



ND Retirement and Investment Office

*Teachers' Fund for Retirement
State Investment Board*

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MEMORANDUM

TO: School Superintendents and Business Managers

FROM: Fay Kopp, Deputy Executive Director – Retirement Officer

Date: March 20, 2012

SUBJ: TFFR Contribution Increase and Eligible Salary

TFFR provides guidance on employer reporting requirements through the [TFFR website](#), publications, newsletters, workshops, and telephone and written communications. Individuals responsible for reporting TFFR information on behalf of participating employers should periodically review the [TFFR Employer Guide](#) and other employer publications to keep abreast of reporting changes. These reference sources can help employers determine eligibility for TFFR membership, calculate retirement contributions based on eligible retirement salary, and prepare and file various TFFR reports and forms.

As you begin contract negotiations, I would like to take this opportunity to remind you of recent statutory and proposed rule changes that impact TFFR reporting.

TFFR Contribution Increase

As a result of legislation passed in 2011, employer contribution rates will increase from 8.75% to 10.75% and member contribution rates will increase from 7.75% to 9.75% effective 7/1/12. In addition, both member and employer retirement contributions must be paid on all salary earned by re-employed retirees based on your employer payment model.

Summary of employer reporting changes effective 7/1/2012.

Please review examples of the employer payment plan models. All employers must complete a new Employer Payment Plan effective 7/1/12 once negotiations are completed for the 2012-13 school year.

[Employer Payment Plan Model Examples](#)
[Employer Payment Plan Form](#)

Finally, employers should contact their payroll software vendors to make sure all of the required changes are entered prior to running July 2012 payroll.

TFFR Eligible Salary Determinations

Questions continue to arise regarding special payments made to TFFR members. Eligible retirement salary for TFFR pension purposes is defined in NDCC 15-39.1-04(9). Generally speaking, eligible salary includes a member's earnings for performance of teaching, supervisory, administrative, and extracurricular services. State statutes also describe what is not eligible salary. For example, eligible salary does not include fringe benefits, insurance programs, payments for unused leave, early retirement incentive payments, severance pay, or other payments conditioned on or made in anticipation of retirement or termination. Eligible salary does not include amounts received by a member in lieu of previously employer-provided benefits or payments made on an individual selection basis, or other benefits or payments which the board determines to be ineligible TFFR salary.

As you know, administrative changes made in the 2011 legislative session clarified the definition of salary and removed bonuses from being included as eligible retirement salary. The TFFR Board has proposed administrative rules which define "bonus" as an amount paid in addition to regular contract salary which does not increase member's base rate of pay, is not expected to recur, or is not expected to be a permanent salary increase, and clarifies that bonus pay is not eligible retirement salary. Proposed rules define "performance or merit pay" as an amount paid pursuant to a written compensation plan which links pay to attainment of specific performance goals and duties, and clarifies that pay for performance of duties is eligible retirement salary. Proposed rules also outline the criteria and documentation required to determine whether certain benefits or payments are included as eligible retirement salary. Proposed rules were sent to employers last fall and are available on the TFFR website.

Administrative Rule Change Information

Another issue of concern relates to special salary increments or experience payments that may be either part of, or outside of, the negotiated agreement. In order to be eligible retirement salary, payments should not be back weighted toward the end of a member's career. Otherwise, such payments could be viewed as being conditioned on or made in anticipation of a member's retirement or termination, and would be determined ineligible retirement salary.

Please keep in mind that TFFR eligible salary determinations are for TFFR purposes only. They do not impact the ability of a school district to pay bonuses or make special payments for recruitment, retention, experience, or other reasons. Eligible salary determinations only impact whether or not such payments are eligible salary for TFFR benefit calculation purposes, subject to member and employer contributions, and ultimately used to calculate pension benefits.

Please contact TFFR if you would like to discuss whether or not certain payments are reportable to TFFR. It is in the best interests of the school district, administrators, and teachers that this be determined before the payments are approved. If reporting errors are found through a TFFR compliance audit, or during a salary review before or after a member retires, pension benefits may need to be corrected. If you have any questions, do not hesitate to call our office.