

PSERS Employer Bulletin

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Public School Employees Retirement System

5 N 5th Street
Harrisburg PA 17101

Toll-Free

866.353.1844

Local

717.787.1755

FAX

717.783.8760

Email

ContactESC@pa.gov

Severance Pay versus Retirement-Covered Compensation

It is important to understand the rules governing retirement-covered compensation before negotiating salary payment for your school employees. You have the right to pay your school employees anything you want or negotiate; but that doesn't mean it is considered retirement-covered compensation. Whether a payment constitutes retirement-covered compensation is determined by referencing the Retirement Code, not by the labels used in an employee's contract or a collective bargaining agreement.

The Retirement Code defines "compensation" generally to mean any remuneration received as a school employee **excluding** the following:

1. Reimbursement for expenses incidental to employment
2. Bonus
3. Severance payment
4. Payments not based on the standard salary schedule
5. Payments for unused vacation and sick leave
6. Compensation for attending seminars and conventions
7. Payments that the Board determines is for the purpose of enhancing final average salary

If you give salary increases only to employees who agree to retire and freeze all other employees' salaries, the increases are **not** retirement-covered compensation. This type of payment would be classified as a severance payment. A **severance payment** includes any payment made that is part of an agreement in which the member agrees to terminate service by a certain date. Such a payment will **not** be included in a Final Average Salary calculation. Examples are below (the list is not exhaustive):

Example 1: An employer agrees to pay \$5,000 to any member who retires during the school year. This payment is not retirement-covered compensation because it is contingent upon retirement.

Example 2: An employer imposes a pay freeze but excludes any employee who agrees to retire. The salary increases that the retiring employees receive are severance payments and, as such, are not retirement-covered compensation.

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Employer Contribution Rate for Fiscal Year 2016-2017

The employer contribution rate for fiscal year 2016-2017 will be 30.03%. This rate applies to salary and wages earned from July 1, 2016, through June 30, 2017. PSERS' actuary determined the employer contribution rate, and for the first time in 15 years, the rate is not artificially suppressed. The rate was certified by the PSERS Board of Trustees at its meeting on December 8, 2015.

In addition, the employer contribution rate is subject to change if pension legislation is enacted prior to June 30, 2016. The employer contribution rate for fiscal year 2016-2017 consists of 29.20% for pension costs and 0.83% for premium assistance payments. Of the 29.20% portion of the employer contribution rate, 20.89% represents the interest on the unfunded liability.

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Example 3: An employer offers compensation for unused sick or vacation leave. For example, a member who has a 260 day contract is expected to work 250 days with 10 days paid leave. Instead of taking his or her leave, the member chooses to work and receive salary for that period of time in addition to being paid for the 10 day leave. In these situations, the extra pay is not retirement-covered compensation.

In *J. Hartline, et al. v. Public School Employees' Retirement Board*, No. 883 C.D. 2014 (Pa. Cmwlth. Jan. 28, 2015), the Commonwealth Court reviewed the scenario described in Example 2 and upheld the Public School Employees' Retirement Board's finding of a severance payment. On October 14, 2015, the Supreme Court denied the retirees' petition for allowance of appeal.

Misreporting: A Second Degree Misdemeanor

A PSERS retiree cannot work for a Pennsylvania public school employer while receiving a PSERS pension unless he or she qualifies for an extracurricular, shortage of personnel, or emergency exception. If the employment does not meet one of these exceptions, the employer must report the retiree's return to service; the retiree's monthly payment will stop and the member will be required to pay back any benefit received while working

Are you aware that, by law, the employer is required to report these instances to PSERS and that knowingly not reporting them is a criminal offense?

Intentionally concealing or misreporting information is considered fraud regardless of whether you commit the act yourself or you ask others to do so. The Retirement Code states that "any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this system in any attempt to defraud the system as a result of such act shall be guilty of a misdemeanor of the second degree." This conviction, according to the Crime Code, carries a sentence of up to two years. PSERS has in the past and will continue to refer suspected fraud instances to the Attorney General for prosecution.

When a Pennsylvania public school employer hires a PSERS retiree who does not qualify for the return to service exceptions, the employer must report the employment to PSERS by completing and submitting a *PSERS Retirees Returning to Service* (PSRS-1299) form which is located at www.psers.state.pa.us under Employer, Employer Forms. For more information on return to service exceptions, please refer to the PSERS publication *PSERS Return to Service Guidelines and Clarifications* found on our website under Publications.

Anyone with knowledge of misreporting or concealment of information can inform PSERS anonymously by calling the Communicating Anonymously Retirement Errors (CARE) Line at 1.888.222.0549.

Meet Your Representative: Crystal Houser



We are pleased to introduce Crystal Houser as the new PSERS Employer Service Center Representative for Region 2. As a former resident of northeastern Pennsylvania, she is very familiar with her region. Crystal graduated from the Pennsylvania State University with a Bachelor's of Science degree. She is also a veteran of the Persian Gulf War. While she enjoys running and hiking, Crystal often takes up more relaxing projects such as crocheting and knitting. In her new position, she looks forward to traveling through the northeast to work with her employers.

Her advice to employers:
"If you have any questions, don't be afraid to ask us."

