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DATE: March 19, 2020

TO: School Plan Employers and Their Representatives

RE: Information about the possible impact of COVID-19 on School Plan members and employers

NPERS has received a number of questions on how employers should report time off due to COVID-19 and the potential impact on member retirement benefits. This email serves as guidance to employers on reporting hours, compensation, and contributions, and the effect certain business arrangements may have on plan members' retirement benefits.

NOTE: This guidance is subject to change based upon changes in federal and/or state law and/or regulation!

The School Plan Employer Reporting webpage of our website, at <https://npers.ne.gov/SelfService/public/otherInformation/employerReporting/erSchool.jsp>, will be updated in the near future to reflect this, and other, guidance as the situation evolves. Please refer to the website for the most up-to-date guidance.

Teachers and the effect of Neb. Rev. Stat. § 79-8,106.

Neb. Rev. Stat. § 79-8,106 states:

“In case of epidemic sickness prevailing to such an extent that the school or schools in any school district shall be closed, teachers shall be paid their usual salaries in full for such time as the school or schools shall be closed.”

NPERS determined this is a form of statutory leave (or paid time off “PTO”) if the teacher is paid regular wages during a period of school closure due to epidemic. For these situations, NPERS has determined this is creditable service under Neb. Rev. Stat. § 79-902(6)(b). Schools must report hours, compensation, and contributions tied to this statutory leave to NPERS through the normal reporting process. These situations should not have a negative impact on retirement benefit amounts.

Note: Neb. Rev. Stat. § 79-8,106 does not define “teachers.” NPERS has been informed that individuals within the school community disagree on whether this applies to administrators and classified staff. NPERS does not take a position on this point. Please see the following sections for information on these individuals.

Administrators.

NPERS has been informed that many school districts are requiring administrators to continue rendering active service. If the administrators are rendering active service, schools must report hours, compensation, and contributions to NPERS as normal.

If this is not the case, please see the guidance under the Classified Staff section below.

Classified Staff.

NPERS was informed that school districts are addressing classified staff in a variety of different ways. Below is a list of the most common examples of how school districts are treating employees, as described to NPERS, and how NPERS would, at least generally, respond to these options. Please note, this is not an exhaustive list.

Example 1: No pay during time off.

NPERS Response to Example 1: As the employee is not rendering service, and receiving no compensation, the school district should not report any hours, compensation, or contributions. The school should submit a Non-Contributing Member Form (Non-Con) explaining why there was a break in contributions. For more information on Non-Cons, see chapter 8 of the School Manual for Employer Contacts found on our website at <https://npers.ne.gov/SelfService/public/documentation/employerReporting/school/SchoolERMan.pdf>.

This reduction in creditable service and compensation could impact employees' retirement benefits in multiple ways. For more information, please refer to the School Plan Handbook on our website at <https://npers.ne.gov/SelfService/public/howto/handbooks/handbookSchool.pdf>. We have listed some of the relevant sections of the School Plan Handbook below for your ease of reference:

- Formula for calculating retirement benefits – pages 1 and 2;
- Creditable service – pages 8 and 9;
- Compensation – page 14;
- Retirement age – pages 16 and 17; and
- Retirement effective date – pages 18 and 19.

How the employer and employee categorize this stoppage of service and pay will be important for ensuring the accuracy of NPERS' records, and determining whether the employee may utilize certain purchase of service options.

Example 2: Allow staff to use sick leave, vacation leave, compensatory time, or other paid time off.

NPERS Response to Example 2: Working days, sick days, vacation days, holidays, or any other leave days for which the individual is paid regular wages as part of the agreement with the employer constitute creditable service for retirement purposes. Thus, if an

individual is using leave, the school district must report hours, compensation, and contributions to NPERS that correspond with the used leave.

If the individual uses enough leave to cover the entire absence, then there should be no impact on the individual's retirement.

If the individual does not have enough leave to cover the entire absence, there could be an impact on the individual's retirement. (Please see the sections of the School Plan Handbook referenced in the end of "No pay during time off" section above.) The school district should also consider whether a Non-Con is appropriate.

Example 3: Require or allow staff to work limited hours.

NPERS Response to Example 3: The school district should report hours, compensation, and contributions for the time worked just like any other form of service.

The individual's retirement benefit could be impacted due to the lower hours worked, and smaller compensation and contributions reported. (Please see the sections of the School Plan Handbook referenced in the end of "No pay during time off" section above.)

Example 4: Provide all staff an amount of paid leave.

NPERS Response to Example 4: Working days, sick days, vacation days, holidays, or any other leave days for which the individual is paid regular wages as part of the individual's agreement with the employer constitute creditable service for retirement purposes. Thus, if an individual is using leave, the school district must report hours, compensation, and contributions to NPERS that correspond with the used leave.

If the individual uses enough leave to cover the entire absence, then there should be no impact on the individual's retirement.

If the individual does not have enough leave to cover the entire absence, there could be an impact on the individual's retirement. (Please see the sections of the School Plan Handbook referenced in the end of "No pay during time off" section above.) The school district should also consider whether a Non-Con is appropriate.

Additional Guidance: Termination and Retirement Effective Dates.

Any individual paid their full contractual wages should have those hours, compensation, and contributions reported to NPERS. These members will receive the corresponding creditable service, and will not be deemed to have terminated employment for retirement purposes until the end date listed in the employee's contract absent some other intervening event. For example:

- A teacher was contracted to work a standard school year of 185 days, with the last day of work on May 22, 2020, and the last day of pay on August 31, 2020. The teacher received the teacher's full contractual wages (in part due to the paid time off granted under Neb. Rev. Stat. § 79-8,106). The teacher will not be deemed to have

terminated for retirement purposes until at least May 22, 2020, and cannot have a retirement effective date before at least June 1, 2020.

- A school counselor was contracted to work a standard school year of 185 days, plus 15 extra duty days for counseling, for a total of 200 days. The school counselor regularly worked until approximately June 20th of each year to complete the 15 extra duty days. The school counselor received the school counselor's full contractual wages (in part due to sick leave the school counselor used while recovering from COVID-19). The school counselor will not be deemed to have terminated for retirement purposes until at least June 20, 2020, and cannot have a retirement effective date before at least July 1, 2020.

We hope you find this material helpful. Please contact NPERS with any questions. In this new health reality we are all experiencing, we ask for your patience when it comes to getting you a response, as many of our employees are telecommuting.

Respectfully,

A handwritten signature in blue ink, appearing to read "Randy Gerke", with a stylized flourish at the end.

Randy Gerke
Director