

Information for Employers Regarding COVID-19 Legislation

Act 13 of 2020 & Families First Coronavirus Response Act (FFCRA)

Act 13 of 2020 was signed into law by the Governor on March 27, 2020. This legislation adds a new section to the Public School Code, addressing the impacts of the COVID-19 pandemic of 2020. Specifically, as it may impact the public school employers and the Public School Employees' Retirement System (PSERS), Section 1501.8 provides that:

Waiver of 180-day Instructional Requirement: The 180-day requirement for school entities to remain open for instruction the 2019-2020 school year is waived. The Secretary of Education was also empowered to take certain enumerated actions, including ordering the closure of schools, increasing the number of flexible instructional days, and waiving the minimum number of hours for a career and technical education program or the minimum number of days for pre-kindergarten instruction.

Payment to School Employees: School employees who were employed as of March 13, 2020, are to receive no more or less compensation than they would have been entitled to receive from their public school employer had the closure of schools or the shortened school year not occurred.

PSERS Service Credit/Contributions: School employees who were employed as of March 13, 2020, are to receive no more or less retirement service credit and contribute no more or less to PSERS than they otherwise would have had the closure of schools or the shortened school year not occurred.

Subsidy Payments: School employers are not to receive less subsidy payments, reimbursements, allocations, tuition, or other payments because of the closure or the shortened school year.

Here are some Frequently Asked Questions:

1. **Is there a limit on the amount of service credit or salary that can be reported for a school employee?**

Section 1501.8 provides that any employee of a school entity cannot: (1) receive any more, or any less, salary, (2) earn any more or less service credit, or (3) contribute any more or less than they would have to PSERS had the COVID-19 pandemic not been a factor or the Secretary of Education not taken action. Thus, employers should report to PSERS what they would have reported for their school employees who were employed as of March 13, 2020 for the school year based on the retirement-covered compensation (RCC) paid to such school employee. For more information on RCC see Chapter 8 of the Employer Reference Manual.

2. **How do we report part-time hourly and/or per diem?**

Section 1501.8 does not specifically address how part-time hourly and part-time per diem employees are to be reported to PSERS. In all cases, the employer is to pay and report compensation in an amount no more and no less than the employee would have been entitled to receive had the COVID-19 pandemic not occurred or the Secretary of Education not taken action.

3. What if an employee received unemployment compensation benefits or other payments?

If, in compliance with the Section 1501.8, an employer is required to pay a school employee, who was receiving unemployment compensation (UC), the employer must report the employee's full contracted salary and remit the full amount of member and employer retirement contributions regardless of whether the employer receives a credit or the amount the employer must pay the employee is reduced by the UC payments. For more information on adjustments see Chapter 11 of the Employer Reference Manual.

4. Does the provisions of Section 1501.8 regarding retirement credit apply to all PSERS reporting units?

Section 1501.8's requirements regarding the crediting of service and remitting of contributions apply to a "school entity" that is defined as "Any school district, intermediate unit, area career and technical school, charter school, cyber charter school or regional charter school a child attends in order to fulfill the compulsory attendance requirements of [the Public School Code]." Thus, the requirements would not apply to such employers as community colleges and universities.

5. If an employer already completed a pay cycle and did not deduct PSERS contributions, what should the employer do?

For the Defined Benefit (DB) Plan, the employer may report it as their software did/did not withhold it, then make corrections after the fact through an adjustment OR make the changes directly to the next work report, but then they must recoup contributions from their employees in house. The employer could also make that correction in their payroll software as they would normally for any correction needed. For the Defined Contribution (DC) Plan, the employer may self-correct in a subsequent reporting cycle to Voya.

6. We have employees who worked one week of the pay period before the closure but not the other due to the closure, but otherwise would have worked. How should they be reported to PSERS?

If employees were paid for both weeks, then both weeks can be reported to PSERS with contributions withdrawn. If contributions were not withheld for both weeks then the initial week should be reported with contributions withheld and for the week where contributions were not withheld, see the answer in #7.

7. If an employer chose to not withhold and remit contributions to PSERS, then how will the adjustments be made?

The employer will be required to submit an adjustment to report the wages and remit the contributions using the “uncredited school service” reason code. A purchase of service would occur on that member’s account to credit the member with the wages and service and the employer and member will be billed for their contributions. For more information on adjustments see Chapter 11 of the Employer Reference Manual.

8. **We have a lot of staff who will need to have adjustments made to their accounts because of the way we initially reported. Is there a more efficient way of making these adjustments than doing them manually through ESS?**

ESC can provide you a mass adjustment template for handling many adjustments at once and instructions for how to use the template. There is still data entry involved in this process, but using this template will allow you to submit an Adjustment file upload rather than creating each adjustment manually. For more information on adjustments see Chapter 11 of the Employer Reference Manual. Contact your ESC representative for the mass adjustment template.

9. **If an employee is permitted to work remotely, can they be reported to PSERS?**

Regardless of the enacted legislation, employees reported to PSERS by the employer as rendering school service, whether remotely or onsite, are entitled to receive credited service.

10. **Will reimbursements for expenses incurred by working remotely, e.g. printing or copying from personal computer, qualify as RCC?**

Section 1501.8 does not require such payment, nor does it amend the definition of “compensation” in the Retirement Code that excludes from RCC any reimbursements for expenses that are incidental to employment. Unvouchered expense allowances that may be paid are also excluded from being reporting as RCC.

