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Sec. 3309.01. As used in this chapter:

(A) "Employer" OR "PUBLIC EMPLOYER" means boards of education, school districts, joint vocational districts, educational institutions, technical colleges, state, municipal, and community colleges, community college branches, universities, university branches, other educational institutions, or other agencies within the state by which an employee is employed and paid, including any organization using federal funds, provided such federal funds are disbursed by an employer as determined by the above. In all cases of doubt the school employees retirement board shall determine whether any employer is an employer as defined in this chapter and its decision shall be final.

(B) "Employee" means ~~any~~ ALL OF THE FOLLOWING:

(1) ANY person employed by ~~an~~ A PUBLIC employer as defined in ~~division (A) of this section~~ in a position for which he is not required to have a certificate issued pursuant to sections 3319.22 to 3319.31 of the Revised Code; ~~any~~

(2) ANY person who performs a service common to the normal daily operation of an educational unit even though such person is employed and paid by one who has contracted with an employer to perform such services, and the contracting board or educational unit shall be the employer for the purposes of administering the provisions of this chapter; ~~and any~~

(3) ANY person, not a faculty member, employed in any school or college or other institution wholly controlled and managed, and wholly or partly supported by the state or any POLITICAL subdivision thereof, the board of trustees or other managing body of which shall accept the requirements and obligations of this chapter. ~~In~~

IN all cases of doubt the school employees retirement board shall determine whether any person is an employee, as defined in this division, and its decision is final.

(C) "Prior service" means all service rendered prior to September 1, 1937:

(1) As an employee as defined in division (B) of this section;

(2) As an employee in a capacity covered by the public employees retirement system or the state teachers retirement system;

(3) As an employee of an institution in another state, service credit for which was procured by a member under the provisions of section 3309.31 of the Revised Code.

Prior service, for service as an employee in a capacity covered by the public employees retirement system or the state teachers retirement system, shall be granted a member under qualifications identical to the laws and rules applicable to service credit in such systems.

Prior service shall not be granted any member for such service rendered in a capacity covered by the public employees retirement system, the state teachers retirement system, and this system in the event such service credit has, in the respective systems, been received, waived by exemption, or forfeited by withdrawal of contributions, except as provided in this chapter.

If a member, who has been granted prior service should, subsequent to September 16, 1957, and before retirement, establish three years of contributing service in the public employees retirement system, or one year in the state teachers retirement system, then such prior service granted shall become, at retirement, the liability of such other system, if the prior service or employment was in a capacity which is covered by that system.

The provisions of this division shall not cancel any prior service granted a member by the school employees retirement board prior to August 1, 1959.

(D) "Total service," "total service credit," or "Ohio service credit" means all contributing service of a member of the school employees retirement system, and all his prior service, computed as provided in this chapter, and all service established pursuant to ~~section~~ SECTIONS 3309.31 ~~or~~ 3309.311, AND 3309.33 of the Revised Code. In addition, "total service" includes any period, not in excess of three years, during which a member was out of service and receiving benefits from the state insurance

fund, provided the injury or incapacitation was the direct result of school employment.

(E) "Member" means any employee, EXCEPT AN SERS RETIRANT OR OTHER SYSTEM RETIRANT AS DEFINED IN SECTION 3309.341 OF THE REVISED CODE, who has established membership in the school employees retirement system.

(F) "Contributor" means any ~~member~~ PERSON who has an account in the employees' savings fund.

(G) "Retirant" means any former member who retired and is receiving a service retirement allowance or commuted service retirement allowance as provided in this chapter, and any member receiving a disability allowance as provided in section 3309.40 of the Revised Code.

(H) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a ~~member~~ CONTRIBUTOR or retirant, qualifies for or is receiving some right or benefit under this chapter.

