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**TO:** Certifying Officers, State and County Colleges and Universities

**FROM:** Joseph Zisa, Manager 1, Fiscal Resources  
Division of Pensions and Benefits

**SUBJECT: Pension Eligibility — Adjunct Faculty and Part-Time Instructors —  
Supplemental Questions and Answers — 2<sup>nd</sup> Set**

As part of the Division's continuing response to implementation of pension reform legislation signed into law by Governor Corzine on September 29, 2008, this document will serve as a supplement to information contained in the October 28, 2008, letter to Certifying Officers and the follow-up questions and answers sent to Certifying Officers on December 1, 2008, concerning the pension eligibility of adjunct faculty and part-time instructors. The information is presented in the form of questions and answers and addresses more of the questions the Division has been presented with following the signing of this legislation and the guidance issued to date.

### QUESTIONS AND ANSWERS

1. **Question.** Is there a one year waiting period for part-time instructors to enroll into the Alternate Benefit Program (ABP)?

**Answer.** There is generally a one year waiting period for *vesting* under the ABP. However, if the reference here is to the one year waiting period for temporary employees to be *enrolled* into PERS, no, there is no such requirement under the ABP

2. **Question.** As far as vesting goes, if an adjunct faculty member is enrolled in ABP and skips semesters, will he/she have to work a continuous year to be vested?

**Answer.** N.J.S.A. 18A:66-189, "Contributions under alternate benefit program" states that employer contributions are vested to the employee "after the employee commences the second year of employment". And, N.J.A.C. 17:7-3.2, "Delayed vested contribution" states in part:

"...The first year of employment is considered to be the commencement of the 13th month of employment after the participant has received credit in the Alternate Benefit Program for 12 months of service."

There is no requirement that the service be continuous. So vesting will occur after the completion of 12 months of service.

3. **Question.** How are part-time coaches treated for retirement plan enrollment? Employers have normally enrolled part-time coaches into the Public Employees' Retirement System (PERS) after one year of service. Do employers continue to this practice or are part-time coaches now ABP eligible with no waiting period?

**Answer.** Unless the position "part-time coach" meets the definition of "adjunct faculty" or "Part-Time Instructor", nothing has changed. Employers must continue to follow the PERS eligibility rules for these other positions.

4. **Question.** If a PERS member is provided an "*Election of Retirement Coverage*" form upon accepting an ABP eligible position and he or she does not respond, would the employer keep that employee in PERS?

**Answer.** If a PERS member accepts an ABP eligible position, including Adjunct Faculty or Part-Time Instructor positions, and does not complete an "Election of Retirement Coverage" form within 30 days of beginning employment in that position the employer must enroll the employee into ABP.

However, the Division will honor, on a case-by-case basis, an election made by an individual after 30 days, but before 90 days, following the individual beginning employment in that ABP eligible position until such time as N.J.A.C. 17:7-2.1(e) is amended.

5. **Question.** If an employer hires and terminates adjunct faculty on a semester-by-semester basis, does the employer have to offer the returning adjunct faculty member already enrolled in the PERS the opportunity to continue membership in the PERS instead of enrollment into the ABP each semester or just the next time adjunct faculty member is rehired?

**Answer.** If a PERS member has not yet executed an "*Election of Retirement Coverage*" form, the individual has the right to make that election upon acceptance of any future ABP eligible employment.

6. **Question.** Footnote #2 of the Division's October 28, 2008, Certifying Officer letter states that current adjunct faculty who do not complete the "*Election of Retirement Coverage*" form will lose the right to have all retirement credit consolidated under one of the two retirement systems, ABP or PERS. In that circumstance, the employer will enroll the adjunct faculty in the ABP. If the employee is not vested in PERS, will he or she be required to withdraw his or her contributions and close the PERS account if the individual does not take a PERS eligible position within 2 years?

**Answer.** Yes, if the PERS account is not vested, and the individual does not contribute to that account for 24 consecutive months, the PERS account will become inactive and the only option available to the individual is to withdraw those funds. The individual may roll those funds over to another retirement plan, such as an IRA, or take a direct, taxable payment of the funds.

7. **Question.** If the person accepting an ABP eligible position is vested in PERS, is the “penalty” for not completing the “*Election of Retirement Coverage*” form that the service time in each system will not be combined for purposes of eligibility for employer-paid retiree health benefits after 25 years of service?

**Answer.** Part-time employees and faculty are not eligible for employer-paid health coverage at retirement. If the member is covered under the State Health Benefits Program (SHBP) or School Employees’ Health Benefits Program (SEHBP) at the time of retirement, they are permitted to continue that coverage in retirement as long as they pay for the coverage.

8. **Question.** Footnote #2 of the Division’s October 28, 2008, Certifying Officer letter states that the employee who does not complete the “*Election of Retirement Coverage*” form may lose those benefits which have not been vested under PERS. How would the employee calculate the value of the PERS benefits that could be lost to determine if this is significant?

