

GSSA Fall Bootstrap Conference



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IF THE RECESSION
IS OVER,
WHY ARE WE
STILL CUTTING
BUDGETS?

If you haven't already....

- Review contract to address work year, local supplements, revenue shortfalls and still comply with state law
- Review benefit language in policies and board resolutions
- Review reduction-in-force policy
- Review evaluation procedures and implementation

The words you use matter.....

- A furlough is unpaid time off from work required by the employer. A change in work schedule under a written contract is different.
- Didn't the Governor order furloughs?
- No. What the Governor did was withhold certain funds. How your district responded was dependent on its contracts with its teachers.
- And doing "furloughs" has other consequences, such as affecting TRS contributions.



Teachers
Retirement
System of
Georgia

Providing a future you can depend on

September 1, 2009

To: TRS Reporting Employers
From: Jeffrey L. Ezell
Executive Director
Re: Furloughs and TRS Earnable Compensation

Current economic conditions and reduced revenue are causing many schools to reduce budgets by several methods such as furloughs and reduced contracted work days. All of which will have an impact on the compensation to be reported to TRS. "Earnable compensation is defined as compensation payable to a member for his full normal working time [11]. In accordance with Georgia law and advice, the reporting of employer and employee contributions will be based on the member's full rate of regular compensation for his full normal working time during the implementation of the furlough.

1. Furloughs are considered a temporary downward adjustment in an employee's salary and not a permanent salary reduction. Since Georgia law states contributions are remitted based on the member's full rate of regular compensation for his full normal working time, contributions will continue to be reported based on the member's full rate of regular compensation for his full normal working time during the implementation of the furlough.
2. Salary reductions and reductions in contracted work days will become the employee's full rate of regular compensation for his full normal working time. Therefore, employee and employer contributions will be reported based on the employee's adjusted regular compensation for his full normal working time during the implementation of the furlough.

Reporting employers should report all employee salary between newer employees and those employees with salary discrepancies occur, your TRS representative will review the reporting. For employees who are close to retirement, please remember that contributions are based, in part, on the member's two highest consecutive years of salary.

Should you have additional questions, please contact our office at 404-352-6500.

JLE/arr

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1. Furloughs are considered a temporary downward adjustment in an employee's salary and not a permanent salary reduction. Since Georgia law states contributions are remitted based on the member's full rate of regular compensation for his full normal working time, contributions will continue to be reported based on the member's full regular salary prior to the implementation of the furlough.



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Jeffrey L. Ezell
Executive Director

September 1, 2009

To: TRS Reporting Employers
From: Jeffrey L. Ezell
Executive Director
Re: Furloughs and TRS Earnable Compensation

Current economic conditions and reduced revenue collections have resulted in reducing budgets by several methods such as furloughs, salary reductions and reductions in contracted work days. All of which will have an impact on the amount of compensation to be reported to TRS. "Earnable compensation" means the full compensation payable to a member for his full normal working time...[Code 1(11)]. In accordance with Georgia law and advice from the Attorney General, reporting of employer and employee contributions will be as follows:

1. Furloughs are considered a temporary downward adjustment in an employee's salary and not a permanent salary reduction. Since Georgia law requires contributions are remitted based on the member's full rate of compensation for his full normal working time, contributions will be reported based on the member's full regular salary prior to the implementation of the furlough.
2. Salary reductions and reductions in contracted days are permanent and become the employee's full rate of regular compensation for their full normal working time. Therefore, employee and employer contributions will be remitted based on the employee's adjusted regular salary.

Reporting employers should report all employee salaries equally and consistently between newer employees and those employees who are nearing retirement. If discrepancies occur, your TRS representative will contact you for clarification. For employees who are close to retirement, please remember that the retirement benefit is based, in part, on the member's two highest consecutive years of salary and two years of salary.

Should you have additional questions, please contact our office.

JLE/arr

2. Salary reductions and reductions in contracted days are permanent in nature and become the employee's full rate of regular compensation for their full normal working time. Therefore, employee and employer contributions should be remitted based on the employee's adjusted regular salary.

Other legal issues involving TRS...

- OCGA 47-4-40(d):full-time lunchroom, maintenance, warehouse or transportation managers or supervisors shall have the option of joining TRS
- What does the job description say about supervising?
- Document that the choice was given
- Class action lawsuit resulted in \$5,000,000 settlement by District

The Challenge to Local Control and Local Taxes

- The Georgia Charter Schools Commission approves two state commission charter schools
- Notice is given of local revenue share to be deducted from District's state share and added to commission school's
- Lawsuits filed by four school districts challenging constitutionality

What are the issues?

- Can the State create a new school district or a new process for creating public schools?
- If a local school, must be under management and control of local board
- If a state school, how does it get local funds without approval of voters
- How is the funding formula fair?

What's next for the Commission?

- At least thirty-four petitions pending
- Do you know which ones may affect you?
- Virtual state-wide commission charters
- What does the Commission consider?

And what about the future?

- SB 90 – Universal choice is still pending in the General Assembly
- Interdistrict choice from one school district to another includes provision for payment of local share just like commission charters
- Are private school vouchers next?

Speaking of parental choice.....

"If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services the public agency: (i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with 300.503 before ceasing the provision of special education services."

Other special education issues...

SBOE rule proposals as to RTI,
HHB, due process, etc.

Congressional hearings on restraint
and seclusion and possible law

SBOE rule on restraint and seclusion

What can you expect from the state rule?

- What will you be able to do? Physical Restraint, but....
 - Will be more limited: not for use for discipline or punishment
 - Only for use when a student is a danger to himself or others (The specific confines of this standard are still yet to be finalized but will impact the rule's application in a big way)
 - Possibly only by personnel trained in proper restraint and de-escalation techniques
 - Possibly only when more than one (trained) staff member is present

But...what about the day to day application of this rule?

- What about fights?
- What about students who elope?
- What if the people available are not trained? Do we have to train **everyone**?
- And what will be the effect on GNETS?

Decision of the Georgia Supreme Court

- Smith v. McDowell (2009):
- Six-year old female student abducted by non-custodial father;
- Mother sues receptionist for failing to check registration form before releasing student, as required under school procedures;
- Receptionist stated that she could not locate card, had no warning about the father, child was happy to see father, and that earlier she received a call and fax from someone claiming to be the mother and that the father would be in later to check out daughter;

Decision of the Georgia Supreme Court

- Supreme Court finds a ministerial duty and upholds Court of Appeals
- Although no state statute or board policy at issue, the principal's directive regarding how to check out students creates a ministerial duty
- School receptionist admitted she had no discretion
- Why does it matter?

Recent Court of Appeals Decision

- Dollar v. Grammens (2008):
- Middle school student suffers serious eye injury during science experiment;
- Father sues superintendent, principal, and science teacher for failing to comply with or to enforce the Board's policy regarding wearing eye protection during science experiments;

Recent Court of Appeals Decision

- The Court concluded that the eye protection policy imposed upon the teacher a ministerial duty to require the students to wear eye protection while they were participating in or observing the experiment.
- On appeal to the Georgia Supreme Court...

Avoiding the Unintentional Creation of Ministerial Duties

- Balance the need for providing clear directives and expectations with removing all discretion on the part of the employee
- Why is discretion a good thing?
- Review all Board policies, handbooks and directives and all local procedures

Questions?



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