NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 13

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR COMPENSATION FOR RETIREMENT CONTRIBUTIONS AND BENEFITS

Last Revision: ~~May 17, 1991~~August 22, 2011
Current Revision: ~~August 22, 2011~~September 23, 2013
Effective Date: _____

NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 13 – COMPENSATION FOR
RETIREMENT CONTRIBUTIONS AND BENEFITS

NUMERICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	SECTION
Scope of the Rule	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	001
~~Compensation Defined~~General Definitions	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	002
Compensation with respect to the School Plan	§§ 79-904, 84-1503	003
Compensation with respect to the Judges Plan	§§ 24-704, 84-1503	004
Compensation with respect to the Patrol Plan	§§ 81-2019, 84-1503	005
Compensation with respect to the County Plan and the State Plan	§§ 23-2305, 84-1305, 84-1503	006
Internal Revenue Code Limitations	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	007

NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 13 – COVERED COMPENSATION FOR
RETIREMENT CONTRIBUTIONS AND BENEFITS

ALPHABETICAL TABLE OF CONTENTS

SUBJECT	STATUTORY AUTHORITY	SECTION
Compensation ~~Defined~~with respect to the County Plan and the State Plan	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	006
Compensation with respect to the Judges Plan	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	004
Compensation with respect to the Patrol Plan	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	005
Compensation with respect to the School Plan	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	003
General Definitions	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	002
Internal Revenue Code Limitations	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	007
Scope of the Rule	§§ 23-2305, 24-704, 79-904 81-2019, 84-1305, 84-1503	001

NEBRASKA ADMINISTRATIVE CODE

TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 13 – COMPENSATION FOR RETIREMENT CONTRIBUTIONS AND BENEFITS

001 Scope of the Rule

This rule will apply to the definition of employee compensation subject to retirement contribution for members of the Retirement System for Nebraska Counties~~,~~ (County Plan), the Judges Retirement System~~,~~ (Judges Plan), the School Employees Retirement System~~,~~ (School Plan), the State Patrol Retirement System~~,~~ (Patrol Plan), and the State Employees Retirement System~~.~~ (State Plan). In addition this rule will apply to the definition of compensation in the calculation of benefits in the Judges ~~Retirement System, the~~Plan, School ~~Employees Retirement System,~~Plan and~~, the State~~ Patrol ~~Retirement System~~Plan.

002 General Definitions

002.01 The definitions provided in Nebraska statutory law for each plan shall apply to the provisions herein as they relate to that plan. In addition to those definitions, the following definitions shall apply:

002.02 Converted into cash payments means, with respect to benefits such as unused leave or employer-paid insurance premiums, an arrangement whereby a member has individually arranged with his or her employer to receive an equivalent amount of cash, in lieu of receipt of the actual benefit.

002.03 Flat salary means a fixed dollar amount provided for in a member's contract of employment that is paid with respect to each pay period by the employer to the member for rendered service; which amount such member may voluntarily choose to receive in cash, apply to insurance premiums, apply to a plan offered by employer the under the Internal Revenue Code to defer or exclude certain amounts from income, or allocate among a combination of the foregoing.

002.04 Internal revenue code means the federal internal revenue code of 1986, as further defined pursuant to Neb. Rev. Stat. § 49-801.01.

003 Compensation ~~for Retirement Contributions~~

~~For the purposes of determining employee and employer contributions, and retirement benefits provided, covered compensation means base salary or wages paid by the employer to the employee, including overtime pay for services rendered during the plan year which are treated as taxable income for federal income tax purposes. Covered compensation shall also include any amount of base salary or wage which would otherwise be subject to federal income taxes were it not for a voluntary salary reduction election under sections of the Internal Revenue Code applicable to public employees. Covered compensation shall not include any other amounts payable by the employer to~~

~~the employee for whatever reason, whether taxable or non-taxable, and shall not include such amounts excluded by state law.~~

with respect to the School Plan

003.01 Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and ~~Benefits Defined~~includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, (iv) amounts voluntarily contributed at the member's direction to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income, (v) flat salary amounts and (vii) other similar amounts, contributions or payments as determined by NPERS based on relevant facts and circumstances.

003.02 Compensation does not include (i) fraudulently obtained amounts as determined by NPERS, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, whether received directly by the member or mandatorily deposited at the employer's direction into to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income, (iii) insurance premiums converted into cash payments, whether received directly by the member or mandatorily deposited at the employer's direction into to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income, (iv) reimbursement for expenses incurred by the member, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, (viii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in the School Employees Retirement Act and (ix) other similar amounts, contributions or payments as determined by NPERS based on relevant facts and circumstances.

003.03 For purposes of determining a member's final average compensation in connection with calculation of such member's retirement benefit Compensation shall be adjusted as provided in Title 303 NAC, Chapter 14.

004 Compensation with respect to the Judges Plan

Compensation means the statutory salary of a judge or the salary being received by such judge pursuant to law. Compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments, insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and

amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

005 Compensation with respect to the Patrol Plan

Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, per diems, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. For any officer employed after January 4, 1979, compensation does not include compensation for unused sick leave or unused vacation leave converted to cash payments. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125 and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

006 Compensation with respect to the County Plan and the State Plan

006.01 Compensation means gross wages or salaries payable to the member for personal services performed during the plan year and includes (i) overtime pay, (ii) member retirement contributions, (iii) retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements, and (iv) amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code as defined in section 49-801.01 or any other section of the code which defers or excludes such amounts from income.

006.02 Compensation does not include (i) fraudulently obtained amounts as determined by the retirement board, (ii) amounts for unused sick leave or unused vacation leave converted to cash payments, (iii) insurance premiums converted into cash payments, (iv) reimbursement for expenses incurred, (v) fringe benefits, (vi) per diems paid as expenses, (vii) bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, or (viii) beginning on September 4, 2005, employer contributions made for the purposes of separation payments made at retirement and early retirement inducements as provided for in section 79-514.

007 Internal Revenue Code Limitations

Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code as defined in section 49-801.01 shall be disregarded. For an employee who was a member of the County Plan, the Judges Plan, the School Plan, the Patrol Plan or the State Plan before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 23-2305, 24-704, 79-904, 81-2019, 84-1305, and 84-1503.