

### **61.510 Definitions for KRS 61.510 to 61.705.**

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he or she serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he or she received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he or she

served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his or her individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited, on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510 and 61.515, as prescribed by KRS 61.702(3)(b);

(13) "Creditable compensation":

(a) Means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4);

(b) Includes:

1. Lump-sum bonuses, severance pay, or employer-provided payments for purchase of service credit, which shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000);
2. Cases where compensation includes maintenance and other perquisites, but the board shall fix the value of that part of the compensation not paid in money;
3. Lump-sum payments for creditable compensation paid as a result of an order of a court of competent jurisdiction, the Personnel Board, or the Kentucky Commission on Human Rights, or for any creditable compensation paid in anticipation of settlement of an action before a court of competent jurisdiction, the Personnel Board, or the Kentucky Commission on Human Rights, including notices of violations of state or federal wage and hour statutes or violations of state or federal discrimination statutes, which shall be credited to the fiscal year during which the wages were earned or should have been paid by the employer. This subparagraph shall also include lump-sum payments for reinstated wages pursuant to KRS 61.569, which shall be credited to the period during which the wages were earned or should have been paid by the employer;
4. Amounts which are not includable in the member's gross income by

virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code; and

5. Elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4); and

(c) Excludes:

1. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board;
2. For employees who begin participating on or after September 1, 2008, lump-sum payments for compensatory time;
3. For employees who begin participating on or after August 1, 2016, nominal fees paid for services as a volunteer; and
4. Any salary or wages paid to an employee for services as a Kentucky State Police school resource officer as defined by KRS 158.441;

(14) "Final compensation" of a member means:

- (a) For a member who begins participating before September 1, 2008, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (b) For a member who is employed in a nonhazardous position, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;
- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he or she was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-

four (24), one (1) or more additional fiscal years shall be used;

- (d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a nonhazardous position, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least sixty (60) months; or
  - (e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have three (3) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years, which may contain less than twelve (12) months of service credit, shall be added until the number of months in the final compensation calculation is at least thirty-six (36) months;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
  - (16) "Retirement allowance" means the retirement payments to which a member is entitled;
  - (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;
  - (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
  - (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the

limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;

- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
  - (b) Emergency positions which are positions utilized by the employer during:
    - 1. An emergency as determined by the employer for a period not exceeding thirty (30) working days and are nonrenewable; or
    - 2. A state of emergency declared by the President of the United States or the Governor of the Commonwealth of Kentucky that are created or filled specifically for addressing the employer's needs during and as a result of the declared emergency;
  - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months and are nonrenewable;
  - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
  - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Vested" for purposes of determining eligibility for purchasing service credit under KRS 61.552 means the employee has at least forty-eight (48) months of service if age sixty-five (65) or older or at least sixty (60) months of service if under the age of sixty-five (65). For purposes of this subsection, "service" means service in the systems administered by the Kentucky Retirement Systems and County Employees Retirement System;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system. The term "parted employer" shall not include a department, board, or

agency that ceased participation in the system pursuant to KRS 61.522;

- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (28) "Level percentage of payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years but that may be converted to a dollar value for purposes of KRS 61.565(1)(d). Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period of time and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period of years;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Public Pensions Authority's office building in Frankfort, unless otherwise designated by the Kentucky Public Pensions Authority;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
- (35) "Month" means a calendar month;
- (36) "Membership date" means:
- (a) The date upon which the member began participating in the system as provided in KRS 61.543;
  - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) or 311A.022(2) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
  - (c) For members bound by an educational contract as a conditional employee to the state of Kentucky prior to December 31, 2003, the date on which the educational contract became effective; or
  - (d) For a member participating in the system pursuant to KRS 31.045, the earlier of the date upon which the member began participating in the system under paragraph (a) of this subsection or the date the member began employment with the Louisville and Jefferson County Public Defender Corporation;
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
  - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597;
- (41) "Accumulated account balance" means:
- (a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or
  - (b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit;
- (42) "Volunteer" means an individual who:
- (a) Freely and without pressure or coercion performs hours of service for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems without receipt of compensation for services rendered, except for reimbursement of actual expenses, payment of a nominal fee to

offset the costs of performing the voluntary services, or both; and

- (b) If a retired member, does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date;
- (43) "Nominal fee" means compensation earned for services as a volunteer that does not exceed five hundred dollars (\$500) per month with each participating employer. Compensation earned for services as a volunteer from more than one (1) participating employer during a month shall not be aggregated to determine whether the compensation exceeds the five hundred dollars (\$500) per month maximum provided by this subsection;
- (44) "Nonhazardous position" means a position that does not meet the requirements of KRS 61.592 or has not been approved by the board as a hazardous position;
- (45) "Monthly average pay" means:
- (a) In the case of a member who dies as a direct result of an act in line of duty as defined in KRS 16.505 or who dies as a result of a duty-related injury as defined in KRS 61.621, the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the deceased member during his or her last twelve (12) months of employment; or
  - (b) In the case where a member becomes totally and permanently disabled as a direct result of an act in line of duty as defined in KRS 16.505 or becomes disabled as a result of a duty-related injury as defined in KRS 61.621 and is eligible for the benefits provided by KRS 61.621(5)(a), the higher of the member's monthly final rate of pay or the average monthly creditable compensation earned by the disabled member during his or her last twelve (12) months of employment prior to the date the act in line of duty or duty-related injury occurred;
- (46) "Authority" means the Kentucky Public Pensions Authority as provided by KRS 61.505;
- (47) "Executive director" means the executive director of the Kentucky Public Pensions Authority;
- (48) "Instructional staff" means the employees of a state college or university participating under KRS 61.520 who are:
- (a) Faculty;
  - (b) Staff responsible for teaching; or
  - (c) Other individuals employed in an administrative position that is eligible for participation in the Teachers' Insurance and Annuity Association (TIAA) of the Teachers' Retirement System;
- (49) "Agency reporting official" means the person designated by the participating employer who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to KRS 61.510 to 61.705; and
- (50) "Gainful employment" means work in any capacity that is or may be performed

with regularity and is or may be usually done for pay, whether pay is received or not received, including seasonal, volunteer, part-time, and on-call work.

