



PSERB Resolution
Re: Withdrawal Liability Collections Policy
October 25, 2024

RESOLVED, that the Public School Employees' Retirement Board accepts the recommendation of the Finance and Actuarial Committee and adopts the attached Withdrawal Liability Collections Policy.



COMMONWEALTH OF PENNSYLVANIA PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Policy Name: Withdrawal Liability Collections Policy
Policy Number: 20XX-EXO-XX
Effective Date: TBD
Reviewed Date: TBD
Contact Person: Chief Financial Officer

I. Purpose

This policy details the protocols for notification and appeal of the determination of an Employer that becomes a Nonparticipating Employer under Section 8327.1 of the Public School Employees' Retirement Code, 24 Pa.C.S. § 8101 et seq., (Retirement Code), and the collection of withdrawal liability amounts.

II. Scope

This policy applies to all Employers who are determined by the Public School Employees Retirement System (PSERS) to be a Nonparticipating Employer.

III. Objectives

- A. Outline the notification procedures of the determination of an Employer that becomes a Nonparticipating Employer and of the amount of the withdrawal liability.
- B. Outline the collection procedures of the withdrawal liability amounts.
- C. Describe the appeal process for a Nonparticipating Employer to appeal a determination.

IV. Definitions

- A. **Employer** – Any governmental entity directly responsible for the employment and payment of the school employee and charged with the responsibility of providing public education within this Commonwealth, including but not limited to: State-owned colleges and universities, the Pennsylvania State University, community colleges, area vocational-technical schools, intermediate units, the State Board of Education, Scotland School for Veterans' Children, Thaddeus Stevens College of Technology, and the Western Pennsylvania School for the Deaf. The term includes charter schools pursuant to the Charter School Law, 24 P.S. § 17-1701-A et seq.
- B. **Full Withdrawal** – An Employer that ceases covered operations under PSERS.

- C. **Partial Withdrawal** – An Employer that ceases to have an obligation to contribute for all or any of the Employer’s school employees but continues covered operations under PSERS.
- D. **Nonparticipating Employer** – An Employer that is determined to have a Full Withdrawal or a Partial Withdrawal.
- E. **Withdrawal Liability** – Amount charged to a Nonparticipating Employer for its calculated share of PSERS’ unfunded accrued liability.

V. **Policy**

- A. When an Employer is determined to be a Nonparticipating Employer, PSERS shall issue a determination letter to the Nonparticipating Employer and shall notify the Nonparticipating Employer of the amount of the Nonparticipating Employer’s withdrawal liability.
- B. The withdrawal liability for a Full Withdrawal shall be paid in a lump sum no later than thirty (30) days of date of the determination letter.
- C. If payment of the withdrawal liability for a Full Withdrawal has not been made within a reasonable time, PSERS shall refer the outstanding amount to the Office of Attorney General for further collection efforts. The Office of Attorney General is not authorized to seek relief under Section 8327(b) of the Retirement Code on the PSERS Board’s behalf.
- D. Within thirty (30) days of the date of the determination letter, the Nonparticipating Employer shall pay the withdrawal liability for a Partial Withdrawal in a lump sum or request to pay the withdrawal liability amount on the following schedule and method of payment:
 - 1. Determine the withdrawal liability as outlined in Section 8327.1(c)(2) of the Retirement Code.
 - 2. Increase the withdrawal liability from the valuation date basis of the withdrawal liability to the fiscal year the payments are scheduled to begin based on the interest used to calculate the withdrawal liability.
 - 3. Amortize the adjusted withdrawal liability amount from (2) above over the average future working lifetime of the remaining actives of the Nonparticipating Employer in PSERS as of the valuation date basis and based on the interest used to calculate the withdrawal liability. The average future working lifetime would be truncated to an integer.
 - 4. The Nonparticipating Employer would contribute each year:
 - a. The Normal Cost rate,
 - b. The Health Care Premium Assistance rate,
 - c. The Unfunded Accrued Liability rate,
 - d. The Defined Contribution rate
 - e. The withdrawal payment calculated in (3)

- f. When the withdrawal liability is completely paid off, the Nonparticipating Employer would revert to paying items 4(a), 4(b), 4(c) and 4(d) above.

