



Chapter 5– Eligible Earnings

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This chapter of the PERA Employer Manual will help employers determine which earnings an employee receives are eligible to use when determining pension contributions for the Defined Benefit or Defined Contribution plans.

The Employer Manual is intended to provide general information. The rights and obligations of public employers and members are governed by state and federal laws, rules, and regulations. The Minnesota Legislature or the federal government may change the statutes, rules, and regulations governing PERA at any time. If there is a discrepancy between the information in this document, the statutes and regulations shall govern.

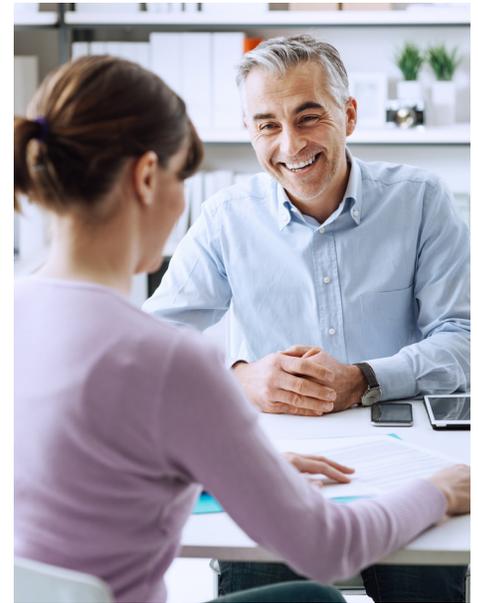
In determining what is and is not salary for retirement purposes, employers and PERA staff sometimes need to go beyond the name that is given to the payment and consider what the payment is for and the source of the payment. If an employer is uncertain about how to treat compensation for PERA purposes, we ask that you contact PERA for a determination before remitting contributions. In certain instances, PERA will ask that this request be in writing and include documentation relating to the compensation such as personnel policies or labor agreements.

Only compensation that is salary for PERA purposes to be used to determine membership eligibility. Amounts that qualify as

PERA-eligible salary are subject to retirement plan deductions. When an employee's level of earnings qualifies him or her for mandatory membership in a PERA retirement plan, the employer must begin to withhold PERA deductions from the eligible salary (assuming that the employee is not excluded from membership for other reasons). PERA deductions are required if an employee's earnings will exceed the eligibility threshold and must continue on all future salary earned by the individu-

al, even if the annual earnings fall below \$5100 (or \$3800 for 9-month school year employees) in subsequent years. An employee remains a member until termination of service or termination of membership as defined in PERA law.

For help enrolling new members and remitting contributions, please refer to [Chapter 6 Maintaining Member and Employer Records](#) and [Chapter 7 Contribution Reporting](#).



PERA-Eligible Salary

What is considered eligible salary for PERA purposes is the same for the Defined Contribution Plan and the Defined Benefit Plans (the General Plan (Coordinated or Basic), the Correctional Plan and the Police and Fire Plan).

PERA-eligible earnings are not identical to Social Security-deductible earnings or to state or federal taxable income under the Internal Revenue Service.

PERA-eligible salary is not identical to Social Security-deductible earnings or to state or federal taxable income.



Fast Fact

Only compensation that is salary for PERA purposes may be used to determine membership eligibility. When an employee's level of earnings qualifies him or her for mandatory membership in a PERA retirement plan, the employer must begin to withhold PERA deductions from the eligible salary immediately (assuming that the employee is not excluded from membership for other reasons). An employee remains a member until termination of service or termination of membership as defined in PERA law.

As explained in [Chapter 7 Contribution Reporting](#), PERA member and employer contributions are calculated on eligible salary before any tax-deferred deductions that an employee chooses to have made for a 457 deferred compensation plan,

supplemental retirement plan, or other voluntary salary reduction programs.