11. **If someone was on an unpaid maternity leave, would this time period be retirement covered?**

No. Section 1501.8 requires no more and no less payment or crediting of service to employees than what they would have been entitled to receive. Regardless of the reason, an employee who was previously placed on an **unpaid** leave and who was not expected to work after March 13, 2020 is not entitled to service credit or contributions reported under Section 1501.8. Thus, any payment the employer may decide to pay the employee would be considered non-retirement-covered compensation (NRCC) and is not reportable to PSERS. For more information on reporting leaves, see Chapter 10 of the Employer Reference Manual.

12. **If an employee is on a contributing sabbatical during the school closure, how is the reporting of the employee’s sabbatical for that time period affected and what happens with the return requirements?**

The sabbatical is reported as if school was in session and the employee will receive the full PSERS credit the employee would have received regardless of the closure of the schools or the shortened school year. The return requirements were not changed by Section 1501.8 and remain in place for the member to get credit for the sabbatical. More information on sabbatical reporting can be found in Chapter 10 of the Employer Reference Manual.

13. We would like to compensate employees who performed work during the school closure with extra pay beyond their normal salary for the work performed. Would this be retirement-covered and reportable to PSERS?

No. Section 1501.8 requires no more and no less payment or crediting of service to employees than what they would have been entitled to receive. Extra pay may be paid, but the law does not permit PSERS to recognize such pay as retirement-covered compensation (RCC). If, however, an employee performs additional duties above and beyond the employee's regular workload and responsibilities, then the payment may be recognized as RCC. The employee, however, will likely not be entitled to additional service credit in such circumstances. For more information on RCC, see Chapter 8 of the Employer Reference Manual.

14. Should we still be entering updated contract records to include termination records during this time?

Yes, please continue to enter new or update current contract records as changes occur, especially termination records. Termination records should still be entered during the closure period if the effective dates have not changed. Processing retirement benefits is a critical function that continues even though PSERS offices are closed to the public.

15. For part-time coaches how would this effect their reporting as it relates to salary and service?

If the coach would have been working during the school closure and was or would have been paid, then the amount of service they should have earned during that closure should be reported to PSERS. If they are not paid, then nothing can be reported to PSERS.

16. With the requirements of 180 days being waived, what is the last day of employment for an employee for the school year?

The Pennsylvania Department of Education's (PDE) current guidance is that schools are not required to adjust their calendars. Unless a school does extend its calendar to provide for additional instructional days, based on PDE's current guidance, the last day of employment would then be the last day the employee would normally work in the school year. If a school does extend its school year, then the last day of employment for a school year should reflect that extension. *(Hannah orally stated that schools are not required to add days beyond June 30 but PDE is instructing schools to try and get in as many days as possible but that IS NOT on PDE's website).*

17. If an employee was scheduled to begin employment with an employer after March 13, will they need to be paid and reported to PSERS? *Charter schools are being reimbursed based on rolls as of March 13 and not changes to the roles after March 13...*

In this type of unique circumstance, PSERS suggests that an employer refer to its legal counsel for guidance. If it is determined that the employee should be paid by the employer, then they should be reported to PSERS accordingly.

18. Many of the Retirement Exit Counseling sessions that PSERS conducts as a part of the retirement process are conducted in schools. With schools being closed, what should employees be told?

Employees should contact PSERS using our [PSERS online contact form](#) to scheduling a PSERS counseling session or to check on the status of a session that they are attending. At this time, the sessions scheduled for April will be held through online webinars. The Retirement Exit Counseling Sessions scheduled for May may be conducted online or in-person. Additional information will be posted.

19. Have there been any changes in the process of retiring from PSERS during this pandemic?

At this time, PSERS is not meeting with members in person and the call center is currently closed. PSERS, however, is responding to emails and written correspondence. All forms except the refund and disability applications are available in a member's PSERS Member Self-Service (MSS) account or on the PSERS website. Members considering retirement within the next 12 months should still request a PSERS staff prepared estimate and attend a Retirement Exit Counseling session. PSERS' Retirement Exit Counseling sessions had been cancelled due to facility closure, but these sessions will now be conducted online through the month of April.

The large group educational sessions (Foundations for Your Future Seminars) are temporarily cancelled in the interest of reducing possible exposures, but members may view the presentation slides and overview on the PSERS website at FFYF Presentation.

20. Does PSERS anticipate any delays in servicing its members due to the pandemic?

No, PSERS does not anticipate delays in providing services to our members for most processes. Benefits will continue to be paid each month to our annuitants without interruption. Requests for retirement benefits, death benefits, or other transactions are expected to be processed within our published timeframes. That being said, PSERS is focused on those processes essential to the core mission of providing benefits to its members. There may be times, as we adjust to our new work environment, that some requested transactions take longer than others.

21. Will the use sick leave or extended FMLA leave under the Families First Coronavirus Response Act (FFRCA) accrue service time for PSERS members during the leave?

Leave under the FFCRA is not creditable, unless the member is approved for a Special Sick Leave. The leave provisions of the FFCRA do not fit any of the approved leave of absences in the Retirement Code. Thus, while lawful, PSERS is unable to recognize it as an approved leave in which the member receives credited service. Although Section 1501.8 was added to the School Code to require a member to be reported and receive no more or less compensation and service credit with PSERS had the pandemic not occurred, the pay under this new leave provision would not have been available but for the pandemic and does not pay the member the same rate of pay. A member, however, will be able to receive credit with PSERS under the Special Sick Leave Policy, but the member would need to use this leave for the member's own medical condition.