



## **Section 4: Reportable Salaries**

### **How to Report**

The following has been designed to assist you with how to report certain types of payments to NYSTRS. The monthly reporting system should be used to report all payroll disbursements to NYSTRS members in accordance with a valid employment contract approved by the employers' board of directors.

If you make payments outside a valid employment contract approved by the board, please contact our Employer Reporting Unit at (800) 348-7298, Ext. 6220 for direction on correctly reporting these payments. Please also contact us if you have any other questions on the material in this section.

### **Arbitration Awards, Settlements, Grievances & Litigation**

Payment for arbitration awards, settlements, grievances and litigation may or may not be usable in a final average salary (FAS). However, any and all payment provisions relative to these actions must be forwarded to NYSTRS for evaluation, as per state education law. Under Section 520-1 of the Education Law, NYSTRS has the authority to require that each employer under its jurisdiction file with the Retirement Board any data necessary to carry out its statutory responsibility. Section 520 states that "each employer shall keep such records and from time to time shall furnish such information as the retirement board in the discharge of its duties may require."

In the interim, before a decision is made, report these monies under NYSTRS Pay Type J: MTD Awards Pay. Also note:

- The mandatory deductions for Tier 5 and 6 members **should** be withheld from such payments.
- Service days should **not** be calculated for this category.

### **Accounts Payable Disbursements**

Monies paid to, or for, the member are sometimes paid by separate check through accounts payable. These earnings must be reported separately to NYSTRS since they are not generally reported through the normal employer reporting process. Use the **Monthly Employer Reporting Correction Form (ERP-1)** to report these earnings, and please make note of the reason for the payment.

Please note that the monies paid through accounts payable, whether deemed to be Non-Regular Compensation or Termination Pay, must be reported to NYSTRS for **all NYSTRS members and retirees**. NYSTRS reserves the right to request further details relative to non-NYSTRS payment(s) made through accounts payable.

In order to efficiently and effectively report any payments made through accounts payable to, or on behalf of, NYSTRS members and retirees not disclosed on the monthly report, please fax (518-447-2979), or mail a copy of the document authorizing the accounts payable disbursement(s) to NYSTRS' Employer Reporting Unit.



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Acceptable documentation includes the approved warrant, wire instructions, board authorization or other like document. The document must clearly indicate the NYSTRS member's name, the member's NYSTRS EmplID or Social Security number, date of disbursement, reason for the disbursement, dollar amount, the employer, and the employer's contact information.

It is important to remember, if any adjustments are made to these disbursements subsequent to their being reported to NYSTRS, an amended report must also be submitted.

### Consultants, Independent Contractors and Casual Employees

Consultant, independent contractor and casual employee salaries may not be considered pensionable earnings if the individual is not considered an employee for such service. Other rules may apply if the employee is a NYSTRS retiree. See the section below "Retirees of New York State Public Employment." In addition, BOCES casual employees are often reportable to the System and their earnings considered pensionable. In order to determine if the individual is a consultant, refer to the ***Guidelines to Assist Reportability for Consultants, Independent Contractors and Casual Employees (RMS-96)*** and the Internal Revenue Guidelines to determine employee-employer relationship.

### Retirees of New York State Public Employment

It is the participating employer's responsibility to report to NYSTRS any monies earned by a retiree, even if paid to a third-party employer. Retirees employed via a third party should be instructed to contact NYSTRS to determine the possible impact on their retirement benefit.

Participating NYSTRS employers must submit all consultant, independent contractor and casual employee agreements impacting NYSTRS active and retired members prior to the agreement taking effect, and as soon as they are executed. Failure to do so may adversely affect and result in substantial reduction and/or temporary loss of pension benefits.

Report these payments under NYSTRS Pay Type B: Base Pay or N: MTD Post Retirement Pay.

Also see **Post-Retirement Earnings** in this section.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments.
- You will not be billed on these payments.
- Service days should not be calculated for this category.

### Contract Settlements and Contract Changes

Once negotiated agreements are finalized, a fully executed copy must be forwarded to NYSTRS. If new payment provision(s) exist, NYSTRS' review of the provision is required in order to identify the appropriate NYSTRS pay type and facilitate proper reporting. This is required for all employment agreements for NYSTRS members and related payment provisions.