On the next page is a list of forms of compensation that are salary for PERA contribution purposes based on Minn. Stat. § 353.01, subd. 10(a). This list is not meant to be all-inclusive. If you are not sure how to treat a particular payment to an employee, please contact the PERA office for a determination before remitting contributions. In certain instances, PERA staff will ask to review documentation relating to the pay such as personnel policies, bargaining agreements, board meeting minutes, court orders, settlements, etc.



Salary for PERA contribution purposes includes the following:

- The wages, salary or periodic compensation paid by the employer to an employee who performs services in an eligible position during the coverage period being reported. This includes overtime, cash tips received by an employee and treated as wages by an employer, and salary paid to district court reporters. In some instances, it may include fees paid to employees in addition to salary or wages.
- Voluntary deductions that an employee chooses to have made for 457 deferred compensation plans, supplemental retirement plans, or other voluntary reduction programs that would have otherwise been available as a cash payment such as tax-deferred employee deductions for flexible spending accounts, cafeteria plans, health care expense accounts, day care expenses, and transportation costs for transit passes, vanpool fares and parking.
- Cash payments for accrued or banked overtime hours when the amount can be attached to an earnings period. Employers that pay overtime compensatory pay on an annual or periodic basis must report the amounts separately from any regular earnings being paid to the employees and must indicate a specific earnings period for the pay.
 - » Example: An employer pays a lump-sum amount to all employees that have accumulated unused overtime hours at the end of each calendar year. The pay should be reported to PERA with the coverage dates of January 1, 20XX through December 31, 20XX.
- An excused absence from work in which the employee uses vacation, sick or personal leave to cover the missed work hours. This includes sick leave that is used by an employee who has received hours under a sick leave donation program.
- Pay to an employee while on a medical leave of absence if the person receives at least 50 percent of the average regular salary that the employee had earned during the six months of PERA-covered employment immediately prior to the starting date of the leave. See the section "[Closer Look at Some Types of Pay](#)" that appears later in this chapter for more information.
- Pay to an employee while on a personal, parental, or military leave of absence if the compensation is equivalent to the average regular salary that the member had received in the six months of PERA-covered employment immediately prior to the leave.
- Holiday pay when paid as routine earnings for a period of excused absence and lump-sum payments for accrued holidays that are available to a group of employees. Employers that pay unused holiday pay on an annual basis, or when an employee terminates employment, must report the amount separate from any regular earnings being paid and must indicate a specific earnings period for the holiday pay.
- Additional pay for working on a scheduled holiday.
 - » Example: A police officer works on July 4th and has the choice of taking another day off with pay or receiving an extra day's pay. When the employee takes the extra day of pay, the payment is viewed similarly to overtime pay and is PERA-eligible salary.

- A merit or performance bonus if it is paid under a written compensation plan, policy or bargaining agreement, is paid to the employee for attaining performance goals, duties, or measures and covers a specified earnings period. Performance or merit pay may be in addition to regular salary or may replace regular salary increases. Report retroactive merit or performance bonus pay separate from any regular salary the employee has earned and indicate a specific earnings period for the performance pay.
- Retroactive pay or “back pay” that is paid to employees or former employees for services rendered during a period before the current payroll period. Often, retroactive pay is the result of a salary increase negotiated through a collective bargaining agreement or a personnel policy. Report retroactive pay and its earnings period separate from any regular salary the employee has earned.
- An amount awarded to an employee through a grievance proceeding, settlement, or court order that applies on or after May 24, 2013, when the payment represents lost wages for a period of suspension, or for a period of involuntary termination, that is not a wrongful discharge under Minn. Stat. § 356.50, provided that it meets the following criteria:
 1. It is attached to a specific earnings period in which member’s regular salary was not paid due to a suspension or a period of involuntary termination,
 2. It is at least equal to the average regular earnings the person had been receiving during the six months of PERA-covered employment immediately prior to the suspension or period of involuntary termination; and
 3. It does not exceed the compensation that the public employee would have earned if regularly employed during the applicable period.In this situation, the employer is not required to get a salary-eligibility determination in advance from PERA and should automatically report the eligible back-pay compensation on the Salary Deduction Report under the pay type “grievance.”
- Payments of back wages that are made to remedy a wrongful discharge are PERA-eligible salary only if the employer paying the amounts, under a court order, arbitration document, or settlement agreement, obtains an advance determination from PERA staff. In this situation, the employee has the option to purchase the applicable period by making a voluntary payment to PERA. Any payment made by the employee may not be made as a tax-deferred contribution. If the employee chooses to pay PERA contributions to cover the period of lost wages, the employer is obligated to pay the employer contributions with interest. In these cases, PERA mails an invoice to the employer. See Wrongful Discharges in [Chapter 7 Contribution Reporting](#) for more details.
- Longevity or stability pay that is paid to the employee as routine wages on a periodic basis of at least annually, or more frequently, and is attached to a specific earnings period. Employers that make payment to the employee on an annual basis must report the amount separate from any regular earnings and indicate a specific earnings period for the longevity or stability pay (such as 01/01/20XX – 12/31/20XX).