**Effective:** July 15, 2024

**History:** Amended 2024 Ky. Acts ch. 55, sec. 4, effective July 15, 2024; and ch. 143, sec. 4, effective April 9, 2024. -- Amended 2022 Ky. Acts ch. 126, sec. 15, effective July 14, 2022; ch. 165, sec. 6, effective July 14, 2022; and ch. 216, sec. 3, effective April 14, 2022. -- Amended 2021 Ky. Acts ch. 83, sec. 2, effective March 23, 2021; ch. 102, sec. 45, effective April 1, 2021; and ch. 106, sec. 5, effective June 29, 2021. -- Repealed, reenacted, and amended 2020 Ky. Acts ch. 79, sec. 19, effective April 1, 2021; and amended ch. 82, sec. 2, effective April 8, 2020. -- Amended 2019 Ky. Acts ch. 197, sec. 4, effective April 9, 2019. -- Amended 2018 Ky. Acts ch. 107, sec. 14, effective July 14, 2018; and ch. 151, sec. 3, effective April 13, 2018. -- Amended 2017 Ky. Acts ch. 32, sec. 4, effective June 29, 2017; and ch. 126, sec. 2, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 25, sec. 1, effective July 15, 2016. -- Amended 2015 Ky. Acts ch. 28, sec. 2, effective June 24, 2015. -- Amended 2013 Ky. Acts ch. 120, sec. 45, effective July 1, 2013. -- Amended 2011 Ky. Acts ch. 52, sec. 2, effective June 8, 2011. -- Amended 2010 Ky. Acts ch. 104, sec. 2, effective April 8, 2010; and ch. 148, sec. 5, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 77, sec. 7, effective June 25, 2009. -- Amended 2008 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 10, effective June 27, 2008. -- Amended 2005 Ky. Acts ch. 86, sec. 8, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 36, sec. 7, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 169, sec. 5, effective March 31, 2003. -- Amended 2002 Ky. Acts ch. 52, sec. 3, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 7, sec. 7, effective June 21, 2001, and ch. 140, sec. 2, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 210, sec. 2, effective July 14, 2000; and ch. 385, sec. 9, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 105, sec. 6, effective July 15, 1998; and ch. 371, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 167, sec. 7, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 485, sec. 7, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 240, sec. 11, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 489, sec. 1, effective July 15, 1990. -- Amended 1988 Ky. Acts ch. 191, sec. 1, effective July 15, 1988; and ch. 349, sec. 7, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 90, sec. 7, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 166, sec. 16, effective July 15, 1982; ch. 423, sec. 4, effective July 15, 1982; and ch. 458, sec. 11, effective January 1, 1982. -- Amended 1980 Ky. Acts ch. 186, sec. 6, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 311, sec. 10, effective June 17, 1978; and ch. 384, sec. 551, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 321, secs. 11 and 40. -- Amended 1974 Ky. Acts ch. 24, sec. 1; and ch. 128, sec. 12, effective March 26, 1974. -- Amended 1972 Ky. Acts ch. 116, sec. 20. -- Amended 1966 Ky. Acts ch. 35, sec. 1. -- Amended 1964 Ky. Acts ch. 86, sec. 1. -- Amended 1962 Ky. Acts ch. 58, sec. 1. -- Amended 1960 Ky. Acts ch. 165, Part II, sec. 1. -- Amended 1958 Ky. Acts ch. 113, sec. 1. -- Created 1956 Ky. Acts ch. 110, sec. 1.

**Legislative Research Commission Note (4/9/2024).** 2024 Ky. Acts ch. 143, sec. 5, reads as follows: "This Act [which amended this statute] shall apply retroactively to an employee of the Louisville and Jefferson County Public Defender Corporation who was a member of its staff on September 30, 2023, and is subsequently appointed to a leadership or supervisory position within the Department of Public Advocacy between October 1, 2023, and July 1, 2024."

**Legislative Research Commission Note (7/15/2024).** This statute was amended by 2024 Ky. Acts chs. 55 and 143, which do not appear to be in conflict and have been

**Legislative Research Commission Note (6/29/2021).** See 2021 Ky. Acts ch. 106, secs. 10, 11, 12, and 13 for information regarding the application of the amendments to

this statute made in that Act.

**Legislative Research Commission Note** (12/13/2018). On December 13, 2018, the Kentucky Supreme Court ruled that the passage of 2018 SB 151 (2018 Ky. Acts ch. 107), did not comply with the three-readings rule of Kentucky Constitution Section 46 and that the legislation is, therefore, constitutionally invalid and declared void. That ruling applies to changes made to this statute in that Act.