If payments for late settlements are made after the June report is submitted for the affected year, retroactive payments must be reported. See **Section 2** for additional details on retroactive payments.



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## Disability Payments

### *Reportable/Pensionable Payments*

**Long Term Disability** payments made to active NYSTRS members having an employer-employee relationship, provided to all employees via a collective bargaining agreement and being paid directly by their employer, will be reportable to the System.

These payments will be credited to the member's record as salary at part pay and may accrue service credit.

- The mandatory deductions for Tier 5 and 6 members **should be** withheld from such payments.
- Service days should be calculated for this pay category.

### *Non-Reportable/Non-Pensionable Payments*

As in the past, any money paid by a private or third-party administrator is not reportable to the System. A school district being self-insured has no bearing on the determination of whether or not these payments should be reported.

Long Term Disability payments will have no effect on a member's eligibility to retire. Any Long Term Disability payments made by a school district after the date a member retires should not be reported to the System.

## Extended Day and Summer Programs

Compensation to members for educational Extended Day Programs and Summer Programs are generally reportable under NYSTRS Employer Reporting Pay Category C: MTD Instructional Pay. Please review NYSTRS ***Administrative Bulletin 2022-2 Reporting of Compensation Earned in Extended Day and Summer Enrichment Programs*** for additional details.

Traditional Summer School is reportable under NYSTRS Pay Category D: MTD Summer School Pay.

- The mandatory deductions for Tier 5 and 6 members **should be** withheld from such payments.
- Service days should be calculated for this pay category.



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## Fringe Benefits

### *Taxable Fringe Benefits*

All NYSTRS members who have their taxable fringe benefits reported to the IRS and/or “paid” through payroll must have the taxable portion of these benefits reported to the System, with few exceptions, as Non-Regular Compensation.

Reimbursements of expenses to the member and payments made outside the member’s collective bargaining agreement are both considered Non-NYSTRS Pay.

Taxable fringe benefits include, but are not limited to, the following taxable events:

- The taxable value of employer-provided cell phones and cell phone allowances.
- Taxable portion of employer-paid life insurance premiums. Currently, under IRC 79, premiums associated with policies greater than \$50,000 are taxable.
- The taxable value of employer-provided automobiles.
- Employer-paid stipends and allowances for auto use.
- Payment in lieu of health or dental insurance.

Taxable fringe benefits are not included in the calculation of Tier 1-5 members’ 3-year final average salary, or Tier 6 members’ 5-year final average salary. These monies may, however, be used in the calculation of eligible Tier 1 members’ final average salary. Use NYSTRS Pay Type Category L:MTD Non-Regular Compensation to report taxable fringe benefits.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments.
- You will only be billed for any Tier 1 members receiving this payment.
- Service days should not be calculated for this pay category.

### *Non-Taxable Fringe Benefits*

Non-taxable fringe benefits are not reportable to NYSTRS. If you have questions on the taxability of fringe benefits, they should be directed to the Internal Revenue Service at (800) TAX-1040. Questions regarding the reportability of fringe benefits to NYSTRS should be directed to our Employer Reporting unit at (800) 348-7298, Ext. 6220.

Non-taxable fringe benefits include, but are not limited to, the following employer-paid benefits: (Note that IRC codes are examples and not necessarily all inclusive.)

- Medical insurance (See Administrative Bulletins **2020-5**, **2016-3**, and **2003-3** for additional details).
- Dental insurance.
- Leave sellbacks to purchase health, dental, vision, welfare fund benefits, etc.
- Education expenses (in accordance with IRC §127, §132(d) or §117(d).
- Qualified tuition reductions (IRC §117 and §132).



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- Travel, transportation, food and lodging expenses (Note: Both taxable and non-taxable expenses are considered not reportable to NYSTRS).
- Employer-paid professional licenses and dues.
- Employer-paid disability insurance payments (IRC § 106(a)).
- Employer-paid life insurance policies up to and including a \$50,000 face value (IRC §79).
- Employer-paid IRC §105 contributions.
- Employer-paid IRC §125 contributions.