Always report earnings from the current payroll period separate from any pay that is earned in a different period



Fast Fact



- Salary, wages, or sick leave paid in addition to Worker’s Compensation payments. Also see Workers Compensation payments later in this chapter under the section “[Closer Look at Some Types of Pay.](#)”
- Employer contributions for an employee to a post-retirement health care savings program or a laborers pension fund listed in Minn. Stat. § 356.24, subd. 1, clauses 7, 8, 9, and 10. The employer contribution qualifies as salary when an agreement between the parties establishes that the contributions will either result in a mandatory reduction of employees’ wages through payroll withholdings, or be made in lieu of an amount that would otherwise be paid as wages.
- Jury duty leave paid by employers - Paid absences of employees excused from work for jury duty.
- Court appearance pay awarded by the employer to its current police officer employees.



Compensation that is not Salary

Some forms of compensation are not considered salary for PERA contribution purposes under Minn. Stat. § 353.01, subd. 10(b). PERA withholding cannot be made on the following forms of compensation. Again, this list is not all-inclusive.

- Fees paid to district court reporters
- Payment for unused annual, sick, vacation, or personal leave, in lump-sum or periodic
- The value of hours donated by an employee under a vacation or sick leave donation program.
- A bonus payment that is not performance or merit pay, including but not limited to:
 - » Service awards made on a one-time basis such as an amount paid to an employee who completed 10 or 20 years of service,
 - » Compensation given to employees as an incentive or recognition for the preservation of sick leave,
 - » Referral pay given to employees that help to recruit new workers, and
 - » Signing bonuses awarded to employees.

- Lump-sum settlements not attached to a specific earnings period
- Any form of severance or retirement incentive payments,
- Court-ordered damages
- An allowance payment or per diem for or reimbursement of expenses. This includes but is not limited to parking, mileage, meals, travel, moving, education, uniforms, tools, charges assessed for personal use of a company vehicle. Allowance payments are excluded from PERA-eligible salary regardless of whether the individual uses the full amount for expenses or receives cash for any unused portion.
- Workers' Compensation payments or disability insurance payments, including payments from self-insured employers. Also see Workers' Compensation payments and Short-Term Disability Benefits later in this chapter under the section "[Closer Look at Some Types of Pay.](#)"
- Pay to an employee while on an authorized medical leave of absence that represents less than 50 percent of the average regular earnings that would have been received had the individual not been on leave. See the section "[Closer Look at Some Types of Pay.](#)" later in this chapter for more information.
- Pay to an employee who is on an authorized personal, parental, or military leave of absence, during which the person receives a reduced salary for the pay period(s) that is less than the average regular salary that the member had received during the six months of PERA-covered employment immediately prior to the leave. See the section "[Closer Look at Some Types of Pay.](#)" later in this chapter for more information.
- Employer-paid fringe benefits, including but not limited to:
 - » Employer-paid premiums for all types of insurance,
 - » Membership dues or fees for use of fitness or recreational facilities,
 - » Incentive payments or cash awards, such as those relating to wellness programs,
 - » the value of any nonmonetary benefits,
 - » any form of payment made in lieu of an employer-paid fringe benefit;
 - » an employer-paid amount made to a deferred compensation or tax-sheltered annuity program, and
 - » Any amount paid by the employer as a supplement to salary — either as a lump-sum amount or a fixed (or matching) amount paid on a recurring basis — which is not available to the employee as cash.
- Amounts that an employer pays directly to an employee to be used toward the cost of insurance coverage regardless of whether the individual uses the full amount for insurance coverage or receives cash for any unused allowance.
- The amount equal to that which the employing unit would otherwise pay toward single or family insurance coverage for a covered employee when, through a contract or agreement with some but not all employees, the employer:
 - » discontinues, or for new hires does not provide payment toward the cost of the employee's selected insurance coverage;
 - » makes the employee solely responsible for all contributions toward the cost of the employee's selected insurance coverage under a group plan offered by the employer, including any amount



