individual who terminates employment and takes a refund or retirement benefit is no longer considered an "active" member in the plan. They need to re-establish eligibility per the 20 hour rule.
- Q. What if a new hire working less than 20 hours per week requests we enroll them because they are in the plan due to employment at a different school district? Can we voluntarily enroll them?**
- A.** No. They must meet eligibility requirements *at your school district*. Salary and hours worked at your school will not be used when calculating their retirement benefit.
- Q. What is the procedure when a part-time employee who is not in the plan at our school, but is a member in the plan at a different school district, begins drawing a retirement benefit? Can they continue providing part-time service at our school or must they cease employment for 180 days at both schools?**
- A.** All service must be terminated at both schools. They must meet the 180 day break in service requirement at all school districts, ESU's, and state agencies participating in the plan.
- Q. Can we hold a part-time position open for a retired plan member until the 180 day break in service has elapsed?**
- A.** No. Termination requires a bona fide separation from service. An agreement to hold open a position during the 180 day break would not be considered a bona fide separation.

# Accuracy Matters!

We would like to take this opportunity to thank those who have been diligent and thorough in responding to our audit requests. Your efforts in ensuring your school district is in compliance with state statutes that govern the School Employees Retirement Plan are greatly appreciated. Please be aware your responses are recorded and part of the public record.

This year a copy of every final audit letter was requested for review by the legal counsel for the Nebraska State Education Association. It is imperative the information you provide to NPERS on a daily basis and for our audit is accurate. Providing false or inaccurate information can lead to erroneous benefit payments, late interest fees, and make-up contributions.

**We encourage all reporting agents to routinely review your payroll to ensure all eligible compensation is being reported to NPERS.** A recent audit revealed under-reporting of \$295,259 in eligible compensation. The effect on employee contributions was \$28,539.12 employee and \$28,824.51 employer contributions (9.78 and 8.88 rates).



**As a reminder, the statutory definition of eligible and ineligible compensation is noted below. If you need additional clarification, please do not hesitate to contact NPERS.**

**003.01** Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, (iv) amounts voluntarily contributed at the member's direction to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income, (v) flat salary amounts and (vii) other similar amounts, contributions or payments as determined by NPERS based on relevant facts and circumstances.

**003.02** Compensation does not include (i) fraudulently obtained amounts as determined by NPERS, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, whether received directly by the member or mandatorily deposited at the employer's direction into to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income, (iii) insurance premiums converted into cash payments, whether received directly by the member or mandatorily deposited at the employer's direction into to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income, (iv) reimbursement for expenses incurred by the member, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, (viii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in the School Employees Retirement Act and (ix) other similar amounts, contributions or payments as determined by NPERS based on relevant facts and circumstances.

**NPERS**

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**EYE** FOR YOUR  
**INFORMATION**  
TIPS FROM THE NPERS ACCOUNTING DEPARTMENT

## REPORTING AGENT QUESTIONS

Questions regarding your monthly Retirement Report such as problems loading the report, password issues, suspended reports, or flags you need help cleaning up, may be directed to Lyra. She is ready and willing to assist you to ensure your monthly reports are accurately completed and submitted by the 10th of each month.

## IF YOU CAN'T MAKE THE DEADLINE...

If it is important for schools to strive to meet the 10th of the month reporting deadline. If you can see that you will be unable to make this deadline, please call Lyra and to have the situation noted in the school file. This *could possibly* help to avoid late penalties.

## ACCOUNTS PAYABLE/ACCOUNTS RECEIVABLES

We would like to focus on putting AR/APs on a high-priority list. When you receive an e-mail or letter from NPERS, either because of a penalty or adjustment, please pay close attention to the amount and where to place the final figure on your next Wage and Contribution Report. If you need assistance please feel free to call Linda.

## BE SURE TO USE THE CORRECT NUMBER!

Please use your school number on all correspondence with NPERS. This number is the number you use on your monthly reporting, not the Department of Education number. If you need a reminder of what your school number is please feel free to contact Linda.