VI. Responsibilities

A. **PSERS' Office of Financial Management** shall:

1. Review and issue determinations of whether an Employer is a Nonparticipating Employer and the amount of the withdrawal liability.
2. Issue dunning letters to Nonparticipating Employers who have not remitted payment in full or who have not requested a payment plan for the payment of a Partial Withdrawal within thirty (30) days of the date of the determination letter.
3. Refer any outstanding payments for withdrawal liability to PSERS' Office of Chief Counsel.
4. Receive and process all withdrawal liability payments remitted to PSERS.

B. **PSERS' Office of Chief Counsel** shall:

1. Review and may attempt to collect all outstanding amounts of withdrawal liability that are referred by the Office of Financial Management.
2. Review and refer all outstanding amounts of withdrawal liability for a Full Withdrawal to the Office of Attorney General for collection if payment has not been made within a reasonable time. The Office of Attorney General is not authorized to seek relief under Section 8327(b) of the Retirement Code on the PSERS Board's behalf.

VII. Procedures

A. **Notification of Withdrawal Liability Determination**

1. The Office of Financial Management will issue a determination of whether an Employer is a Nonparticipating Employer and the amount of the withdrawal liability in writing. The determination letter shall include, but not be limited to:
 - a. Notification to the Nonparticipating Employer with a Full Withdrawal that a lump sum payment for the withdrawal liability must be submitted within thirty (30) days of the date of the determination letter.
 - b. Notification to the Nonparticipating Employer with a Partial Withdrawal that a lump sum payment for the withdrawal liability or a request for a payment plan must be submitted within thirty (30) days of the date of the determination letter.
 - c. Notification to the Nonparticipating Employer of the right to appeal the determination within thirty (30) days of the date of the determination letter to PSERS' Board and request a formal administrative hearing conducted by a hearing examiner who will

make a recommendation to the PSERS Board.

2. If no payment or appeal is received within thirty (30) days of the determination letter, the Office of Financial Management shall issue a dunning letter to collect the withdrawal liability.
3. If no payment is received within thirty (30) days of the dunning letter, the Office of Financial Management shall issue a second dunning letter to collect the withdrawal liability.
4. If no payment is received within thirty (30) days of the second dunning letter, the Office of Financial Management shall issue a third dunning letter to collect the withdrawal liability.
5. If no payment is received within thirty (30) days of the third dunning letter, the matter shall be referred to PSERS' Office of Chief Counsel.

B. Referring Withdrawal Liability to the Office of Attorney General

1. The Office of Chief Counsel may undertake reasonable collection efforts for any unpaid amount of withdrawal liability referred by the Office of Financial Management.
2. The Office of Chief Counsel shall refer any outstanding amounts of withdrawal liability for a Full Withdrawal to the Office of Attorney General for further collection efforts if payment has not been made within a reasonable time. The Office of Attorney General is not authorized to seek relief under Section 8327(b) of the Retirement Code on the PSERS Board's behalf.

C. Appeal of Withdrawal Liability Determination to the PSERS Board

1. A Nonparticipating Employer must appeal the determination letter in writing to the PSERS Board within thirty (30) days of date of the determination letter.
2. If a Nonparticipating Employer fails to appeal the determination letter to the PSERS' Board within thirty (30) days of the date of the determination letter, the determination is deemed final, including the amount of the withdrawal liability owed by the Nonparticipating Employer.
3. Appeals to the PSERS Board from a determination letter will be referred to a hearing examiner under 1 Pa. Code Chapter 35, Subchapter E (relating to presiding officers) to conduct a hearing and prepare a recommended decision to the PSERS Board under 1 Pa. Code §§ 35.202 and 35.205 (relating to proceedings in which proposed reports are prepared; and contents of proposed reports).

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