the employer makes toward other employees' selected insurance coverage under a group plan offered by the employer; and

- » provides increased salary rates for employees who do not have any employer-paid group insurance coverage.
- Except as provided in Minn. Stat. § [353.86](#) or [353.87](#), compensation of any kind paid to volunteer ambulance service personnel or volunteer firefighters for ambulance or fire fighting services.
- Jury duty compensation paid to a PERA member by the court, or expense payments to a PERA member, that are paid in addition to regular salary while on jury duty leave. Some county employers add the pay for jury services to their employees' wages and issue one payment. When this is done, the pay for jury services is not PERA-eligible salary.
- Amounts paid to a former police officer for a court date appearance that falls after the individual's termination date and thus after the employer/employee relationship has ended.
- Compensation in excess of the limitations of Minn. Stat. § 356.611 as discussed in [Chapter 7 Contribution Reporting](#).



Closer Look at Some Common Types of Pay

The information in this section will focus on compensation situations in which employers have commonly asked questions.

Workers Compensation Payments

As you know, Workers' Compensation is a form of insurance that provides compensation to employees who have work-related accidents or illnesses and are not able to work a regular schedule. It is generally provided by an outside insurance company, but can also be from self-insured employer arrangements.

Workers' Compensation benefits are generally computed at about 2/3 of the person's gross average salary.

Minn. Stat. § 353.01, subdivision 10(b) lists Workers' Compensation payments or disability insurance payments, including payments from employer self-insurance arrangements, as compensation that is not considered salary for PERA purposes. When an employee who is on a leave of absence receives a Workers'

Compensation benefit payment, PERA deductions should not be taken from the Workers' Compensation benefit payments and should not be reported as part of the employee's salary.

On the other hand, compensation that is paid in addition to Worker's Compensation benefits is salary for PERA purposes. Generally, the compensation is equal to one-third of the person's usual wage or salary. This pay usually results from the employee using accumulated sick, vacation, or paid-time-off hours to augment the Worker's Compensation benefit in order to maintain his or her full salary level.

On occasion, you might pay an employee who is absent from work and drawing Workers' Compensation benefits his or her full regular salary while the

Workers' Compensation claim is pending. When this pay is issued, it is PERA-eligible salary and contributions must be withheld. However, if the claim is approved, and you are later reimbursed from the insurer or the employee, then the portion of the previously reported salary that is equal to the Workers' Compensation benefit amount is no longer salary for PERA purposes. In this instance, you may adjust the salary and contributions previously reported to PERA to correct the overpayment. Or, you may ask our office to issue a refund of member deductions for the salary amounts that have been retroactively replaced by Workers' Compensation payments. In the latter situation, we would also issue a credit to the employer for the overpaid employer contributions.

Pay while on Personal, Parental or Military Leave

If a member uses accrued sick or vacation hours while on a personal, parental, or military leave of absence in order to draw his or her regular wages, the compensation received each pay period is salary for PERA purposes. See Example A.

Example A – Parental Leave

Evelyn has requested a parental leave of three months. A review of her employment for the six months prior to the date in which the leave will begin shows that her hourly base-rate of pay was \$20.50 and her average pay for 80 regular work hours was \$2,040.

