

# MANAGEMENT DIRECTIVE

## Commonwealth of Pennsylvania Governor's Office

<b>Subject:</b> Reinstatement of Terminated Employees Into the State Employees' Retirement System	<b>Number:</b> 570.8 Amended
<b>Date:</b>  April 7, 2014	<b>By Direction of:</b>  David E. Durbin, Executive Director State Employees' Retirement System
<b>Contact Agency:</b> State Employees' Retirement System, Membership Services Division, Telephone 1.800.633.5461 ext. 8289	

**This directive establishes policy, responsibilities, and procedures regarding the State Employees' Retirement System (SERS) membership for terminated employees who are subsequently reinstated as a result of arbitration awards, civil service adjudications, court orders, or grievance settlements. Marginal dots are excluded due to major changes.**

### 1. PURPOSE.

- a. To establish policy, responsibilities, and procedures regarding SERS membership for terminated employees who are subsequently reinstated as a result of arbitration awards, civil service adjudications, court orders, or grievance settlements.
- b. To meet SERS' responsibility to administer the *Retirement Code* in accordance with existing laws passed by the General Assembly; its fiduciary obligation to SERS' members; and its commitment to provide consultation and guidance to member agencies on all matters regarding SERS.

2. **SCOPE.** This directive applies to all departments, boards, commissions and councils (hereinafter referred to as "agencies") under the Governor's jurisdiction that has employees who are eligible to become members of SERS. This policy shall be interpreted in accordance with the *Retirement Code*. Accordingly, SERS' policy and the responsibilities and procedures set forth herein are the same for all SERS employers and members.

### 3. OBJECTIVES.

- a. To ensure employer agencies and SERS' members understand the policy and procedures related to changes in members' retirement accounts and the actions to be taken after reinstatements.
- b. To ensure that agencies provide accurate information to employees and timely, complete information to SERS to facilitate appropriate status changes.

### 4. DEFINITIONS.

- a. **Accumulated Deductions.** The total of a SERS member's contributions plus credited interest earned on those contributions.
- b. **Active Member.** An employee for whom contributions are being made to SERS.
- c. **Annuity.** A series of periodic payments for a fixed period or for life. SERS annuity payments are made on a monthly basis and survivor options are available.
- d. **Conditional Retirement Application.** A retirement application filed within 90 days of termination by an employee who wishes to file an appeal regarding his/her dismissal from commonwealth employment and which is clearly annotated as being conditional. The filing of a conditional retirement application preserves the member's date of retirement as the day after the date of termination.
- e. **Creditable Service.** The service for which a SERS member has or may make contributions including, for example: prior state service; military service; out-of-state and federal service in public school education; cadet nurse corps service; certain types of other governmental service; community college service prior to July 1, 1971; and justice of the peace service prior to January 1, 1970.
- f. **Date of Termination of Service.** The last day of service for which contributions are made for an active member or, in the case of an inactive member on leave without pay, the date of resignation or the date that employment is formally discontinued by the employer.
- g. **Eligible Employee.** An employee who serves in a position that requires him/her to be a mandatory member or allows him/her to become an optional member of SERS as outlined in [Management Directive 570.1, Mandatory Membership in the State Employees' Retirement System](#) and [Management Directive 570.6, Optional Membership in the State Employees' Retirement System](#).
- h. **Inactive Member.** A SERS member who is not currently making member contributions, has accumulated deductions remaining in the fund, is not eligible to or has not elected to become a vestee, and has not filed an application for an annuity.

- i. **Mandatory Membership.** The membership in SERS that is required of all full-time state employees and permanent part-time state employees, unless such employees are specifically exempt from membership or have the option of enrolling in another retirement system. SERS members who terminate from state service, who do not withdraw their contributions or retire, and who later return to state service must re-enroll in SERS, even if they are not full-time or permanent part-time state employees.
  
