

## New York State Teachers' Retirement System

The following information was recently provided to NYSTRS' participating employers. As a Retirement System delegate, it is important you are aware of these issues. Please share this Delegate News with NYSTRS members in your district.

### Delegate News

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## Reporting Leaves of Absence

Many participating employers offer provisions in employment contracts and collective bargaining agreements (CBA) for fully paid or partially paid leaves of absence or sabbaticals. The purpose of this Bulletin is to reiterate the Retirement System's position regarding the inclusion of earnings paid and service credit granted pursuant to such provisions when calculating a member's pension.

### **Paid Leaves of Absence that are Pensionable**

In general, a paid leave of absence is pensionable if the terms of such leave meet all the following criteria:

- The paid leave of absence must be duly provided for in the governing employment contract, CBA or a Memorandum of Agreement (MOA).
- The paid leave of absence must not be tied to retirement or resignation.
- The employee is expected to return to their position after the leave.
- The paid leave of absence is available to all members of the bargaining unit or administrative staff, regardless of age or proximity to retirement.

Under these conditions, in addition to the earnings for the leave being pensionable, the employee is also entitled to service credit in the System for the period of the paid leave of absence. Paid Administrative Leave is also generally pensionable in the case of an involuntary leave during the pendency of a proceeding, although these leaves are reviewed on a case-by-case basis. Documentation of the leave should be provided to NYSTRS as soon as possible.

**ALL extended paid leaves of absence that meet the standards above should be reported in pay category F: MTD Partial Leave Pay** regardless of whether the leave is partially or fully paid, and regardless of whether the member uses leave accruals. Please refer to the [Employer Manual Section 2: Employer Reporting for School Districts](#) or [Section 3: Employer Reporting for SUNY and Community Colleges](#) for further details on reporting leaves of absence.

### **Paid Leaves of Absence that are NOT Pensionable**

Under the following conditions, a paid leave of absence is not considered pensionable earnings and the employee is not entitled to service credit in the System for the period of the leave, even if the employee continues to be eligible for health insurance and other employer benefits:

- The paid leave of absence is paid by a third-party insurance or administrator (including NYS Paid Family Leave).
- The paid leave of absence is selectively negotiated outside the terms of the governing employment contract, CBA or MOA and is not available to all members of the bargaining unit or administrative staff.\*
- The paid leave of absence requires the employee's resignation.
- The paid leave of absence is immediately followed by the employee's retirement.

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- Eligibility for the paid leave of absence is dependent upon the employee's age and/or proximity to retirement.
- The terms of the paid leave of absence require return of the monies paid pursuant to the leave if the employee does not retire at the end of the leave.
- The paid leave of absence provides payment for time not worked following the execution of a settlement or separation agreement.

**\*NOTE: Any paid leave of absence offered outside of the governing employment contract or CBA must be reported as pay category M: MTD Non-NYSTRS Pay. No service credit should be reported for this type of payment.** Documentation of the leave should be provided to NYSTRS as soon as possible.

Under certain circumstances, the monies paid to the member pursuant to such leave may be considered termination pay because the monies are paid pursuant to an agreement to retire or resign. As termination pay, the monies would be pensionable only in the case of Tier 1 members with a date of membership prior to June 17, 1971, and would be includable only in the calculation of their five-year final average salary. Termination pay must be reported as pay category K: MTD Termination Pay. Termination pay, however, is not includable in the final average salary calculation for Tier 1 members with a date of membership on or after June 17, 1971, or for members of Tiers 2 through 6.

### **Unpaid Leaves of Absence**

Unpaid leaves of absence are not reported to the System and employees do NOT receive service credit for pension purposes – even if such employees continue to be eligible for health insurance and other employer benefits.

If you have questions on reporting leaves of absence, please call NYSTRS at (800) 348-7298, Ext. 6220.