Non-taxable fringe benefit payments are not reportable to NYSTRS. If for some reason these payments are made through payroll, instead of accounts payable, report the payments to NYSTRS using Pay Category M: MTD Non-NYSTRS Pay.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments.
- You will not be billed on these payments.
- Service days should not be calculated for this pay category.

#### ***Employee Benefits Paid by Members with Pre-Tax Dollars***

The Internal Revenue Code Section 125 provides a way for you to pay certain medical and/or dependent care expenses with before-tax dollars. This tax-savings arrangement is often called a “cafeteria plan” or “flexible spending plan.” Employee 403(b) contributions are also treated in this manner for tax purposes.

Generally, these employee-paid contributions are properly reported in the Annual Base Pay Rate before the employee contribution in pre-tax dollars. Therefore, they should generally not be reported separately to NYSTRS. Please review the **Health and Dental Benefits** portion of this section for additional details.

- The mandatory deductions for Tier 5 and 6 members **should be** withheld from such payments.
- Service days should be calculated for this pay category.

#### **Health and Dental Benefits**

As described under **Fringe Benefits** in this section, health insurance, dental insurance and certain other non-taxable benefit payments made by the employer in accordance with IRS regulations are considered a non-taxable fringe benefit of employment and should not be reported to NYSTRS. Generally, payments made directly to the member in lieu of this insurance are considered non-regular compensation.

Some collective bargaining agreements offer increased monies in the member’s base salary in lieu of any contractual health or dental benefit. Generally, this practice allows the member to purchase insurance through the employer at the group rate. In order to be consistent and fair, when a participating NYSTRS employer contractually eliminates a benefit for a select group or groups, increases the member’s base pay and allows employees to participate in a group health plan, these monies are considered Non-NYSTRS Pay. Please see Administrative Bulletins **2020-5, 2016-3, 2002-2** and **2000-7** and for additional details and restrictions.



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#### Leaves of Absence

Members who are on an approved and paid military, sick, maternity, or other leave of absence may be eligible to receive salary and service credit with NYSTRS.

These paid leaves must be included on your monthly report. For information on reporting leaves of absence, see **Section 2: Employer Reporting for Schools Districts**, **Section 3: Employer Reporting for SUNY and Community Colleges**, or **Administrative Bulletin 2021-11 Reporting Leaves of Absence**.

Please note: The full-time annual base pay rate (contract salary) should be reported for all members on a paid leave of absence.

Please note that any leaves granted in exchange for (or in conjunction with) cessation of employment, resignation, or a retirement election, are considered Termination Payment(s). See **Administrative Bulletin 2020-3: Leaves of Absence Prior to Retirement** for additional detail.

- The mandatory deductions for Tier 5 and 6 members **should be** withheld from such payments.
- Service days should be calculated for this pay category.

#### Sabbatical Leave

Sabbatical leave granted in accordance with the employment contract and not in exchange for (or in conjunction with) cessation of employment, resignation, or a retirement election may be used in a final average salary (FAS) calculation, provided it is granted for a period of time the member ordinarily works.

- The mandatory deductions for Tier 5 and 6 members **should be** withheld from such payments.
- Service days should be calculated for this pay category.

Summer sabbatical leaves and other like-kind paid leaves resulting in compensation for a period of time the member does not ordinarily work (e.g., summer sabbatical for a 10-month member) must be reported under NYSTRS Pay Type L: MTD Non-Regular Compensation.

#### Post-Retirement Earnings

Post-retirement earnings are monies paid to a member for services rendered after retirement from NYS service. As mentioned previously in this section, it is the participating employer's responsibility to report to NYSTRS any monies earned by a retiree as post-retirement pay. Retirees employed via a third party should be instructed to contact NYSTRS to determine the possible impact on their retirement benefit. Also, NYSTRS Administrative Bulletins **2018-11**, **2020-1**, and **2022-4**, and **Section 2** and **Section 20** of this manual contain additional reporting details for post-retirement earnings.

Report these payments under NYSTRS Pay Type N: MTD Post-Retirement Pay. The earnings of all NYSTRS retirees working under consultant agreements must be reported to NYSTRS on a regular basis. Payments made outside of payroll should be reported via ESA > Earnings After Retirement.



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Also see **Retirees of New York State Public Employment** in this section.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments.
- You will not be billed on these payments.
- Service days should not be calculated for this pay category.

