**Section 1650.450 Compensation Recognized As "Salary"**

a) "Salary" means any form of creditable compensation received by a member in consideration of services rendered as a teacher, subject to all applicable limits and restrictions imposed on qualified plans under the Internal Revenue Code. "Salary" directly related to specific work performed during a school year is recognized on an accrual basis. Other creditable compensation is recognized on a cash basis. The System reserves the right to determine the year of salary recognition. The following common examples are for illustration only and do not limit the System's right to evaluate and determine other forms of creditable and non-creditable compensation.

b) Examples of creditable compensation recognized as "salary":

1) The gross amount of compensation earned or accruing to the member during the school year in a function requiring certification as a teacher.

2) Additional compensation earned during the school year for the performance of extra duties, not requiring teacher licensure, but which involve the supervision of students or are related to the academic program, provided the member has established active service credit with the System in the same school year.

3) The amount of back salary awarded to a member as a result of a settlement or judgment obtained due to a disputed dismissal, suspension or demotion. Court costs, attorney's fees, other compensatory damages and punitive damages shall not be reportable as salary. The back salary amount reported to the System under this Section shall be equal to the amount the member would have earned had the dispute not occurred, regardless of the actual amount paid.

4) Lump-sum payments (e.g., retirement incentives, bonuses, payments for unused vacation and sick days) becoming due and payable to the member prior to or concurrent with receipt of final paycheck for regular earnings or last paid day of work, whichever occurs last.

5) Contributions made by or on behalf of the member to qualified deferred compensation plans (sections 401(a) and 457(b) of the Internal Revenue Code), salary reduction plans or tax sheltered annuities under section 403(b) of the Internal Revenue Code.

6) Amounts that would otherwise qualify as salary under subsections (b)(1) through (b)(5) but are not received directly by the member because they are used to finance benefit options in a flexible benefit plan; provided, however, that to be reportable, a flexible benefit plan cannot include non-qualifying deferred compensation. For the System's purposes, a flexible benefit plan is an option offered by an employer to its employees covered under the System to receive an alternative form of creditable compensation in lieu of employer-provided insurance.

c) Examples of non-creditable compensation not recognized as "salary":

1) At termination, lump-sum payments (e.g., retirement incentives, bonuses, payments for unused vacation and sick days) becoming due and payable to the member subsequent to receipt of final paycheck for regular earnings or last paid day of work, whichever occurs last.

2) Any lump sum payment made after the death of the member.

3) Expense reimbursements, expense allowances, or fringe benefits unless included in a reportable flexible benefit plan.

4) Any monies received by the member under the Workers' Compensation Act or the Workers' Occupational Diseases Act.

5) Any amount paid in lieu of discontinued or decreased non-reportable benefits, or reported in lieu of previously non-reported compensation, where the conversion occurs in the member's final seven years of service. If any form of non-creditable or non-reported compensation in any of the member's last seven creditable school years of employment exceeds that of any other subsequent year, the System will presume the difference to have been converted into salary in the subsequent year. To overcome the presumption, the member must submit documentary evidence to the System that clearly and convincingly proves that the change in compensation structure was due to a change in a collectively bargained agreement applicable to all individuals covered by the agreement, a change in employer policies affecting a group of similarly situated members some of whom are not within seven years of retirement eligibility, or a change in family status, and not to increase final average salary.

6) Any amount paid by an employer as the employer's one time contribution (or on behalf of the employee as the employee's one-time contribution) required by the System as part of the statutory early retirement option in Section 16-133.2 of the Act.

7) Options to take salary in lieu of employment-related expense allowances or reimbursements.

8) Employer payment of the member's Teachers Health Insurance Security Fund contribution.

9) Commissions (i.e., payments to a member based upon a percentage formula).

10) Contributions to and distributions from nonqualified deferred compensation arrangements.

11) Employer contributions to and distributions from medical spending accounts.

(Source: Amended at 48 Ill. Reg. 6116, effective April 5, 2024)