**Answer.** It is not possible to calculate the value of a benefit that does not yet exist. Until a member of PERS is vested, there is no guarantee of future benefit. Alternatively, each year the Division provides to PERS members a statement of benefits which projects what an individual’s benefit might be if he or she were to continue in employment until reaching retirement age. One may consider using that information to determine “the value of the PERS benefits that could be lost” as this has been stated in the question.

9. **Question.** Since PERS is not a defined contribution plan, what is the calculation to determine the amount of funds which would transfer to the ABP account to reflect the contributions made by the employer after 10 years of combined PERS/ABP service?

**Answer.** The Division will provide a calculation upon request. Please see N.J.S.A. 18A:66-173 for a discussion of the process for calculating this amount.

10. **Question.** When will an ABP enrolled adjunct faculty member be eligible to pay for health benefits coverage?

**Answer.** These employees may pay for this benefit now. Part-time employees of the state colleges and universities are eligible to enroll in the SHBP. In addition, part-time faculty at county colleges that participate in the SEHBP are eligible to enroll in the SEHBP. A part-time employee’s only coverage option is NJ DIRECT15 and the Employee Prescription Drug Plan.

11. **Question.** When will a PERS enrolled adjunct faculty member be eligible to pay for health benefits coverage?

**Answer.** These employees may pay for this benefit now. See Q&A # 10 above.

12. **Question.** If a PERS enrolled adjunct faculty member transfers to ABP, is the length of service combined between PERS and ABP to determine eligibility for employer-paid retiree health benefits after 25 years of service?

**Answer.** Part-time employees and faculty are not eligible for employer-paid health coverage at retirement. If the member is covered under the SHBP/SEHBP at the time of retirement, they are permitted to continue that coverage in retirement as long as they pay for the coverage.

13. **Question.** The employer contribution to the ABP is paid by the state for academic positions. Is this going to be the case for adjuncts? If not, on what basis could this change occur?

**Answer.** See Certifying Officer Letter dated December 1, 2008; Q&A # 9 – there has been no change in this response.

14. **Question.** If a person is enrolled in ABP under multiple positions with different employers, may he or she choose different investment carriers at each employer?

**Answer.** There are no restrictions under the ABP to restrict an individual to making contributions to one investment provider at any one employer. Therefore, there is nothing to prevent the individual from choosing to invest with more than one provider at different employers.

15. **Question.** Will employers be required to complete *Leave/Termination Reports* for each adjunct faculty member, each semester, if the employee does not return in the next semester?

**Answer.** Yes, without this notification the Division is not aware of the current employment status of the individual. As an alternative to filing the form, an employer may update an employee's status via –the Employer Pensions and Benefits Information Connection (EPIC).

16. **Question.** If an ABP member, including adjunct faculty and part-time instructors, terminates employment and begins to withdraw funds from the ABP account, may he or she stop receiving retirement benefits under the ABP account and re-enroll in ABP if he or she obtains a full-time position?

**Answer.** No. N.J.S.A. 18A:66-175, "*Election to receive cash distribution or annuity option; termination of participation*", states:

*"Membership or participation in the alternate benefit program shall terminate and the individual shall be considered retired once he has elected to receive a cash distribution upon separation from service or an annuity option from the designated insurer or insurers or a designated mutual fund company or companies, as appropriate."*

Further, N.J.S.A. 18A:66-170, "*Persons eligible for participation in program; ineligibility for membership in other pension funds; waiver of rights to continue membership in other fund*", states in part:

*“Any person receiving a benefit by reason of his retirement from any retirement or pension system of the State of New Jersey or any political subdivision thereof shall be ineligible to participate in the alternate benefit program.*

*.... The alternate benefit programs established pursuant to this act are deemed to be pension funds or retirement systems for purposes of P.L.1968, c. 23 (C. 43:3C-1 et seq.).”*

Therefore, such an individual, upon withdrawing funds from the ABP, would be considered retired from a “retirement or pension system of the State of New Jersey...” and prohibited from future enrollment and participation in the ABP.

17. **Question.** ABP default investment carriers change annually. If an adjunct faculty member is “force-enrolled” in ABP in one semester and returns when there is a new default carrier, would the pension contributions go to the new default carrier or to the same carrier in which the adjunct was originally enrolled?

**Answer.** As with any default enrollment in the past, the default investment provider utilized upon an individual’s enrollment into ABP would continue until such time as the individual elects to change that provider or, if the provider is no longer authorized to accept contributions under the plan, a replacement default provider is named.

#### **ADDITIONAL INFORMATION**

If you have additional questions regarding the ABP or any of the information in this letter, contact the Defined Contribution Plans Unit at (609) 292-3605 or e-mail the Unit at: [typabp1@treas.state.nj.us](mailto:typabp1@treas.state.nj.us).