



EMPLOYER BULLETIN

Law Compliance Reminders

March 2010

Master Certificate Stipends (National Board Certification Stipend)

In accordance with the Illinois Teaching Excellence Program, the Illinois State Board of Education (ISBE) provides an annual payment of \$3,000 for each teacher or school counselor who holds a Master Certificate and a corresponding certificate issued by the National Board for Professional Teaching Standards. Additional Master Certificate incentive payments may be earned for providing mentoring and professional development services.

The Illinois legislature requires ISBE to distribute these funds to the school district. The district is responsible for distributing the required payments to each eligible educator. ISBE provides the employer with a list of eligible teachers and counselors. The correspondence from ISBE also identifies the amount to be distributed to each person and the school year for which payment is being issued.

TRS recognizes Master Certificate mentoring, professional development, and annual payments as creditable earnings. TRS requires Master Certificate payments to be reported on an accrual basis in the year earned, which may not be the same year payment is actually issued. Follow the accrual reporting requirements described in Chapter 3 of the TRS *Employer Guide*.

Hard-to-Staff School Stipends

Public Act 95-0938, which went into effect on August 29, 2008, clarified the terms of the Salary Incentive Program for Hard-to-Staff Schools. Under P.A. 95-0938, ISBE is required to provide stipends for teachers and administrators who work in hard-to-staff schools. ISBE provides

qualifying school districts the funds with which the districts are required to pay the stipends to specified teachers and administrators.

Stipends paid in accordance with the Salary Incentive Program for Hard-to-Staff Schools are reportable to TRS as creditable earnings in the school year paid. Follow the lump-sum reporting rules described in Chapter 3 of the TRS *Employer Guide*.

Exemption Eligibility

Stipends paid by June 30, 2011 in accordance with the Illinois Teaching Excellence Program and the Salary Incentive Program for Hard-to-Staff Schools qualify for salary exemption under the provisions of Public Act 94-1057. If a retiring member's salary increases by more than 6 percent because of this stipend, the employer may apply for a salary exemption by submitting a Salary Exemption Affidavit form to TRS. To qualify for the exemption, the employer must return the affidavit to TRS within 30 days of receiving the bill for the contribution cost of the salary increase. The section labeled "Payment made to the teacher from the State of Illinois or the Illinois State Board of Education over which the employer does not have discretion" must be completed. The affidavit must be signed by the district superintendent, business manager, or payroll officer.

Policies that Conflict with TRS Rules

The state statutes set forth in the Illinois Pension Code and the Illinois Administrative Code establish the laws, rules, and policies governing TRS. When a collective bargaining agreement (CBA), individual contract, or school district policy

contains provisions that are not in compliance with the Illinois Pension Code and the Illinois Administrative Code, the state statutes prevail.

Employer contributions cannot be paid by members

TRS recently reviewed several CBAs and individual contracts that require the retiring member to pay the cost the employer incurs for sick leave days granted in excess of the normal annual allotment and/or salary increases in excess of 6 percent. These provisions are in violation of the state statutes and the Internal Revenue Code.

Any cost designated as an employer contribution **must** be paid by the employer. A TRS member **may not** pay an employer contribution directly to TRS or reimburse the employer for a required employer contribution. Costs that **must** be paid by the employer include:

- retirement contributions for sick leave days granted in excess of the normal annual allotment,
- retirement contributions for salary increases in excess of 6 percent,
- employer ERO contributions,
- employer contributions on federally-funded salaries (23.38 percent),
- employer contributions for member benefit increases (0.58 percent), and
- employer contributions to the Teachers' Health Insurance Security Fund (0.63 percent).

Sick leave reporting provisions

A TRS member may receive a maximum of two years service credit for sick leave days that are unused, uncompensated and available for use. Sick leave reporting is not optional. The employer must follow the sick leave rules established by the statutes set forth in the Illinois Pension Code and Illinois Administrative Code. Please refer to Chapter 6 of the TRS *Employer Guide* for more information.

Sick leave days are considered compensated if they are used in the calculation of a payment

that qualifies as TRS creditable earnings. If no payment is issued, or if the payment related to unused sick leave does not qualify as creditable earnings under the lump-sum rules, then the days are considered uncompensated. Compensated days must be excluded from the number of sick days reported to TRS for service credit. Uncompensated days must be included in the number reported to TRS for service credit. These guidelines apply to all available sick leave days, even if the member has accumulated more than 340 days.

Many CBAs and contracts allow post-retirement payments for unused sick leave days that are not reported to TRS as service credit. These provisions incorrectly assume that the employer or member may elect not to report unused, uncompensated sick leave days to TRS.

Example:

District 1's CBA states, "The retiring teacher shall be paid \$50 for each unused sick leave day that was not used for TRS service credit. Payment shall be issued on September 1 following the member's retirement date." Teacher A plans to retire on June 4, 2010 after working at District 1 for 34 years. Teacher A will have 385 unused sick leave days available for use at the time she retires. She notifies District 1 that she wants 170 days reported to TRS for service credit and to receive payment for the remaining balance of 215 days. District 1 will issue the final regular paycheck to Teacher A on August 27, 2010. The terms of this CBA are in violation of the state statutes.

If District 1 issues payment to Teacher A for 215 sick leave days on September 1, 2010, then in order to comply with the statutes, District 1 **must** report 385 unused, uncompensated sick leave days on Teacher A's Supplementary Report. In this example, by paying Teacher A for days that are also reportable to TRS for service credit, District 1 violates the terms of the CBA.

If District 1 issues payment to Teacher A for 215 sick leave days on or before August 27, 2010, then District 1 **must** report 170 unused, uncompensated sick leave days and **must** include the



lump-sum payment on Teacher A's Supplementary Report. If the lump-sum payment causes Teacher A's 2009-10 salary to increase more than 6 percent over her 2008-09 salary, District 1 will be responsible for paying the resulting contribution cost to TRS. In order to comply with the statutes, District 1 issues the sick leave payment earlier than the CBA specifies.

Termination of PDP Program

On June 30, 2010, the TRS Payroll Deduction Program (PDP) will end. June 2010 is the last month before-tax PDP deductions can be taken from participants' earnings. Employers that pay all summer paychecks in June must deduct only one month's PDP contribution amount. PDP contributions must not be deducted for July or August 2010 even if those payrolls are processed in June.

Membership Information and Beneficiary Designation forms

Please have all new members complete the Membership Information and Beneficiary Designation (MIBD) form when they are hired. This form provides TRS with the member's demographic and beneficiary information. Completion of this form also allows TRS to establish an account for the member. Please submit the original form to TRS as soon as the member has completed it. Do not hold the form.

[The MIBD form is available under the member forms section of the TRS Web site, trs.illinois.gov.](http://trs.illinois.gov)