

New rules and amendments effective Jan. 1, 2012

Note:

Employers who want to view the exact verbiage of the rules will find the information posted on the OPERS Web site at www.opers.org.

Who should read this notice

Finance directors, payroll professionals and human resources professionals

Situation overview

As required by law, OPERS reviews rules every five years to determine whether they encompass the appropriate purpose, scope, and intent of the governing statutes. As a result, some rules required substantive and/or technical changes. All amendments in this overview have been approved by the OPERS Board of Trustees and became effective Jan. 1, 2012.

Following are substantive amendments to rules:

- **Definition of earnable salary** (Rule 145-1-26)
Changes made to:
 - Clarify salary deferred to a 457 plan is included in earnable salary to the extent that it does not violate any other specific exclusions from earnable salary
 - Define characteristics of a conversion program and stipulate “leave accrued, but not used” means the most recent leave accrued on a list-in/first-out basis
 - Clarify characteristics of a “comparable position” for which a member can receive earnable salary upon reinstatement and payment of back wages
- **Service purchase** (Rule 145-1-35)
Amended to reflect changes in pre-tax and post-tax service credit payroll deduction agreements
- **Purchases made with a rollover distribution** (Rule 145-1-37)
Changes to clarify rollovers that exceed the amount to purchase service credit will be returned to the financial institution. If the financial institution will not accept payment, the amount will be returned to the member.
- **Purchases of service credit by payroll deduction** (Rule 145-1-38)
Changes to reflect OPERS will discontinue offering service credit purchases by pre-tax payroll deduction agreements, and to offer members a one-time opportunity to terminate existing agreements.
- **Disability appeals** (Rule 145-2-23)
Amended to:
 - Clarify “notice of intent to provide additional medical evidence” is now called a disability benefit appeal request
 - Provide that a member’s disability benefit appeal is terminated if the member returns to public employment while the appeal is pending
- **Disability benefit recipient’s annual statement** (Rule 145-2-27)
Amended to reflect that a disability benefit recipient’s annual statement does not have to be notarized



- **Additional annuity accounts** (Rule 145-2-43)
 Changed to:
 - Clarify that voluntary deposits are credited to the tax year in which they are received
 - Explain the rollovers that OPERS can accept into the Additional Annuity Account
 - Remove reference to a one-time crediting of interest when the Additional Annuity was transferred to the Stable Value Fund

- **Internal Revenue Code limitations on benefits** (Rule 145-2-65)
 Changed to:
 - Provide that differential wage payments are included in compensation for purposes of testing under IRC 415
 - Provide that any changes required by the Pension Funding Equity Act of 2004 are incorporated by reference
 - Provide that members killed during military service are treated as if actively contributing for purposes of survivor benefit eligibility

- **Mandatory direct deposit** (Rule 145-2-70)
 Changed to:
 - Clarify that an individual who demonstrates that he or she is the victim of fraud or identity theft may request an exemption from direct deposit
 - Clarify individuals living in a nursing home can be exempt from direct deposit and the nursing home need not receive the benefit as the retiree's representative payee

- **Health care coverage** (Rule 145-4-03)
 Amended to:
 - Clarify OPERS may enroll a benefit recipient outside of the open enrollment period if the recipient did not formally waive coverage with OPERS but later experiences an involuntary termination of coverage from another source
 - Clarify that OPERS will terminate coverage if the benefit recipient commits an act of fraud or intentional misrepresentation regarding his or her health care coverage or coverage provided to the recipient's dependents

- **Amendments required by the Heroes Earnings Assistance Relief Tax (HEART) Act of 2008**
 Plan document amended to:
 - Meet OPERS mandatory and discretionary plan amendment requirements for the Combined and Member-Directed Plans.

Following are new rules:

- **Eligible rollover distributions from this plan** (Rule 145-2-67)
 New to:
 - Clarify when and to whom OPERS can issue payments as qualified rollover distributions for members, surviving spouses and non-spouse beneficiaries

- **Impact of weekend or holiday on initial plan selection** (Rule 145-3-04)
 Provides that when the election period to select a retirement plan ends during a weekend or on a holiday, OPERS will accept the election on the first business day following the end of the election period

Following are technical amendments to rules:

- **Purchase of exempted service credit** (Rule 145-2-09)
 Technical amendment



More information on next page

- **Service credit in the traditional pension plan for participation in combined plan or member-directed plan** (Rule 145-2-18)
Technical amendment
- **Effective date of health care coverage** (Rule 145-4-04)
Technical amendment

Following are changes made to the Defined Contribution Plan Document:

- **Section 3.04 of the Member-Directed and Combined Plans** regarding voluntary deposits
- **Section 4.02(h) of the Member-Directed and Combined Plans** regarding differential wage payments and testing under IRC 415
- **Section 15.01 of the Member-Directed Plan and Section 18.01 of the Combined Plan** regarding non-spouse beneficiaries to rollover an OPERS distribution to a Roth IRA
- **Section 15.02(b) of the Member-Directed Plan and Section 18.01(b) of the Combined Plan** regarding eligible retirement plans to which OPERS can issue rollover distributions
- **Section 21.10 of the Member-Directed Plan and Section 24.10 of the Combined Plan** regarding participants killed during military service and treatment as if they were actively contributing at the time of death

What employers need to do

OPERS is required to notify public employers of any amendment or change to the Ohio Administrative Code. Please review any letters, forms or publications you produce or distribute and make the necessary changes to ensure accuracy with the new and amended rules.

Changes to the *Employer Manual*

Revisions to the *Employer Manual* will be made as a result of this *Employer Notice*.

Whom to contact for more information

After reviewing this *Employer Notice*, contact Employer Outreach with questions at 1-888-400-0965, or by e-mail at employeroutreach@opers.org.

For a current listing of OPERS Board members, please visit www.opers.org

This Employer Notice is written in plain language for use by public employers who are subject to coverage under the Ohio Public Employees Retirement System. It is not intended as a substitute for the federal or state law, namely the Ohio Revised Code, the Ohio Administrative Code, or the Internal Revenue Code, nor will its interpretation prevail should a conflict arise between it and the Ohio Revised Code, Ohio Administrative Code, or Internal Revenue Code. Rules governing the retirement system are subject to change periodically either by statute of the Ohio General Assembly, regulation of the Ohio Public Employees Retirement Board, or regulation of the Internal Revenue Code. If you have questions about this material, please contact our office or seek legal advice from your attorney.