## Strikes

If teachers in your location go on strike, please contact the System for reporting instructions.

## Tax Sheltered Annuities

### *Employee Contributions to a Tax Sheltered Annuity*

These member payments are properly reported in the Annual Base Pay Rate before the employee contribution in pre-tax dollars. **Therefore, they should generally not be reported separately to NYSTRS.**

### *Employer Contributions to a Tax Sheltered Annuity*

Although these disbursements are typically an accounts payable disbursement, employer-paid Tax Sheltered Annuities paid through the payroll are reportable to NYSTRS as Non-Regular Compensation. Use Pay Category L: MTD Non-Regular Compensation to report them.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments since they are not considered pensionable earnings.
- You will only be billed for any Tier 1 members receiving this payment.
- Service days should not be calculated for this pay category.

## Termination Pay

Payments for unused leave accruals, such as for vacation or personal days, are considered termination payments that must be reported to NYSTRS, regardless of when during a member's career the payments are made. Also, any monetary compensation or leave granted as a result of a retirement election, resignation, or death is to be reported as Termination Pay. For example, paid leaves of absence granted in exchange for retirement must be reported to NYSTRS as Termination Pay.

The most notable exceptions to the reporting of termination pay are retiree health and dental insurances. Termination benefits associated with these non-taxable fringe benefits are not reportable to NYSTRS.

You should review Sections **2, 3** and **16** of this *Manual* for additional information on this topic.

These payments should not be included in base salary or contract salary amounts on your report.



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Use NYSTRS Pay Category K: MTD Termination Pay for these monies.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments.
- You will only be billed on these payments for any Tier 1 member with a date of membership prior to June 17, 1971.
- Service days should not be calculated for this pay category.

## Tier 6 Limitations

### *Salary and Service*

The statute limits the amount of salary (and consequently service) usable in a Tier 6 member's benefit calculation. NYSTRS will collect and process the information for each school year from all employers before making any necessary adjustments. The determination of reportable salary for each school year will incorporate the following guidelines:

- Members with less than 200 days of service with a single employer will have all salary and service credited to their records.
- Members with 200 or more days of service with a single employer and who have rendered service with more than two employers will have any reported salary and service in excess of two employers during a school year removed. The pensionable salary and service will be determined by using the **two highest earnings within that school year**, regardless of the employer.
- In all cases, members receive no more than one year of service credit for each school year (July 1 – June 30) of service.

Note: District superintendents receive their salary from the state Education Department and their respective BOCES. Consequently, due to statutory restrictions regarding multiple employers, any part-time employment in addition to a district superintendent's regular full-time employment will not be reportable to NYSTRS. Additionally, the salary for said additional part-time work will not be subject to employer or employee contributions, nor will the salary be used in benefit calculations.

### *Salary Cap/Pensionable Salary*

In addition to the limit for having more than two employers, a Tier 6 member's pensionable earnings may not exceed the salary of the New York State governor. As the governor's salary changes, the pensionable salary limit will change accordingly.

Once the pensionable salary limit is reached, contribution deductions from any wages paid in excess of the salary limit are not required. Any wages reported exceeding this limit will not be included in a member's salary base for district billing purposes or in any benefit calculation. An Administrative Bulletin is issued each year with detailed information regarding compensation limits and reporting.

In all cases, employers will only be billed on salary and applicable contributions pensionable for a Tier 6 member.





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#### Welfare Benefit Funds

Employer payments to these funds may be disbursed for a variety of reasons. Frequently, the allowable benefits include, but are not limited to, insurance co-payments, vision care, child care, dental insurance, and life insurance. These payments are not reportable to NYSTRS unless the benefit is taxable. If you have questions on the taxability of fringe benefits, they should be directed to the Internal Revenue Service at (800) TAX-1040.

Taxable fringe benefit payments are reportable to NYSTRS. Please use Pay Category L: MTD Non-Regular Compensation to report these payments.

Non-taxable fringe benefit payments are not reportable to NYSTRS. If for some reason these payments must appear on the monthly report to NYSTRS, please use Pay Category M: MTD Non-NYSTRS Pay to report these payments as required.

