



# HOTLINE



January 16, 2025

## New Definition of Compensation Effective July 1, 2025

At the November 2024 Board Meeting, the Board adopted a new definition of compensation, which will be effective July 1, 2025. The new administrative rule 3309-1-02 sets forth an expanded definition of SERS-covered compensation, as provided by Section 3309.01(V) of the Ohio Revised Code.

COMPENSATION: What's In, What's Out, and What's Different		
What's In, What's Out		
	OLD	NEW
	NO CHANGE	
Regular base salary	✓	✓
Regular/base hourly wages	✓	✓
Pick up on Pick-up Plan	✓	✓
Overtime paid to non-exempt employees	✓	✓
Paid leave	✓	✓
Longevity/length of service, which is payment based on total years of employment per written contract or policy and applicable to all employees	✓	✓
Employer payments to an eligible retirement plan e.g. 403(B), 457 account	✓	✓
Backpay awards that reinstate an employee to the employee's position without interruption of loss of time	✓	✓
Extended days	✓	✓
Commissions per contract terms	✓	✓
	OUT/NO CHANGE	
Compensation time cash out	x	x
Leave cash-in	x	x
Attendance, which are payments for limited use of sick leave per a policy or contract	x	x
Wellness rewards, which are payments to employees for achieving measurable health goals as set forth in a written policy	x	x
Recruitment, which is payment for referring a job applicant who is hired	x	x
Severance payment	x	x
Bonus payment, which is discretionary payment not governed in a contract	x	x
What's Different		
	OLD/OUT	NEW/IN
Lump Sum	Lump sum amounts that are not incentive payments set forth in a collective bargaining agreement	Lump sum payments that are provided for will need to be written in the collective bargaining agreement*
Lump Sum	Lump sum amounts that are not incentive payments set forth in an individual contract	Lump sum payments that are provided for will need to be written in the individual contract*
Lump Sum	Lump sum merit/performance amount as set forth in a written contract or policy	Lump sum payments that are provided for are required to be written in the contract or school district policy*
Retention	Retention, which is payment to current employee to remain for a certain period of time	The retention payment is required to be written in a contract*
Education	Education, which concerns attaining or having a certification or degree only per a written policy or contract	The payment will need to be written into a contract or school district policy*
Signing Bonus	Signing bonus, which is payment to new employees for accepting a position	The payment will need to be written into a contract or school district policy*

\*The payment must be made in accordance with enforceable obligations negotiated in ADVANCE of the performance of the compensated service

Rev. 1/2025

[View and download the Compensation Chart](#)

## Compensation Definition Breakdown

### Administrative Rule 3309-1-02

Paragraphs (B)(1), (B)(2), (B)(3) of Rule 3309-01-02 define three separate types of “compensation” for SERS-covered membership.

### Paragraph (B)(1) Compensation as Salary

Salary is defined as the base salary paid to an employee as set forth in the employee’s contract, collective bargaining agreement, or employer’s salary schedule.

Lump sum payments are not part of base salary. They may only be considered part of compensation as provided in Paragraph (D) discussed below.

## **Paragraph (B)(2)**

### **Compensation as Wages**

Wages are defined as compensation paid to an employee for services based on time worked but excluding overtime.

Wages are payments to hourly workers for their normal schedules.

Lump sum payments are not part of wages. They may only be considered part of compensation as provided in Paragraph (D) discussed below.

## **Paragraph (B)(3)**

### **Compensation as Earnings**

Earnings are defined as payments by reason of employment other than salary and wages. These payments must be made in accordance with enforceable obligations negotiated in advance of the performance of the compensated service.

For example, payments required by law or school policy or in accordance with a contract or collective bargaining agreement negotiated prior to the services being provided.

These include:

- Overtime paid to non-exempt workers
- Paid leave
- Longevity/length of service, which is payment based on total years of employment per written contract or policy and applicable to all employees
- Extended days
- Backpay awards that reinstate an employee to the employee's position without interruption of loss of time
- Commissions
- Employer payments to an eligible retirement plan (e.g. 403b, 457b, 401k)
- Pick up on Pick-up Plan

## **Paragraph C**

### **Lump Sum Amounts and One-time Payments Not Considered Compensation**

Lump sum amounts and one-time payments not considered compensation include:

- Payments made by the employer for accrued but unused compensatory time for overtime worked
- Attendance incentives
- Wellness incentive
- Employee recruitment incentives
- Severance payments
- Payments not paid pursuant to an employment agreement, collective bargaining agreement, or salary schedule
- Payments to settle a grievance that are not backpay
- Lump sum payments made by the employer in return for the employee retiring

## Paragraph D

### Lump Sum Amounts and One-time Payments Considered Compensation

In order to be considered compensation in accordance with the definition, lump sum amounts and one-time payments must be provided for in the collective bargaining agreement, individual contract, or school district policies, in advance of the performance of the compensated service, including retention payments, signing bonuses, and education payments for certifications.

To be considered compensation, in accordance with Paragraph (D), negotiated contract terms and formally adopted salary schedules must be in place before the payment is earned.

Lump sum amounts and one-time payments, including bonuses, must be specifically provided for in contracts, school district policies, or bargaining agreements prior to the issue of the compensated service.

For example, if a bonus is issued to an employee for an on-time, under budget completion of a project, but there was no advanced provision in the agreement that the employee would earn a bonus for on-time, under budget completion of a project, SERS would not accept this as compensation.

**Employers cannot take any action (i.e. amend contracts, pass resolutions, etc.) to try to retroactively make payments meet the SERS definition of compensation.**

**Employers cannot include provisions for “possible” future payments as compensation that are not required to be paid under the contract. An employee must be able to obtain a court order requiring the employer to make the payment pursuant to the contract if the employer fails to pay.**

SERS determination of the status of a payment as compensation is final.

**Reminder: There is no change to compensation that is excluded by statute.**

For examples of payments **not** considered compensation, refer to [Section 3309.01\(V\)\(2\) of the Ohio Revised Code](#).

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## Compensation Determinations

Please remember that the new compensation rule does not go into effect until July 1, 2025.

SERS will continue to follow the current compensation rule when reviewing compensation determination until then.

When requesting a compensation determination, Employer Services will require all documentation regarding the payment in question. The documentation needed will vary based on the type of payment being made.

SERS' determination of the status of a payment as compensation is final.

## Sound Bite: New Compensation Rule

Employer Outreach will be hosting several Sound Bite webinars leading up to July 1, 2025. In these short webinars, an Employer Outreach representative will be discussing the new compensation rule in detail.

Please see the upcoming Sound Bite dates and times listed below and visit the [Training Opportunities page](#) to register. Sound Bite Webinars have been scheduled for:

- Wednesday, February 5, at 9:30 a.m.
- Thursday, February 27, at 2:00 p.m.
- Wednesday, March 12, at 9:30 a.m.
- Wednesday, April 23, at 2:00 p.m.
- Thursday, May 15, at 9:30 a.m.
- Monday, June 30, at 2:00 p.m.

*This newsletter is a summary written for use by SERS' employers. It is not intended as a substitute for the Ohio Revised Code or the Ohio Administrative Code or for any state or federal law or regulation, nor will its interpretation prevail should a conflict arise between it and any law or regulation.*

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