

742-3-02

**Definition and usage of terminal pay and salary in benefit and pension calculations.**

- (A) For benefit calculation purposes, all payments made by an employer to an employee shall be reported to and considered by the Ohio police and fire pension fund ("OP&F") according to the definitions contained in section 742.01 of the Revised Code and this rule.
- (B) "Terminal pay" includes, but is not limited to, the specific payments defined in this rule, subject to the other provisions of this rule.
- (1) "Vacation or furlough pay" refers to sums paid to employees for periods during which they do not work, pursuant to normal employment arrangement. It also includes additional compensation paid to employees for foregoing vacation.
  - (2) "Sick leave" represents amounts paid directly by employers to employees for periods during which they do not work due to personal injury or sickness.
  - (3) "Personal leave" is paid leave other than vacation or sick leave. If its usage results in debiting another paid leave account for the employee, then it is not considered to be personal days, but is defined by the form of payment from the debited account.
  - (4) "Compensatory time" results from employees being credited for hours worked in excess of the employers' standard workday.
  - (5) "Holiday compensation" is payment received by an employee for a day that is customarily observed in the community in celebration of a historical or religious occasion, regardless of whether or not the employee works that holiday.
  - (6) "Longevity" is a regular, recurring payment received by an employee based on a years-of-service schedule.
  - (7) For pension calculations done from and after October 24, 2000, "overtime" is payment received by an employee for duty related work performed in excess of a standard workweek, with the payroll period being determined by the employer's practice for reporting overtime, as documented by OP&F's books and records, but in no event shall the employer report overtime to OP&F more than sixty days after the date on which the overtime is worked, as permitted by the terms of section 742.32 of the Revised Code.
  - (8) "Paid leave" is compensated leave received by an employee which is a

combination of vacation and sick leave.

- (9) "Combined leave" is paid leave received by an employee which is a combination of any leave described in paragraph (B) of this rule.
- (10) "Hazard pay" is a regular payment received by an employee for employment in a high-risk occupation.
- (11) "Stress pay" is a regular payment received by an employee to compensate for employment in a stressful occupation.
- (12) "Premium pay" is payment received by an employee that is between his regular rate of pay and his overtime rate of pay.
- (13) A "Kelly Day" is compensation paid to a member of OP&F which is not vacation, sick leave, or personal leave for a continuous period of off duty time for the purpose of reducing the hours worked in a week as specified by contract.

(C) Use of terminal pay in pension/benefit calculation

- (1) Cost-of-living allowance (COLA) method: For each person whose effective date of retirement falls after July 24, 1986 who has not made an election under division (B) of section 742.3716 of the Revised Code to forego possible cost-of-living allowances in exchange for receiving a pension or benefit in which "terminal pay" has been used shall have his/her pension calculated under the terms outlined in this paragraph.
  - (a) An employee's receipt of cash for sick leave, personal leave, compensatory time, paid leave, vacation, and similar payments shall not be used in the calculation of pension and benefits, regardless of the COLA or non-COLA election.
  - (b) Holidays and longevity may be used in the calculation provided that payment occurs within one year of when it is earned, subject to the following limitation: in no event shall floating holidays and personal days/leave be included in the calculation, even if these items are included as part of the holiday and longevity pay provided for under an employee's contract.
  - (c) Subject to the provisions of paragraph (B)(7) of this rule, overtime must be used in the calculation if it is paid during the pay period earned or

the pay period immediately following.

- (d) Hazard pay, stress pay, and similar special payments may be used in the calculation if paid within one year of the date it is earned.
  - (e) Combined leave shall be divided into its individual components, and each component will be treated as a separate leave item for calculation purposes.
  - (f) To be used in the calculation, a "Kelly Day" must be worked and the compensation for such worked "Kelly Day" must be paid in the pay period earned or the pay period immediately following.
- (2) Non-cost-of-living (Non-COLA) method: If a member has elected to forego possible cost-of-living allowances under division (A) of section 742.3716 of the Revised Code by making an election under division (B) of section 742.3716 of the Revised Code, then terminal pay shall be incorporated in the calculation of a pension or benefit as herein described.
- (a) Terminal pay actually earned during the period over which a pension or benefit is based shall be incorporated in the calculation base, and such terminal pay shall be subject to employee and employer contributions.
  - (b) Vacation, paid leave, sick leave, personal leave, and compensatory time alone are governed by the "first-in, first-out" principle.
- (D) For purposes of calculating pensions and benefits, "salary," as defined in division (L) of section 742.01 of the Revised Code, is limited to compensation earned during the period over which a pension or benefit is based.
- (E) For purposes of calculating pensions and benefits consistent with OP&F's past practices, "compensation for services outside the scope of the employee's regular employment" includes any compensation paid to members based on their length of service with the employer, including terminal pay (as defined in section 742.01 of the Revised Code and this rule) that is converted to additional compensation paid to the member upon the achievement of a certain length of service with the employer, but no longer characterized as terminal pay, and not included as part of the member's base pay from and after the entry into and exit from such salary program; provided, however, that if this compensation is rejected by OP&F for the calculation of a pension or benefit, OP&F will allow the member to unwind the conversion of any terminal pay to such additional compensation in order to include the terminal pay in the calculation of pensions and benefits, as permitted by the

terms of sections 742.01 and 742.3716 of the Revised Code and this rule.

(F) For purposes of calculating pensions, benefits and DROP, any compensation, wages or earnings that exceed the salary benchmark calculation set forth in this rule will not be considered "salary," as defined in division (L) of section 742.01 of the Revised Code. The salary benchmark calculation is determined as follows:

- (1) Averaging the compensation, wages and earnings paid during the contiguous three year period immediately preceding the contiguous three year period prior to the member's effective date of retirement or DROP effective date; and
- (2) Increasing the average salary determined in paragraph (F)(1) of this rule by ten per cent each year for three years.

If a member's compensation, wages or earnings exceed the benchmark salary calculated under this rule, excess contributions shall be refunded to the employer consistent with OP&F practices.

Effective:

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Certification

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Date

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