- j. **Optional Member.** Pursuant to *Section 5301(a) of the Retirement Code*, the employees below who have the right to elect SERS membership (once such election is exercised, however, continued membership is mandatory until termination of state service):
  - (1) Governor;
  - (2) Lieutenant Governor;
  - (3) Members of the General Assembly;
  - (4) Heads or deputy heads of administrative departments;
  - (5) Members of any independent administrative board or commission;
  - (6) Members of any departmental board or commission;
  - (7) Members of any advisory board or commission;
  - (8) Secretary to the Governor;
  - (9) Budget Secretary;
  - (10) Legislative employees; and
  - (11) School employees who may elect membership in the Public School Employees' Retirement System (PSERS) or a third-party plan offered by their employer
  
- k. **Purchase of Service Credit.** The act of making contributions by actuarial reduction, payroll deduction, or lump sum payment to increase the total number of years of service that are used to determine vesting in SERS and the member's annuity, death benefit, etc.
  
- l. **Regional Counseling Centers.** The offices located throughout the commonwealth to provide assistance and information to SERS members. To provide convenient, on-site service, centers are based on concentrations of members in specific geographic areas and serve as the hub for counseling/outreach operations. Active members whose work locations are and retired members who live in the following counties:
  - (1) **Region 1 - Seneca Regional Counseling Center.** Armstrong, Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango, and Warren.

- (2) **Region 2 - Pittsburgh Regional Counseling Center.** Allegheny, Beaver, Western Cambria, Fayette, Greene, Indiana, Somerset, Washington, and Westmoreland.
  - (3) **Region 3 - State College Regional Counseling Center.** Bedford, Blair, Eastern Cambria, Centre, Clearfield, Franklin, Fulton, Huntingdon, Juniata, and Mifflin.
  - (4) **Region 4 - Montoursville Regional Counseling Center.** Bradford, Cameron, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Schuylkill, Snyder, Sullivan, Tioga, and Union.
  - (5) **Region 5 – Wilkes-Barre Regional Counseling Center.** Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Susquehanna, Wayne, and Wyoming.
  - (6) **Region 6 - Bensalem Regional Counseling Center.** Berks, Bucks, Chester, Delaware, Lancaster, Montgomery, Philadelphia (including the following): Port Authority Transit Corporation, Delaware River Joint Bridge Commission, and Delaware River Port Authority.
  - (7) **Region 7 - Harrisburg Regional Counseling Center.** Adams, Cumberland, Dauphin, Lancaster, Perry, and York.
- m. **Retirement Code.** The Pennsylvania statute that authorizes and controls the administration, policies, and procedures of SERS as well as the rights and benefits of its members. The *Retirement Code* is set forth at *71 Pa. C.S. §§5101-5957*.
- n. **SERS.** The organization created by the *Retirement Code* to administer retirement benefits for Pennsylvania state employees, including overseeing the pension system and under the authority of the State Employees' Retirement Board, pursuant to *Act 1987-81*, managing the optional deferred compensation program.
- o. **SERS Member.** An active member, inactive member, annuitant, vestee, or special vestee who is making, or has at any time, made contributions to the SERS fund. Eligibility for membership in SERS is specified in [Management Directive 570.1, Mandatory Membership in the State Employees' Retirement System](#) and [Management Directive 570.6, Optional Membership in the State Employees' Retirement System](#).
- p. **Termination of Service.** A break in employment of more than 14 calendar days. The effective date of termination is the date the initial break in employment occurred.
- q. **Uncredited State Service.** The service that meets the criteria for state service "creditable service" (above) earned by a SERS member that has not previously been credited to a member's account.
- r. **Vested.** The status achieved by a SERS member who has met all the criteria required by his/her class of service to receive an annual annuity.

s. **Vestee.** A SERS member who is under normal retirement age, is eligible to receive annuity payments from SERS, has terminated state service, and has elected to leave the total accumulated deductions in the fund and temporarily defer receipt of a SERS annuity.

