



EMPLOYER NOTICE

OPERS Benefit Recipients as Employees or Independent Contractors – Public Employer Responsibilities

WHO SHOULD READ THIS NOTICE

Fiscal Officers, HR contacts and any OPERS employer contact participating in the hiring process

SITUATION OVERVIEW

There are very specific requirements for OPERS public employers when engaging the services of an OPERS or other Ohio retirement system benefit recipient as an employee or as an independent contractor. In order to minimize any potential impact to the benefit recipient and your entity, you need to ensure the proper notice is made to the retirement system as early as possible.

In addition, through a recent audit, it was determined there are currently OPERS benefit recipients working as independent contractors where proper notice was not filed with the retirement system. If this situation exists at your entity, OPERS is requesting that the proper documentation is filed **no later than June 30, 2017**. Failure to do so may result in significant financial liability to both the individual and the public employer. The benefit recipient may continue to work as an employee/re-employed retiree contributing to the OPERS Money Purchase Annuity Program.

NOTE: Per R.C. §145.38(B)(6), OPERS benefit recipients may not return as an independent contractor to the employer from which they retired without an impact to their pension and health care coverage. Employer is defined at the “parent” level – for example, two different departments at the same county are still considered the same employer for the purposes of this statute. If your entity contracts with retired former employees, these individuals must terminate service as independent contractors immediately to avoid forfeiture of the pension portion of their benefits and health care. Employers may also be subject to collection of an overpayment of benefits for failing to notify the retirement system of the independent contractor relationship (R.C. § 145.38(B)(2)).

Finally, the *Notice of Re-employment or Contract Services of an OPERS or Other System Benefit Recipient (SR-6/6E)* and the *Independent Contractor/Worker Acknowledgement (PEDACKN)* forms have been updated. If you are currently in possession of older versions of these forms, they are obsolete and only current forms with a revised date of 06/2017 will be accepted.

WHAT YOU NEED TO DO

As part of the hiring process:

- **First, determine if the individual is an OPERS or other retirement system benefit recipient. This can be done by:**
 - Using the SSN Lookup feature in ECS, which will identify whether an individual is an OPERS benefit recipient, or
 - Asking the individual as part of the hiring process
 - Other retirement systems include: STRS, SERS, OP&F, HPRS, CRS

- **If hiring as an employee:**
 - o Complete the form (SR-6/6E) in ECS, indicating the correct start date (the first day the individual will be working and earning a salary)
 - o Indicate on the SR-6/6E whether health care will be offered and whether the health care plan is a High Deductible Health Plan
 - o Ensure the start date reported on the contribution report matches the start date reported on the SR-6/6E
 - However, if the individual is going to be working in a positions for which no contributions will be remitted, be sure to include the individual on the annual Non-contributing List (NCL)

- **If engaging services as an independent contactor**
 - o Have the individual complete the *Independent Contractor/Worker Acknowledgement* form (PEDACKN). This form now includes updated language, the individual's date of birth and a section to indicate whether the individual is an OPERS benefit recipient
 - o Complete the form (SR-6/6E) in ECS, indicating the correct start date (the first day the individual will be working as an independent contractor)
 - o Include the individual on the annual Non-contributing List

WHY THIS IS IMPORTANT

OPERS is committed to working toward improvements that streamline business practices and improve administrative efficiency, while maintaining compliance with Ohio Revised Code and Ohio Administrative Code. OPERS is allowing a remediation period **through June 30, 2017**, to remedy any current employee or independent contractor relationships that do not meet the requirements set forth in Ohio Revised Code and Ohio Administrative Code.

Changes to the forms related to hiring OPERS benefit recipients in any capacity will ensure both parties have been made aware of any potential impact to future benefits.

CHANGES TO THE EMPLOYER MANUAL

There are no Employer Manual changes resulting from the information contained in this Employer Notice.

WHOM TO CONTACT FOR MORE INFORMATION

After you review this *Employer Notice*, contact your Employer Outreach representative with questions or comments at (888) 400-0965, or by email 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.