

# INTERNAL AUDITING NEWSLETTER

NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEMS | JUNE 2020

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## “I CAN’T... I’M ON CALL”

Have you heard this one? The big neighborhood barbeque is happening this weekend, so you ask your friend if he is going, to which he retorts, “I can’t go! I’m on call.” Some employees must remain ready to go into work at the drop of a hat these days, but is compensation paid for that time considered compensation for retirement purposes?

The short answer is “It depends...” Contributions for on-call time fall within the definition of compensation *under certain circumstances*.

To qualify, the on-call services must be set forth in the negotiated contract, terms of employment, employee handbook, or other similar document. To minimize potential confusion, the employee and employer should have a written document stating the employee must be available and on call to provide service as needed.

There may be confusion as NPERS generally advises compensation is “... *gross wages or salaries payable to the member for personal services performed during the plan year...*” You could argue on-call pay should not be counted as compensation because the member is not rendering personal services during that time. However, if an employee’s individual freedom is limited by the on-call status, such as, they have to stay close to the school or be available to render services when they are called, then these restrictions should be taken into consideration. An on-call employee with these “engaged to wait” restrictions may qualify on-call pay as compensation and service.

For example, if an employee is contracted to provide 1 hour a month of on-call service that has been determined eligible for retirement purposes, retirement contributions should be withheld and an hour of service credit should be reported.

Due to the complexity of these situations, NPERS encourages reporting agents to contact our office with questions. We can review the facts and circumstances and provide guidance as it relates to retirement. School districts should also consult with their attorney(s) on the impact and applicability of federal and state employment laws and regulations (such as, the federal Fair Labor Standards Act, and the regulations promulgated by the U.S. Department of Labor).

## AUDIT EXCELLENCE AWARD

The 2020 Audit Award goes to Eustis-Farnum School! Our auditing staff found no errors or issues for this district for 2018/2019 fiscal year. NPERS would like to commend the reporting agent and school staff. Your efforts in ensuring compliance with the state statutes that govern the School Employees Retirement Plan are greatly and sincerely appreciated!

## TOP 5 AUDIT ISSUES 2019-2020

**1. Documenting Eligibility & Hours Worked:** You must be able to support **why** an employee **was OR was not** enrolled in the retirement plan. Eligibility is based on **hours** worked; therefore, you must be able to provide documentation to support how many hours all employees work each month during the plan year (July 1 – June 30).

Recording all hours worked also ensures accurate service credit is granted for employees who only work a partial year or full time employees whose employment may have unexpectedly ceased mid-year.

This includes employees who only provide extra duty services, as well. If an employee is a substitute, we will require documentation to support the substitute position (not timecards). It is critical to report hours when services are provided to ensure all employees earn their appropriate service credit.

**2. Enrollment of Part-time Employees:** Permanent employees hired to work an average of at least 20 hours per week on an ongoing, regular basis must immediately begin participation in the plan. Employees hired to work less than this criteria are not eligible to participate, but you still need to monitor and document their hours worked. A permanent, part-time employee initially hired at less than 20 hours per week, who subsequently provides service for an average of 20 hours or more per week in any three calendar months of a plan year (may be non-consecutive months), must begin plan participation the next payroll period.

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- 3. Flat Salary:** Like other gross wages or salaries payable to the member for personal services performed during a plan year, a flat salary is compensation for retirement purposes. A flat salary is an amount provided for in the employee's contract of employment, which is paid by the employer, with respect to each pay period. The employee may voluntarily choose to receive this in cash, to apply it to insurance premiums, to apply it to a plan offered by employer under the Internal Revenue Code to defer or exclude certain amounts from income, or to allocate it based on a combination of those options.

Other arrangements between the employer and employee are not compensation for retirement purposes. Examples include, but are not limited to, insurance premiums converted to cash, accrued vacation or sick leave converted to cash payments, fringe benefits, bonuses for services not actually rendered (such as "holiday bonuses" or "signing bonuses"), reimbursement for expenses incurred, early retirement inducements, cash awards, or similar amounts.

For more information regarding eligible or ineligible compensation for retirement, refer to the [School Employer Reporting Manual](#), Chapter 5 Salary/Compensation. If you still have questions after reviewing these materials, please contact NPERS for assistance.

- 4. Internal Controls:** Each time an audit is conducted a School Employer Questionnaire is sent to the school district/ESU to fill out. Part of this Questionnaire reviews the Internal Controls that are currently in place, such as, who is responsible for the accurate reporting of compensation or correcting missing contributions, what procedures do you have for monitoring extra duty hours or substitute logs, explain your pay cycle, or what type of payroll software is used, etc. After an audit is concluded, a review of these controls is noted in our final audit report for the school district/ESU. *Employers without these internal controls in place have a much greater risk of enrollment errors, inaccurate reporting of compensation, and the increased potential for other reporting issues that can slow down an audit and create larger problems down the road.*

- 5. Substitute Work:** A "true substitute" must NOT have a regular or on-going full or part-time employment relationship with the school district/ESU. Rather, the "true substitute" waits for any school district/ESU to contact them and offer the opportunity to fill in for a school district's/ESU's regular employee who is temporarily absent.