Paid time off that provides regular wages to an employee while on leave is salary for PERA purpose.



Fast Fact



Evelyn has 126 hours of banked sick and vacation hours and plans to use those hours to cover a portion of her parental leave. These hours are not enough to provide pay to Evelyn for the full leave period. However, based on her regular work schedule of 8 hours a day, Evelyn will draw her normal level of pay for two pay periods in the leave period. Because Evelyn is using her accrued sick and vacation hours during her leave at the same rate in which she normally works (8 hours a day), the compensation she receives is PERA-eligible salary.

In the first pay period in which Evelyn is on a paid leave of absence, she is paid \$2,040 for 80 hours of accrued leave. PERA deductions are to be withheld from this compensation.

In the second pay period in which Evelyn is on a leave of absence, she will use the remaining balance of accrued leave hours (46) and her pay check will be \$943. This compensation is also PERA-eligible salary because Evelyn is receiving paid time off at the same rate as her regular pay and work schedule.



To see how this would change if Evelyn is allowed to use her accrued sick and vacation hours at a rate that is below her normal number of regular hours of work, see Example B.

Paid time off at a rate less than regular pay

If a member who goes on a personal, parental, or military leave on or after May 24, 2013, is granted paid time off by an employer at a rate that is less than regular earnings, the pay will be considered salary for PERA purposes only if it is equivalent to the average earnings the employee had received during the six months of PERA-covered employment immediately prior to the start of the leave. See Examples B and C. (Note: For personal, parental, or military leaves that began before May 24, 2013, any amount of paid time off is salary from which PERA deductions are required.)

Example B – Parental Leave

The facts are the same as in Example A except that Evelyn is allowed by her employer to spread her total accrued sick and vacation hours (126) across the entire leave of absence so that she can receive an equal level of pay for each payroll period in which she will be absent.

In this situation, instead of using 8 hours to cover her absence each day, Evelyn will use only 4.2 hours. For a biweekly payroll period, her pay will be \$1071, rather than her normal earnings of \$2,040.

Here, the compensation of \$1,071 that will be paid to Evelyn each pay period of the parental leave period is not salary for PERA purposes because it represents paid time off at a rate less than the regular pay that she had been receiving before the leave began.

Example C – Military Leave

Bill will be on military leave for eight months. His hourly rate of pay during the last six months of PERA-covered employment before the leave begins is \$25, and his regular wages and hours of work in a pay period averaged \$2,000 and 80 hours, respectively.

Bill has 960 hours of banked paid time off (PTO), but that is not enough to allow him to maintain his current base salary level during the entire leave period. Bill asks for approval to use 60 hours of PTO each pay period. This would provide a pay check of \$1,500 each pay period while Bill is on military leave of absence.

In this situation, the compensation of \$1,500 that will be paid to Bill each pay period of the military leave period is not salary for PERA purposes because it represents paid time off at a rate less than the regular pay he had been receiving before the leave began.

Paid time off for military training

Generally, pay to a member who is granted up to 15 paid working days per year for annual training with a reserve component of the armed forces is salary for PERA purposes. However, the pay is not PERA-eligible salary if the pay is spread across multiple pay periods and, consequently, is not comparable to the regular earnings that the employee would have earned had he or she not been on leave. The member's regular earnings will be determined

using the employment earnings that the person had during the six months of PERA-covered employment immediately prior to the military leave.

Differential pay while on military leave

Some employers pay military-differential pay to employees on active duty in the uniformed services for a period of more than 30 days. Oftentimes the differential pay represents only a portion of the wages the employees would have otherwise received if they were working.



If a member goes on a military leave on or after May 24, 2013, and receives differential pay from the employer, the paid time off is not salary for PERA purposes if it is less than the average regular earnings the member had been receiving during the six months of PERA-covered employment immediately prior to the leave. (Note: For military leaves that began before May 24, 2013, any amount of differential pay is salary for PERA contribution purposes.)

