

Employment decisions and their effects on Employees in Defined Benefit Plans

In light of the ongoing COVID-19 pandemic, many employers, including local governments, have had to reduce their workforce, at least for the short term. Several employers have contacted PMRS and asked what affect that would have on their employees as it relates to their defined benefit pension plan benefits. Below, PMRS has summarized all pertinent provisions of the Base Plan Document (which is the most recent, and current, approved plan document template approved by the IRS). PMRS does not attempt to define layoff or furlough because different employers may have different definitions of those terms.

Pursuant to the Base Plan Document, an **Active Member** means a Member who is accruing Credited Service under the Plan. **Credited Service** means the measurement of a Member's Service that is used to determine the Member's Accrued Benefit. **Service** means any period of time the Employee is in the employ of the Municipality, including any period the Employee is on a Leave of Absence authorized by the Municipality up to one (1) year, unless a longer period is required by law to be counted as Service.

Inactive Member means a Member who has experienced a Severance from Credited Service but has not received full payment of his Vested benefit under the Plan. A Member on Leave of Absence shall not be deemed an Inactive Member. **Severance from Credited Service** means an Employee's Termination of Employment or change in employment status (via election, appointment or otherwise) such that he is no longer an Eligible Employee under the Plan.

In short, once an Employee is an Active Member, and thus accruing Credited Service in a plan, there are only two ways they stop accruing Credited Service. First, if they are terminated, they stop accruing Credited Service. Second, if they become an ineligible employee (as defined by the plan documents), they would no longer accrue Credited Service.

Placing an Employee on Paid or Unpaid Leave

If an employer places an employee on leave (either paid or unpaid), but the employer has not terminated the employee, the employee will continue to accrue Credited Service in the pension plan (as long as the employee returns to Service after the Leave of Absence). Moreover, if the employee is on paid leave, the employee must continue to make any required contributions to the plan. If the employee is on unpaid leave, the employee is not required to make required contributions to the plan.

As it relates to determining Final Average Salary, which is one of the three components in determining an employee's pension benefit, if an employee is on paid leave (either normal pay or reduced pay), the employee's compensation will be counted when computing Final Average Salary. If an employee is on unpaid leave, that period while the employee is on unpaid leave will not be counted when computing Final Average Salary.

Reducing an employee's hours

In the event that an employer reduces the hours of an employee such that the employee is no longer considered full-time, the employee may become an ineligible employee depending on which class of employees the plan document allows for plan membership. If the reduction in hours turns the employee into an employee who is ineligible for plan membership, the employee will not accrue Credited Service, Vesting Service or Eligibility Service while the employee remains in an ineligible status.

Terminating an Employee Temporarily

The Base Plan Document defines Break in Service with respect to an Employee as a Period of Severance of twelve (12) consecutive months. If an employer terminates an Employee such that there is no longer an employer/employee relationship yet re-hires the employee within 12 months from the termination, the employee shall accrue Credited Service for the period during the Break in Service.

Examples:

Employer is planning to lay off/furlough an employee with no specific end date.

1. Is the Employer severing or ending the employment relationship?
 - a. If no, the employee will be in a "leave without pay" status and receive Retirement Plan Service beginning on the day they are no longer being compensated and continuing for a period up to one (1) year or when they return to work as an Plan Eligible Employee, whichever is earlier.
 - b. If yes, the employee is considered terminated from employment and will not receive any Retirement Plan Service after their employment termination date
2. What do I need to report to PMRS for an employee experiencing a layoff/furlough?
 - a. If they are in a leave without pay status, the Employer will report the date they began the leave without pay status and report all of the compensation and contribution associated with the employee up until his final pay date associated with his applicable compensated employment.
 - b. When the employee returns to work in a Plan Eligible position, the Employer needs to report that return date and begin reporting compensation as the Employer would normally do.
 - c. If the employee's unpaid leave extends beyond one year, when the employee returns to work as an Eligible Employee, the Employee will receive one (1) year of Retirement Plan Service.

Employer is planning to reduce an employee's number of hours per week with no specific end date

1. Does the Employer desire to formally change the employee's employment status to Part-Time?
 - a. If Yes, and Part-time employees are not eligible to participate in the PMRS Retirement Plan, the Employee would not get Retirement Plan Service for the period they remain in the Part-Time status. If they return to a Full-Time employment status, their Retirement Plan Service would begin on the first day of their reinstated Full-Time status.

- b. If no, PMRS has determined that the language in the new plan documents that specifies a Full-Time Employee “is regularly scheduled to work _____ hours per week” gives Employers the flexibility within their personnel policies to temporarily adjust hours below the Employer’s otherwise Full-Time hours without affecting their Full-Time status in the Plan.

The PMRS interpretation should allow each Employer to temporarily adjust hours without a requirement to amend your PMRS Plan. If, in the future, the Employer desires to make a permanent change to the definition of Full-Time Employee, a Plan Amendment would be needed.

2. If the Employee’s employment status remains as Full-Time, the Employer should report Compensation and Contributions as they normally do. If the Employee’s employment status is changed to Part-Time by the Employer, the Employer should notify PMRS the date of the status change and notify PMRS again of the status change back to Full-Time.

Employer terminates an Eligible Employee

1. Does the Employer desire to formally terminate the employee and rehire them back in the future?
 - a. If yes, the Employer would notify PMRS of the employment termination as they do currently and then notify PMRS of the employment rehire date.

If the employee is rehired, the Employer would notify PMRS as they currently do. If the rehiring is less than one year from their termination date, the employee will receive Plan Retirement Service for the period between the two dates. If the rehiring is more than one year from their termination date, the employee would not receive any Plan Retirement Service.

Employee does not return to work after a layoff/furlough or is not rehired as an Eligible Employee

1. If an employee does not return to work either because the employee is not recalled after a layoff/furlough or the employee chooses to not continue working for the Employer, the last day of Retirement Plan Service will be the last day of employment service before the before the layoff/furlough.