

FINANCE AND ADMINISTRATION CABINET
Teachers' Retirement System
(Amendment)

102 KAR 1:340. Calculation of final average salary.

RELATES TO: KRS 161.220(9)

STATUTORY AUTHORITY: KRS 161.310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.310(1) requires the board of trustees to promulgate administrative regulations for the administration of the funds of the retirement system and for the transaction of business. KRS 161.220(9) establishes the definition of "final average salary" including permissible salary increases for annuity calculations. This administrative regulation establishes the method for calculating final average salary if there is a change in position or in length of employment. This administrative regulation establishes how KRS 161.220(9) is applied.

Section 1. Definitions.

- (1) "Additional duties" means service from a duty or duties outside of the member's primary job duty. This includes compensation paid from a district's supplemental or extra service salary schedule, such as coaching, club sponsoring, and summer school teaching. Additional duties also includes extended school services (ESS). For members employed by employers that are not school districts, additional duties includes assignments, responsibilities, duties, college credit hour classes taught, grant writing, and projects that are outside of, or added to, the member's position.
- (2) "Newly Created Position" means a position that did not exist at least a full twelve (12) months prior to the member's assumption of that position.
- (3) "Position" means:
 - (a) The primary job duty performed by a member that, standing alone, earns service credit in TRS, whether that job duty is provided in full-time employment as defined in KRS 161.220(21), part-time employment, or substitute teaching; and
 - (b) Does not include additional duties as defined in this administrative regulation.
- (4) "Previously existing position" means a position that existed at least a full twelve (12) months prior to the member's assumption of that position.
- (5) "Salary schedule" means only the single certified salary schedule based on rank and step generally applicable districtwide for teachers and excludes other schedules or compensation arrangements.
- (6) "rank and step" means a single, specific cell on the salary schedule where rank serves as one axis of the schedule and step as the other.

Section 2. A member who receives an increase in salary that exceeds the limits permitted for inclusion as final average salary pursuant to KRS 161.220(9)(b), but experiences a corresponding change in length in employment, shall have his or her final average salary calculated using salaries adjusted in the manner established in this section.

- (1) The member shall receive one (1) additional day of salary for retirement calculation purposes at the member's base daily rate of pay for each day added to the member's annual contract in excess of the member's contracted days from the last immediately prior fiscal year.
- (2) The base daily rate of pay used as an additional day of salary for retirement calculation purposes shall not include compensation:
 - (a) For extra duties worked beyond the member's primary job duty for which the member receives most of his or her compensation;
 - (b) That exceeds the limitations established by KRS 161.220(9)(b);
 - (c) That is not "annual compensation" as defined by KRS 161.220(10); or

(d) That is otherwise excluded from use in retirement calculations pursuant to the provisions of KRS 161.220 through 161.716.

(3) The additional days shall be worked days in order to have the additional salary included for retirement calculation purposes.

Section 3. The limitation established by KRS 161.220(9)(b) on the amount of salary included in each of the member's three (3) highest salaries shall not apply if the increase in the member's salary is due to a corresponding change in position. A corresponding change in position only occurs if:

(1) The member assumes a newly created position in which all duties are new and different from the previous position the member held;

(2) The member moves from one (1) position to another separate, previously existing position; or

(3) The member assumes a second, previously existing position in its entirety, and now occupies two (2) different positions.

(4) For purposes of paragraphs (b) and (c) of this subsection:

(a) For school district employers, the district salary schedule shall be proof of a previously existing position.

(b) For other employers, proof of a previously existing position includes official employment records, such as those for classified and non-classified positions established under the state merit system.

(c) For all employers, a title change, in and of itself, shall not be proof.

Section 4. The limitation established by KRS 161.220(9)(b) on the amount of salary included in each of the member's three (3) highest salaries shall apply in situations including if:

(1) A member performs additional duties during the fiscal year; or

(2) The employer changes the member's duties or responsibilities to include additional duties or responsibilities within the member's existing position; or

(3) The member assumes some, but not all, duties of a second position; or

(4) The member assumes a newly created position in which not all duties are new and different.

Section 5. Any contributions paid to TRS on salaries that are disallowed under KRS 161.220(9)(b) shall be refunded to the school district on the member's behalf.

Section 6. The measurement of the limitation under KRS 161.220(9)(b) shall be applied so that the combined increase in salary for each of the last three (3) full years of salary prior to retirement shall not exceed the total permissible, percentage increase received by other members of the employer for the same three (3) year period. The increases for each of the last three (3) full years of salary shall be measured from, and compared to, the base full fiscal year salary that is immediately prior to the last three (3) full years of salary.

Section 7.

(1) In determining the limitation under KRS 161.220(9)(b), the total permissible percentage increase for a school district is the highest percentage increase for a specific cell of the salary schedule as defined in Section 1(5) from one (1) fiscal year to the next and excludes any increase from one (1) cell to another cell whether by rank or step.

(2) Individual members may have increases greater than the district's permissible increase when they advance on the salary schedule as defined in Section 1(5) in step or rank. Individual members may not have increases greater than the district's permissible increase when they advance on a pay schedule or compensation agreement other than the salary schedule as defined in Section 1(5).

BRENDA MCGOWAN, Chairperson

APPROVED BY AGENCY: September 16, 2024

FILED WITH LRC: September 26, 2024 at 11:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 23 December 2024, at 9:00 a.m. Eastern Time at the offices of the retirement system at 479 Versailles Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 31 December 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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