Members on Paid Medical Leave

When a member who is absent due to an authorized medical leave of absence continues to draw his or her normal regular pay during the leave period, that compensation is salary for PERA purposes.

However, if a PERA member who goes on a medical leave on or after May 24, 2013 is granted paid time off at a rate that is less than regular pay, the compensation while on the paid medical leave may not always be PERA-eligible

salary as noted in this section. (For medical leaves that began before May 24, 2013, any amount of paid time off is salary from which PERA deductions are required.)



Paid time off at a rate less than 50% of regular pay

If a member goes on a paid medical leave on or after May 24, 2013, and receives paid time off that is at least one half of the average payroll earnings that the person had received during the six months immediately prior to the medical leave, then the compensation received during the leave is salary for PERA purposes. See Example D.

On the other hand, if the paid time off is less than one-half of the average earnings the individual received in the six months of covered employment prior to the leave, then the pay is not eligible salary for pension purposes and may not be reported to PERA. See Example E.



Example D – Medical Leave

Marilyn has requested a medical leave for 60 days. Marilyn's hourly rate of pay is \$15. During the last six months of PERA-covered employment prior to the start of the leave, her biweekly earnings averaged \$540 and hours worked averaged 40.

Marilyn has 80 hours of banked paid time off (PTO). She wants to use 20 PTO hours each pay period, which would provide \$300 to her for each pay period during the medical leave.

In this situation, the \$300 that will be paid to Marilyn each pay period during the medical leave is salary for PERA purposes because it is at least one-half of the average pay she received (\$540) during the six months prior to the leave.

Example E – Medical Leave

Thomas has requested a medical leave of four months. During the six months prior to the start of the leave, his semi-monthly earnings averaged \$1,152, and hours worked averaged 64.

Thomas has 200 hours of banked sick and vacation hours and he wants to use those to draw an equal level of pay during the entire leave period. He asks to use 25 hours each pay period, which would provide him \$450 per pay period while on leave.

If approved, Thomas's use of the sick and vacation hours would be at a rate that is less than one-half of the normal number of regular hours worked prior to the start of the leave (64); therefore, the associated compensation of \$450 will not be salary for PERA purposes.



Short-term Disability Insurance Benefits

As stated earlier, disability insurance payments are not PERA-eligible salary. This includes short-term disability payments from self-insured employers unless PERA determines that the payments are more like an extension of a current or previous sick leave program, rather than a disability insurance benefit. Factors that are considered when evaluating a short-term disability program include, but are not limited to:

- whether the program is based on the accrual of disability leave hours by the employee,
- whether the employer is replacing the full salary of the employee,
- whether the employee continues to accrue leave benefits while drawing the short-term disability pay, and
- whether the employer continues to pay the cost of medical coverage provided as part of its benefit package.

Self-insured employers that are not sure if payments to their employees under a short-term disability program are salary for PERA purposes should request a review by PERA staff of the program's provisions.

Vacation Leave for Terminating Members

When a PERA member is terminating public service, the individual often times is eligible to receive compensation for accrued vacation hours and severance pay as part of finalizing the employee's separation. Employers may pay a terminating member for accumulated vacation leave in a lump sum or may keep the employee on the payroll until the accrued leave is fully used and paid out. The method of payment selected affects PERA contributions and allowable service credit as noted in this section.

Lump-sum payments

The effective date of the employee's termination is the last day worked. If accumulated vacation hours are paid in a lump sum

when an employee terminates, PERA contributions are not to be deducted. PERA service credit is not earned on lump-sum vacation leave payments made by employers to employees.

On payroll in a paid time-off status

The effective date of the employee's termination is the last day the employee is in a paid status. If the PERA member is carried on the payroll by the employer and continues to draw his or her normal level of pay until all accrued vacation leave is used, PERA contributions are deducted from the amounts paid to the employee for each pay period and the employee is given allowable service credit.

Don't withhold deductions on lump sum payments that represent unused vacation hours.



Fast Fact