(I) "Interest" as specified in division (E) of section 3309.60 of the Revised Code, means interest at such rates for the respective funds and accounts as the school employees retirement board may determine from time to time except as follows:

(1) The rate of interest credited on employee contributions at retirement shall be four per cent per annum, compounded annually, to and including June 30, 1955; three per cent per annum, compounded annually, from July 1, 1955, to and including June 30, 1963; and, three and one-quarter per cent per annum, compounded annually through June 30, 1966; and thereafter, shall be four per cent per annum compounded annually until a change in such amount is recommended by the system's actuary and approved by the retirement board. Subsequent to June 30, 1959, the retirement board shall discontinue the annual crediting of current interest on a ~~member's~~ CONTRIBUTOR'S accumulated contributions. Such non-crediting of current interest shall not affect the rate of interest at retirement guaranteed under this division.

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(2) In determining the reserve value for purposes of computing the amount of the member's CONTRIBUTOR'S annuity, the rate of interest used in the annuity values shall be four per cent per annum through September 30, 1956; and, three per cent per annum compounded annually from October 1, 1956, through June 30, 1963; and three and one-quarter per cent per annum compounded annually from July 1, 1963, through June 30, 1966; and, thereafter, shall be four per cent per annum compounded annually until a change in such amount is recommended by the system's actuary and approved by the retirement board. In the purchase of out-of-state service credit as provided in section 3309.31 of the Revised Code, and in the purchase of additional annuity, as provided in section 3309.47 of the Revised Code, interest shall be computed and credited to reserves therefor at such rate as the school employees retirement board shall fix as regular interest thereon.

(J) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual A CONTRIBUTOR'S account in the employees' savings fund together with any regular interest credited thereon at the rates approved by the retirement board prior to retirement.

(K) "Final average salary" means the sum of the annual compensation for the three highest years of compensation for which contributions were made by the member, divided by three. If the member has a partial year of contributing service in the year in which he terminates his employment and such partial year is at a rate of compensation which is higher than the rate of compensation for any one of the highest three years of annual earnings, the board shall substitute the compensation earned for such partial year for the compensation earned for a similar fractional portion in the lowest of the three high years of annual compensation before dividing by three. If a member has less than three years of contributing membership, the final average salary shall be the total compensation divided by the total number of years, including any fraction of a year, of contributing service.

(L) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M) "Pension" means annual payments for life derived from appropriations made by an employer and paid from the employers' trust fund or the annuity and pension reserve fund. All pensions shall be paid in twelve equal monthly installments.

(N) "Retirement allowance" means the pension plus the annuity.

(O) "Benefit" means a payment, other than a retirement allowance OR THE ANNUITY PAID UNDER SECTION 3309.341 OF THE REVISED CODE, payable from the accumulated contributions of the member, or the employer, or both, under this chapter.

(P) "Annuity reserve" means the present value, computed upon the basis of such mortality tables as are adopted by the school employees retirement board of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant.

(Q) "Pension reserve" means the present value, computed upon the basis of such mortality tables as are adopted by the school employees retirement board, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a retirant or a beneficiary.

(R) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following.

(S) "Local district pension system" means any school employees' pension fund created in any school district of the state prior to September 1, 1937.

(T) "Employer contribution" means the amount paid by an employer as determined by the employer rate, contributions, and funds as provided in this chapter, and shall be credited to the employers' trust fund.

(U) "Fiduciary" means A PERSON WHO DOES ANY OF THE FOLLOWING:

(1) ~~A person who exercises~~ EXERCISES any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets; ~~or~~

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system; ~~or~~

(3) Has any discretionary authority or responsibility in the administration of the system.

(V)(1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a member CONTRIBUTOR by reason of his employment. Such salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 3309.47 of the Revised Code and without regard to whether any of such salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary or compensation is also paid or during which benefits are paid under this chapter;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the member CONTRIBUTOR or his family, or amounts paid by the employer to the member CONTRIBUTOR in lieu of providing such insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer including moving and travel expenses and expenses related to professional development;

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(f) Payments made to or on behalf of a ~~member~~ CONTRIBUTOR that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17) as amended;

(g) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or section 4 of Substitute Senate Bill No. 3 of the 119th General Assembly;

(h) Anything of value received by the ~~member~~ CONTRIBUTOR that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in compensation if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986.

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability from the payments.

(3) The retirement board shall determine by rule whether any form of earnings not enumerated in this division is to be included in compensation, and its decision shall be final.

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