- The mandatory deductions for Tier 5 and 6 members **should not be** withheld from such payments.
- You will only be billed for any Tier 1 members receiving this payment.
- Service days should not be calculated for this pay category.

Generally, employee-paid contributions to a welfare benefit, or like-kind benefit, are properly reported in the Annual Base Pay Rate before the employee contribution in pre-tax dollars. Therefore, they are generally reported in MTD: Base Salary Pay and should not be reported separately. Please review the Health and Dental Benefits portion of this section to obtain additional details.

#### Workers' Compensation

A school district being self-insured has no bearing on the determination of whether or not these payments should be reported.

Workers' compensation payments will have no effect on a member's eligibility to retire. Any workers' compensation payments made by a school district after the date a member retires should not be reported to the System.

#### *Reportable Workers' Compensation Payments*

Workers' compensation payments to NYSTRS members having an employer-employee relationship (i.e., the employee is entitled to benefits under the negotiated agreement) and being paid **directly by their employer** are pensionable and must be reported to the System.

These payments will be credited to the member's record as salary and may accrue service credit.

- The mandatory deductions for Tier 5 and 6 members **should be** withheld from such payments.
- Service days should be calculated for this pay category.



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#### ***Non-Reportable Workers' Compensation Payments***

As in the past, any money paid by a private or third-party administrator is not considered pensionable and is not reportable to the System. Also, any money and/or settlement paid for expected "scheduled loss of use" or "permanency classification" not associated with actual and causally related time loss from work is not pensionable and is not reportable to the System.

#### **Guide to Reporting Payments**

The following chart has been prepared as a general guide to employers to enable them to quickly identify payments which should and should not be reported to NYSTRS. **This is a guide and is not all inclusive.** Should you have any questions, please call our Employer Reporting Unit at (800) 348-7298, Ext. 6220.

#### ***Reportable Payments to Members***

All unclassified duties falling under the state Education Department's jurisdiction and conducted by NYSTRS members. For more information, also see ***Administrative Bulletin 2021-6 Titles Reportable to NYSTRS***. Examples of covered duties include:

- Attendance Officer (if unclassified)
- Attendance Teacher
- Business Administrator
- Chaperone
- Coaching
- Co-curricular
- Curriculum writing
- Department Chairman or Coordinator
- Director of Elementary Education
- Director of Secondary Education
- Director of Vocational Education
- Director of Pupil Personnel Services
- Guidance Counselor
- Home Tutor
- Mentor
- National Board Certification
- Nurse Teacher
- School Librarian
- Summer School (core curriculum)
- Supervising student clubs or activities
- Teacher Assistants (not employed with the State University of New York)
- Teacher Center Duties
- Teacher Support Aid (formerly known as Excellence-in-Teaching monies)
- Team Leader

In addition to the above, SUNY graduate and teaching assistants who have been reported continuously since 1982 may be reported to the System.



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Note: Membership is mandatory for full-time employees conducting these duties and optional for part-time staff.

#### ***Non-Reportable Payments to Members***

Any position that does not require a School District Leader (SDL) certificate and is not more than 50 percent related to instructional support should **not** be reported to NYSTRS. These positions may be reportable to another NYS public retirement system like NYSLRS.

Please contact the Employer Reporting Unit at (800) 348-7298, Ext. 6220 if you have been reporting non-reportable payments to NYSTRS.

Also all full-time Civil Service classified duties should **not** be reported to NYSTRS. For example:

- Athletic Trainer
- Attorney
- Bus Driver
- Business Manager
- Census Taker
- Clerk of the Board
- Clinical Assistant Instructor
- Consultant
- District Clerk
- District Treasurer
- Employee Assistance Program (EAP) Personnel
- Independent Contractors and their employees
- Interpreter
- Latchkey Program (non-instructional)
- Maintenance Personnel
- Nurse
- Occupational Therapist
- Personal Expense Reimbursement
- Physical Therapist
- Printer
- Project Manager
- Psychologist
- Reimbursement for Business Expenses (e.g., travel, training, tuition, professional liability insurance)
- School Medic
- Social Worker
- Sports Officials
- Teacher Aide

Note: SUNY graduate and teaching assistants who have not been reported continuously since 1982 should be excluded from the SUNY report.