5. **POLICY.** Employees who are reinstated because of arbitration awards, civil service adjudications, court orders, or grievance settlements are to be reinstated in SERS according to the procedures in this directive.

a. If a terminated employee withdraws his or her accumulated deductions or receives an annuity and is reinstated without back pay and without a change in the termination date, the employee will be treated as any other returning employee, receiving no retirement service credit for the period in which the individual was not an employee and if the member received an annuity, he or she will be treated as an annuitant return to service as addressed in *Section 5706 (a)* of the *Retirement Code*.

b. If a terminated employee withdraws his or her accumulated deductions or receives an annuity and is reinstated as a result of changing the termination to a suspension without pay, there was not an effective termination of the employee-employer relationship and, therefore, the member was not eligible to withdraw accumulated deductions or receive an annuity. The member is required to repay sums received from SERS, plus interest.

c. If a terminated employee is reinstated and receives a partial back pay for a time period that he or she was not suspended, the employee must make member contributions based on any retirement-covered earnings used in the calculation of the back pay award, plus interest on such contributions as a result of the retroactive return to state service and back pay. There was not an effective termination of the employee-employer relationship and, therefore if the terminated employee withdrew his or her accumulated deductions or received an annuity, he or she is required to repay any sums received from SERS, plus interest.

d. If a terminated employee is reinstated as if in continuous service, he or she must restore his or her retirement account to what it had been before dismissal. The employee must make member contributions based on any retirement-covered earnings used in the calculation of the back pay award, plus any interest on such contributions as a result of the retroactive return to state service and back pay. There was not an effective termination of the employee-employer relationship and, therefore if the terminated employee withdrew his or her accumulated deductions or received an annuity, he or she is required to repay any sums received from SERS, plus interest.

## 6. RESPONSIBILITIES.

a. **Agencies** shall:

(1) Provide a copy of the award, adjudication, court order, or grievance settlement to SERS as soon as possible.

- (2) Provide SERS and the employee with a detailed memorandum listing the periods of service being restored, including earnings and hours by calendar quarter.
- (3) Make any adjustments to employee payroll deductions and contributions to SERS that may be appropriate.
- (4) Make any additional employer contributions that may be necessary.

**b. Employees shall:**

- (1) Contact SERS upon termination, explaining the circumstances of the termination.
- (2) Repay sums owed to SERS, if any, upon reinstatement.
- (3) Contact SERS if there is a desire to purchase service, if applicable.

**c. SERS shall:**

- (1) Respond to employees who have questions regarding their retirement benefits.
- (2) Explain how to file a conditional retirement application.
- (3) Provide information about members' rights and obligations regarding actions that affect their retirement accounts, etc.
- (4) Provide the amounts owed by the member to the member and the member's agency and applies all relevant changes to the member's retirement account.

## **7. PROCEDURES.**

- a. Reinstatement from Dismissal without Back Pay—Return to Service with No Change in the Original Termination Date.** If an employee who has withdrawn their accumulated deductions and did not receive an annuity, is reinstated and wishes to repay those contributions, he or she should contact SERS to request a purchase-of-service. In response, SERS will create an invoice for repayment, listing the employee's options. If the employee has questions regarding the repayment options or process, he or she should contact the SERS Membership Services Division.
- b. Reinstatement from a Dismissal that has been Changed to a Suspension without Pay.** If an employee who has withdrawn their accumulated deductions or received an annuity benefit is reinstated, there must be an immediate arrangement to repay amounts withdrawn or benefits paid. Repayment may be made in a lump sum or payroll deductions of up to six years, plus statutory interest. SERS will notify the employee of the amount due, including statutory interest.

**c. Reinstatement from Dismissal with Partial or Full Back Pay.**

- (1)** If an employee is reinstated with some back pay, the back pay award must be used to pay the employee's full retirement contribution due on the back pay; and any withdrawn contributions and interest or annuity payments received during the period of dismissal.
- (2)** If the back pay award is less than the required amounts due, any amount due in excess of the back pay must be paid in a lump sum or payroll deductions of up to six years, plus statutory interest. SERS will notify the employee's payroll office of the amount due, including statutory interest. Members will be invoiced for the amounts due in excess of the back pay by SERS.
- (3)** The employer and employee share must be paid even if the member will not actually receive any compensation due to various deductions. In this event, SERS will be notified and the member will be invoiced for the amounts due by SERS.

**This directive replaces, in its entirety, *Management Directive 570.8*, dated April 3, 2006.**