

840 CMR 15.03 (including comments from 9-22-05 Commission meeting)

15.03: Regular Compensation

(1) During any period of active service subsequent to the effective date of 840 CMR 15.03(1) the term "regular compensation" as defined by M.G.L. c. 32, § 1, shall ~~include~~ be determined subject to the following:

(a) To be considered regular compensation, any compensation to an employee must:

- i) have been actually paid to or on behalf of a member;
- ii) be made as remuneration for services actually rendered, for recurring payments for accrued sick leave, or for payments made pursuant to G.L. c. 41, § 111F in the year or part of a year to which the compensation is attributed;
- iii) be ordinary, normal, recurrent, repeated, and of indefinite duration;
- iv) be made pursuant to an official written policy of the employer or to a collective bargaining agreement;
- v) be made on a non-discriminatory basis and be generally available for employees who are similarly situated relative to the purpose of the payment (e.g. a longevity payment made recurrently to all employees in a bargaining unit having attained a specific length of service) provided that the ability of a payment to be denied due to merit shall not exclude it for that reason from regular compensation.

~~a) The member's annual rate of compensation as provided in an approved salary schedule;~~

~~(b) Any non-cash maintenance allowances in the form of full or partial boarding and housing, as provided in M.G.L. c. 32, § 22(1)(e);~~

~~(e) (b) Regular compensation shall include a~~ Any part of such salary, wages, or other compensation derived from federal grants, except as otherwise provided in M.G.L. c. 32, § 3(2)(a)(xi);

(c) Lump-sum or retroactive payments which would have been regular compensation if paid in the periods in which the services remunerated thereby were actually rendered will be allocated to said periods rather than being entirely attributed to the time of receipt for the purpose of determining a member's regular compensation.

(d) Provided they meet the general criteria in 840 CMR 15.03(1)(a)-(c), payments to be considered regular compensation shall include:

- i) a member's annual rate of compensation as provided in an approved salary schedule;
- ii) any non-cash maintenance allowances in the form of full or partial boarding and housing, as provided in M.G.L. c. 32, § 22(1)(c);
- iii) ~~(d)~~ ~~A~~any premiums paid by any governmental unit for the purchase of an individual or group annuity contract as authorized by M.G.L. c. 15, § 18A or by M.G.L. c. 71, § 37B;
- iv) ~~(e)~~ ~~A~~any amounts paid as educational incentives;
- v) ~~(f)~~ ~~A~~any amounts paid for length of service;
- vi) ~~(g)~~ ~~A~~any amounts paid as premiums for shift differentials; and
- v) ~~(h)~~ ~~A~~any amounts paid as cost-of-living bonuses or cost-of-living pay adjustments.

(2) ~~During such period the term "regular compensation" as so defined shall not include: Any extraordinary or ad hoc payment amount shall be excluded from regular compensation. Exclusions shall include, but not be limited to:~~

- (a) ~~Any~~ ~~any~~ amounts paid for hours worked beyond the member's normal work schedule;
- (b) ~~Any~~ ~~any~~ amounts paid as premiums for working holidays, except as authorized by law;
- (c) ~~Any~~ ~~any~~ amounts paid as bonuses other than cost-of-living bonuses, provided that any payment to an employee or group of employees which will not recur or which will recur for only a limited or definite term will be considered a bonus, and further provided that any payments to an employee or group of employees as part of a salary augmentation plan or salary enhancement program for which a member has made retirement contributions on or before the effective date of these regulations shall maintain their status for the enhancement or augmentation period existing on the effective date of this regulation;
- (d) ~~Any~~ ~~any~~ amounts paid in lieu of or for unused vacation, sick leave, or other leave;
- (e) severance pay;
- ~~(e)~~ ~~(f)~~ ~~Any~~ ~~any~~ amounts paid as early retirement incentives; and
- ~~(f)~~ ~~(g)~~ Any other payments made as a result of the member giving notice of retirement.