A full or part-time employee who picks up additional shifts should NOT be considered a "true substitute." If they have established plan membership, those additional hours and compensation should be reported for retirement. If they have NOT established plan membership, those hours should be counted toward determining eligibility. Accurate substitute Logs and records listing who, what, when, etc. are vital to properly reporting substitute services.

## INTERNAL AUDIT PROCESS

The following is a brief summary of the internal audit process and requirements. NPERS will email you an introductory letter and a School Employer Questionnaire. We will indicate the employees selected for testing and when the completed questionnaire and supporting documentation is due. The following information is an example of what we will request:

1. A copy of your March 2020 Payroll Register Detail (for all employees). Please include the payroll summary information/reports.
2. A copy of your school districts 2019-2020 Master or Negotiated Agreement, including salary scale information.
3. For those employees selected for testing, please provide the following:
  - a. Social Security number
  - b. Demographic information (address)
  - c. Date of birth
  - d. Date of hire
  - e. Employment position
4. For employees who are also selected for payroll testing, please provide:
  - a. A copy of their 2019-2020 Employment Agreement, including hourly wage or annual salary amounts.
  - b. If the employee is an hourly employee, please provide copies of their timecards (February 2020) that support the wages paid on the March 2020 payroll detail.
  - c. If the employee is not an hourly employee, please document how you determined the amount of hours reported to NPERS for the March 2020 reporting period (be specific).
  - d. If the employee worked extra duties during the 2019-2020 school year, please indicate what reporting period(s) those extra duty hours were reported to NPERS.
  - e. **All gross wages paid to the selected employees must be documented.**
    - i. If the gross wages paid on the March 2020 payroll detail include compensation in addition to their monthly wage, please provide documentation to support the total amount paid.
    - ii. Please confirm if there were any benefits paid.
  - f. If your school did not settle their negotiations until after the start of the school year, please include that information.
5. For all employees on the March 2020 Payroll Register detail **who did not contribute** to retirement, please provide documentation to support how many hours the employee worked each month, for the period from July 2019 through June 2020. Documentation may include:
  - a. If the non-contributing employee is not a true substitute, please provide a report that identifies each month and how many actual hours the employee worked. **OR**
    - i. If you are not able to provide a payroll report that indicates how many hours the employee worked each month, we will accept a copy of their Payroll Register detail **IF** your payroll detail includes the hours worked.
    - ii. If you are not able to provide documentation as described above, please provide a copy of the employee's timecards that identify how many hours the employee worked each payroll period (timecards should include total hours).

- iii. For non-contributing bus drivers, please confirm the units paid represent **actual hours** worked and not the total number of routes driven.

- b. If the non-contributing employee worked as a **substitute**, please provide a payroll report that identifies the dates, hours worked, and the name of the substitute and absent employee.

- i. If you not able to provide a payroll report, we will accept a copy of their payroll register detail for each month **IF** your payroll detail describes the compensation being paid as substitute wages.

- ii. If you are not able to provide documentation as described above, please provide a copy of their substitute log, indicating when, and for whom, they substituted.

- c. Document ALL hours for which the employee was paid. For example, if the employee worked as a substitute AND provided extra duty service, please provide documentation for both.

- d. If the employee did not work at all during a month, you must indicate that zero hours were worked. ALL months from July 1, 2019 through June 30, 2020, must be documented.

**\*\*\* Please note** – information that is hand written or provided in a spreadsheet without documentation as described above is not adequate documentation for auditing purposes. We need the original source documentation. In addition, it is preferred that the information is by employee and not by pay period. For example, July 2019 through June 2020 hours for employee A is separate from the July 2019 through June 2020 hours for employee B, etc.

6. Finally, for new members enrolled during the audit period, please confirm the date of hire for each employee.

7. To complete the audit process:

- a. We will send a final audit letter with the audit report to identify audit findings or concerns noted during the audit.
- b. Please provide any requested audit response(s), within 20 days.
- c. Return any requested documentation to NPERS as soon as possible, to support the correction of any audit findings.
- d. The audit will be completed after all audit findings have been adequately resolved.

### Our Purpose

The School Employees Retirement Plan is governed by Nebraska State Statutes §79-901 – 79-977.03. In administering the schools retirement plan, the Board is directed by Neb. Rev. Stat. §84-1503(1)(g) to "adopt and implement procedures in order to verify the accuracy of such information." Regarding the School Plan, Neb. Rev. Stat §79-906(1) provides, "The director shall, from time to time, carry out testing procedures pursuant to section 84-1512 to verify the accuracy of such information." The NPERS Director has asked the NPERS Internal Audit Team to perform such testing.

### Internal Audit Team

If you have any questions, need clarification or would like to be selected for an internal audit, please contact the Internal Audit Team:

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