

Charter Schools

Public Employees' Retirement System and Teachers' Pension and Annuity Fund

Charter schools are independent public entities as established under the "Charter School Program Act of 1995" (Chapter 426, P.L. 1995). Therefore, each charter school must comply with the requirements applicable to local governmental employers regarding Social Security and State pension enrollment.

Every charter school must participate in the State pension systems and assume liability for required employer contributions.

SOCIAL SECURITY ENROLLMENT

Every charter school must register with the Social Security Administration (SSA) in accordance with the State-SSA agreement. Registration is processed by the Division of Pensions and Benefits, which requires:

- a copy of the charter school approval letter from the Commissioner of Education;
- a copy of the charter granted by the Commissioner of Education;
- a copy of the resolution of the charter school's Board of Trustees accepting liability for the employer contributions to Social Security and the State pension systems;
- the school's Employee Identification Number (EIN);
- the approximate number of employees;
- the effective date of coverage (usually the date the first employee commences work); and
- the name, title, phone number, and address of a contact person.

The State, through procedures established by the Department of Education, will reimburse the charter school for Social Security employer contributions for the base, or contractual, salary of employees enrolled in the Teachers' Pension and Annuity Fund (TPAF). The charter school must assume liability for employer contributions to SSA for all other employees as well as for contributions for TPAF members above base salary.

Formal SSA approval may take a few months. If approval occurs after employees begin work, then the school and its employees are billed for immediate full payment of the amounts owed to Social Security since the commencement of employment.

PENSION CONTRIBUTIONS

A charter school must not take any payroll deductions for pension contributions from any employee's paycheck until the school receives a *Certification of Payroll Deductions* from the Division of Pensions and Benefits.

Eligibility Criteria — Teachers' Pension and Annuity Fund

State law requires that all employees appointed to permanent positions requiring certification as members of a regular teaching or professional staff of a public school system or of a public charter school who meet the minimum work requirement of 32 hours per week must enroll in the TPAF as a condition of employment. An employee who is eligible for enrollment must enroll. It is not an option. The only exception is if a retiree from a public retirement system in New Jersey, *other than the TPAF*, accepts a teaching position at a charter school.

If a retiree who is receiving a pension from the TPAF accepts a teaching position at a charter school and meets the minimum work hours requirement (32 hours) for enrollment, then the retiree must cancel the retirement and reenroll in the TPAF. When that member retires again, a new retirement application must be filed with the Division to reinstate the previous retirement allowance as well as begin the new benefit based on the second enrollment.

Appointments to Administrative Positions — Teachers' Pension and Annuity Fund

Chapter 355, P.L. 2001 (N.J.S.A. 18A:66 - 53.2) provides an exemption from the reenrollment after retirement provisions to retirees of the TPAF who are certificated superintendents or certificated administrators (this does not apply to those retired on a dis-

ability retirement). Positions which require certificated administrators include that of superintendent, assistant superintendent, executive superintendent, principal, assistant principal, vice-principal, director, supervisor, and school business administrator. For a complete list of certificated administrator positions, please contact the New Jersey Department of Education.

A certificated superintendent or certificated administrator who becomes employed by a board of education or charter school as a certificated superintendent or certificated administrator on a contractual basis for a term of not more than one year, is exempt from the reenrollment provisions. The contract for employment can be renewed for one additional year; however, the retiree's total period of employment with any individual board of education or charter school may not exceed a two-year period.

Chapter 355 also provides that the current pension reenrollment provisions will still apply **if a retiree accepts employment** within 120 days of retirement with the same employer from which the retiree retired.

Eligibility Criteria — Public Employees' Retirement System

Employees not eligible for TPAF enrollment must be enrolled in the Public Employees' Retirement System (PERS) as a condition of employment. The eligibility requirements for PERS membership are employment of a minimum of 32 hours per week and salary that is subject to Social Security withholding, and a job title which fills a regularly budgeted position. Individuals employed in a temporary position are not eligible for enrollment until one year after employment begins, unless they are already active members of the PERS and meet the salary or work hour requirement of their membership tier.

The date of enrollment would be the 1st of the month for those hired between the 1st and 16th of the month and the 1st of the following month for those hired after the 16th of the month.

Permanent substitute teachers are immediately eligible for enrollment in the PERS if the position being filled is full time for at least 32 hours per week.

If a retiree from a public retirement system in New Jersey, *other than the PERS*, accepts a position at a

charter school, that retiree is ineligible for enrollment in the PERS.

A PERS retiree may work in a PERS eligible position; however, the retiree must work less than 32 hours *and* earn less than \$15,000 per calendar year to avoid reenrollment in the PERS system which would cancel the retirement allowance. To be considered a PERS retiree, the person must have previously terminated all employment covered by the PERS, not have received compensation from employment covered by the PERS for at least 30 days, and the retirement allowance must have become due and payable.

Seasonal or intermittent employment is not eligible for enrollment in either the PERS or TPAF.

Consultants

The Division of Pensions and Benefits uses the guidelines set forth in IRS Publication 15A, *Employer's Supplemental Tax Guide*, to determine whether an individual is an independent contractor/consultant or an employee subject to pension enrollment. If the Division determines by using these guidelines that an individual is an employee, the enrollment provisions of the TPAF and PERS laws apply. If the individual is retired from either the PERS or the TPAF, then the reenrollment provisions apply, and any retirement benefits received after the retiree should have reenrolled in the system must be refunded to the retirement system.

Employees of Private Entities Involved in Charter School Management

Teachers in charter schools are required by law to be public employees and therefore, must be enrolled in the TPAF if otherwise eligible. Some charter schools are managed by private entities. These private entities may employ administrators and support staff and then assign them to work at a charter school.

The Division of Pensions and Benefits assumes that all employees of charter schools are public employees subject to enrollment. If a charter school considers an employee to be an employee of a private entity, that charter school must sufficiently demonstrate to the Division that the employee is employed by the private entity and not the charter school. Required proofs of the employment relationship include copies of the School Ethics Commission Personal/Relative

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and Financial Disclosure Statements filed with the Department of Education as well as copies of federal *Forms W-2* or *1099*.

Public School Employees on Approved Leaves of Absences at Charter Schools

A public school employee can request a leave of absence of up to three years from a local district to work in a charter school. The charter school should file a *Report of Transfer* with the Division of Pensions and Benefits since the employee must remain in the same retirement system regardless of title. The Division will send a *Certification of Payroll Deductions* authorizing the charter school to take pension deductions. Such employees on leave shall

be enrolled in the health benefits plan of the school district where the charter school is located.

FOR MORE INFORMATION

If you have specific questions regarding TPAF or PERS enrollment, you may write to the Division of Pensions and Benefits, Enrollments Bureau, PO Box 295, Trenton, NJ 08625-0295, or e-mail your question to pensions.nj@treas.state.nj.us or you may visit the Division's Internet site at:

www.state.nj.us/treasury/pensions

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