LEGISLATIVE FORMAT

NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 14

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR
LIMITATION FOR SCHOOL RETIREMENT COMPENSATION

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 14 – LIMITATION FOR SCHOOL RETIREMENT COMPENSATION

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NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 14 – LIMITATION FOR SCHOOL RETIREMENT COMPENSATION

001 Scope of the Rule

This rule governs the procedures for applying compensation limits contained in Neb. Rev. Stat. § 79-902(35) in the School Employees Retirement System (School plan), and calculating the formula annuity retirement allowance for the School plan in Neb. Rev. Stat. § 79-934.

002 Definitions

002.01 Category of school employee means either all employees of the employer who are administrators or certificated teachers, or all employees of the employer who are not administrators or certificated teachers, or both;

002.02 Compensation for the purposes of the School Employees Retirement Act is defined by Neb. Rev. Stat. § 79-902(35).

002.03 Compensation base year is the first full (twelve-month) plan year that is within seventy-one (71) months prior to a member's retirement date. For members newly hired or hired by a separate employer, the compensation base is the first full plan year following the member being hired that occurs within seventy-one (71) months of a member's retirement date.

002.04 Compensation limitation rate is the amount of compensation excluded when calculating the formula annuity retirement allowance in Neb. Rev. Stat. § 79-934, and is the percentage rate established in Neb. Rev. Stat. § 79-902(35) and described in section 004.

002.05 Per diem means a specified amount that employers will pay to employees as reimbursement for various expenses, such as, but not limited to meals, lodging, travel and other miscellaneous work related expenses.

002.06 Recognized collective-bargaining unit means a group of employees similarly situated with a similar community of interest appropriate for bargaining recognized as such by a school board.

002.07 Retirement effective date means the date a member qualifies for and accepts a school or disability retirement allowance granted under the School Employees Retirement Act, and defined by Neb. Rev. Stat. § 79-902(13).

002.08 Termination date means the date on which the member experiences a bona fide separation from service of employment with the member's current employer, the date of which separation is determined by the employer or employment contract, and defined by Neb. Rev. Stat. § 79-902(36).

003 School Plan Compensation Limitation

003.01 The compensation limitation provision contained in Neb. Rev. Stat. §79-902(35), covers compensation earned by a school member during the sixty (60) months prior to their retirement date.

003.02 Compensation received following a member's retirement date shall be treated as though the income was received prior to the member's retirement date for the purposes of applying the compensation limitation rate. Compensation received after the member's retirement date will receive the same compensation limitation rate and compensation base year as compensation received just prior to a member's retirement date.

003.03 Compensation received following a member's retirement date shall first be annualized and if the annualized monthly amount exceeds the compensation limitation rate for the preceding full (twelve month) plan year then such compensation shall be excluded at the percentage rate determined in subsection 003.02.

003.04 If a member's retirement date does not immediately follow a member's termination date, then the months occurring in between the member's termination date and the member's retirement date shall comprise a portion of the sixty (60) months described in subsection 003.01.

004 Compensation Limitation Percentage Rate

004.01 As provided in Neb. Rev. Stat. § 79-902(35)(d), in the determination of compensation for members on or after July 1, 2005, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than seven percent (7%) of the compensation base during the sixty (60) months preceding the member's retirement shall be excluded unless:

(a) The member experienced a substantial change in employment position;

(b) As verified by the school board, the excess compensation above seven percent occurred as the result of a collective-bargaining agreement between the employer and a recognized collective-bargaining unit or category of school employee, and the percentage increase in compensation above seven percent shall not be excluded for employees outside of a collective-bargaining unit or within the same category of school employee; or,

(c) The excess compensation occurred as the result of a district-wide permanent benefit change made by the employer for a category of school employee in accordance with subdivision (35)(a)(iv) of this section.

004.02 As provided in Neb. Rev. Stat. § 79-902(35)(e), in the determination of compensation for members on or after July 1, 2012, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than nine percent (9%) of the compensation base during the sixty months preceding the member's retirement shall be excluded.

004.03 As provided in Neb. Rev. Stat. § 79-902(35)(f), in the determination of compensation for members on or after July 1, 2013, that part of a member's compensation for the plan year which exceeds the member's compensation with the same employer for the preceding plan year by more than eight percent (8%) of the compensation base during the sixty months preceding the member's retirement shall be excluded.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 79-904 and 84-1503.