

Time limit for membership determination requests implemented

Who should read this notice

Finance directors, payroll, human resource and benefits professionals of OPERS public employers

Note:

Timelines have been established for employers to forward forms to individuals hired as independent contractors or other classifications other than public employee for which no retirement contributions were or will be remitted to OPERS.

Situation overview

Recent statutory changes affect prior, current, and future individuals hired as independent contractors, or other classifications for which no retirement contributions were or will be made to OPERS. Effective Jan. 7, 2013, OPERS public employers will be required to provide notification within pre-determined time frames to individuals who have not had, or will not have, OPERS retirement contributions withheld from their earnings.

What employers need to do

OPERS has created two new forms to help ensure compliance with the new pension legislation:

- *Notice of Right and Request for: Determination for OPERS Membership* (Form PEDREQ): Employers are required to send this form to the last known address of any individual who provided services prior to Jan. 7, 2013, as an independent contractor, or another classification other than a public employee, and for whom no contributions were made to OPERS for the services. Employers must send these forms to any affected individual not later than sixty days after Jan. 7, 2013. The form notifies these individuals that they have one year from Jan. 7, 2013, to request a determination as to whether they should have been classified as a public employee eligible for OPERS membership for these services.
- *Independent Contractor Acknowledgment* (Form PEDACKN): Employers must ensure that this form is completed by any individual who provides services as an independent contractor, or another classification other than a public employee, on or after Jan. 7, 2013. The form must be completed within 30 days of the date on which the individual commences the services. The form requires the individual to acknowledge that the employer has notified the individual that he or she has not been classified as a public employee and that no OPERS contributions will be made on his or her behalf for these services. Notwithstanding the individual's acknowledgment, the individual may, within five years of beginning the services, request a determination as to whether he or she should have been classified as a public employee for these services. **Employers must retain this form and forward a copy to OPERS. If an employer fails to retain the signed acknowledgment, the individual's right to request a determination will extend beyond the five year time frame referenced above.**
- Employers should evaluate current retention policies to ensure these forms will be kept and can be produced should an individual request membership determination at any time, including after the expiration of timelines set forth above.



Why this is important

Timely requests for membership determinations limit potential employer liability for both member and employer contributions plus interest and ensures OPERS members receive the proper service credit.

Employers who fail to adhere to the timeline for offering the proper form to employees hired as independent contractors or who fail to retain the forms increase the potential for additional liability.

Changes to the *Employer Manual*

No revisions to the *Employer Manual* have been made as a result of this *Employer Notice*.

Whom to contact for more information

After reviewing this *Employer Notice*, contact Employer Outreach with questions at 888-400-0965, or by e-mail at employeroutreach@opers.org.

For a current listing of OPERS Board members, please visit www.opers.org

It is your responsibility to be certain that OPERS has your current physical and e-mail address on file. If OPERS is not made aware of address changes, we cannot guarantee that you will receive important information pertaining to OPERS public employers. 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.