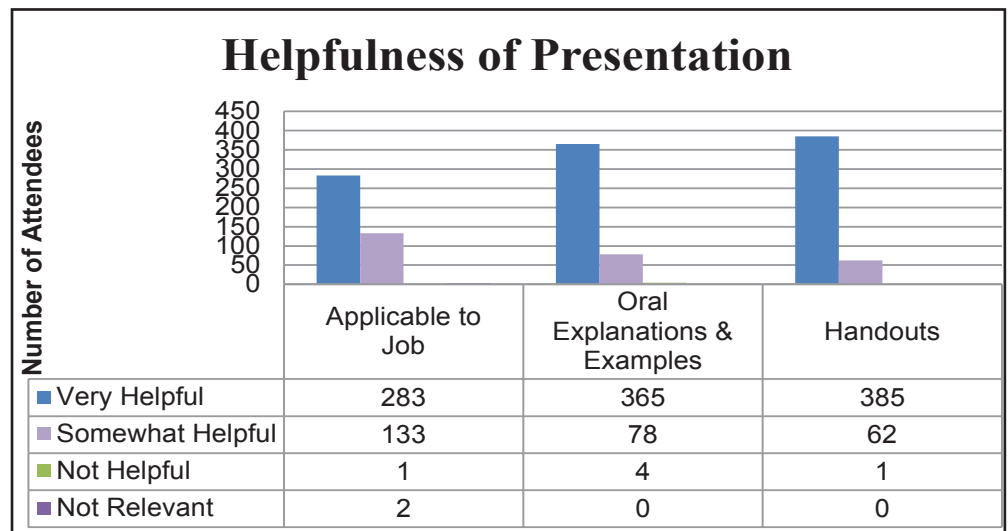
Your Response to the 2015 Employer Workshop

Those who attended the annual employer workshop series last year may remember completing a survey. We are pleased to reveal the results that show the majority of you were extremely satisfied with the workshop.

Survey Highlights:

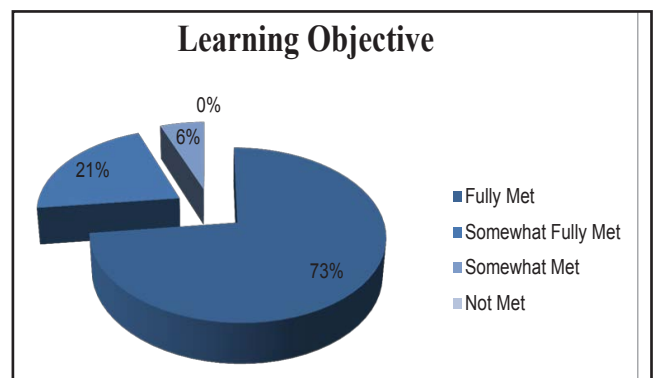
- Overall, 99% of 419 respondents rated the workshop as "Excellent" (63%) or "Very Good" (33%).
- 86% rated the presenter's ability to answer questions from the audience as "Very Effective."
- 93% found the workshop duration to be "Just Right" and 5% found it to be "Too Short."

Below are depictions of your responses:



For those who could not attend, we covered the following topics:

- Leaves of absence
- Properly creating contract records
- Reporting salary, contributions, and service units



The full presentation for the 2015 Employer Workshop is available for your review on www.psers.state.pa.us under "Employer," "Employer News," and "Employer Workshop Presentation."

It is our goal to provide employers with relevant information that is applicable to your jobs and clarify any questions you may have. Thank you for your feedback so we may further refine our process to make these workshops a more valuable experience for you. We are excited to see you again for this year's workshop!

Retirement-Savvy Employees Save You Time

Several times throughout the year, PSERS sends an email to employers requesting that you share information regarding an upcoming Foundations For Your Future (FFYF) seminar being conducted in your area. Your assistance in promoting these opportunities have help these seminars become a great success. PSERS retirement counselors disseminate basic information crucial to successfully understanding and planning for a retirement benefit from PSERS at these seminars. While our website contains a large number of helpful resources, we want to present to our members a condensed version of all that information. FFYF seminars are held around the Commonwealth throughout the year and allow members to meet and interact with a PSERS retirement counselor

How will employees attending FFYF seminars benefit you, the employer?

The more your employees know about their retirement plan, the less time you will spend answering basic retirement questions. More informed employees also mean that you will spend less time serving as a liaison between PSERS and your employees.

All PSERS members should attend FFYF seminars. This is regardless of how close they are to retirement or the position they hold within the public school entity (e.g., works in the cafeteria, holds the title of superintendent, webmaster, administrative assistant, teacher, bus driver, or custodian, etc.). Attendees are welcome to bring guests.

Our FFYF seminars are only a success if our members are in attendance to receive the valuable material shared during these meetings. Thank you for reminding PSERS members to take advantage of these free, yet valuable and informational seminars. Please continue to share the announcements as they are made available and direct our members to the full FFYF Schedule on the PSERS Website under "Nearing Retirement."

Employer Service Center Staff

Kristina Goodling
Regional Office Administrator
krgoodling@pa.gov

Region 1 - Dianna Bennett
diabennett@pa.gov
Beaver, Butler, Cameron, Centre, Clarion, Clearfield, Clinton, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Potter, Venango, and Warren Counties

Region 2 - Crystal Houser
crhouser@pa.gov
Bradford, Carbon, Columbia, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Pike, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, and Wyoming Counties

Region 3 - Jonathan Malnick
jmalnick@pa.gov
Allegheny, Armstrong, Fayette, Greene, Indiana, Washington, and Westmoreland Counties

Region 4 - Carolina Baez
cbaez@pa.gov
Adams, Bedford, Blair, Cambria, Cumberland, Dauphin, Franklin, Fulton, Huntington, Juniata, Mifflin, Perry, Somerset, and York Counties

Region 5 - Michael Chappuis
michappuis@pa.gov
Berks, Bucks, Lancaster, Lebanon, Montgomery, and Schuylkill Counties

Region 6 - Vacant
Temporary Contact: jmalnick@pa.gov; cbaez@pa.gov; or michappuis@pa.gov
Chester, Delaware, and Philadelphia Counties