

# OPERS EMPLOYER Notice

Ohio Public Employees Retirement System • 277 East Town Street • Columbus, Ohio 43215

**Important:**  
*Immediate implementation of the recommended action outlined in this Employer Notice may save employers significant liabilities.*

## Important recommended action for employers regarding exemption procedures

### Who should read this notice

Financial officers, law directors, payroll officers, human resource professionals and those responsible for hiring employees and processing OPERS forms and applications

### Situation Overview

Ohio Revised Code Section 145.03 currently provides for an exception to compulsory membership in OPERS by allowing *students* to exempt themselves from membership in OPERS and be exempted from contributing to OPERS. However, prior to 1991, ORC Section 145.03 also provided that, in addition to students, temporary, emergency or part-time employees could exempt themselves from compulsory membership as long as they were *continuously* employed with a public employer.

It is, and has always been, the employer's responsibility to obtain and maintain exemption documentation. OPERS has recently become aware that, prior to 1991, some employers did not obtain and/or maintain valid exemptions for student and/or part-time, temporary or emergency employees. If an employer does not have accurate, approved exemption documentation, there is a possibility of significant liabilities being incurred.

Employers are encouraged to remember these points when reviewing the recommended action below:

- A break in employment that can be attributed to a standard break in a school schedule or part-time job does not constitute a break in continuous employment for purposes of Ohio Revised Code Section 145.03. Therefore, a new exemption may not be required for each year of employment.
- If an employee challenges an exemption executed prior to 1991 and OPERS determines that the exemption is invalid, state retirement law provides that the employer is liable for both the employer and employee contribution for that specific period of employment that was not covered by a valid exemption, plus interest.

### Recommended action

OPERS recommends that all public employers provide written notification to past and present employees advising employees that:

- They may be entitled to OPERS contributions for a period of time prior to 1991 that the employee believed had been exempted, and
- To determine if this is a viable action, encourage employees to contact employers to request exact exemption information or to contact OPERS for a determination as to the validity of the prior exemption.

In addition, employers are encouraged to work with employees who believe they may be entitled to OPERS credit.

**(More information on back)**



1-888-400-0965  
www.opers.org

**Why this is important**

Employers who send this information to past and present employees regarding exemptions prior to the 1991 amendment to Ohio Revised Code Section 145.03 may avoid significant future liabilities.

**Who to contact for more information**

After you review this *Employer Notice*, contact your Employer Outreach representative with questions at 1-888-400-0965 or via the Internet at [employeroutreach@opers.org](mailto:employeroutreach@opers.org).

*This Employer Notice is written in plain language for use by public employers who are subject to coverage under the Ohio Public Employees Retirement System. It is not intended as a substitute for the federal or state law, namely the Ohio Revised Code, the Ohio Administrative Code, or the Internal Revenue Code, nor will its interpretation prevail should a conflict arise between it and the Ohio Revised Code, Ohio Administrative Code, or Internal Revenue Code. Rules governing the retirement system are subject to change periodically either by statute of the Ohio General Assembly, regulation of the Ohio Public Employees Retirement Board, or regulation of the Internal Revenue Code. If you have questions about this material, please contact our office or seek legal advice from your attorney.*



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