

This is an amendment to 2.81.5 NMAC, Section 7, effective 01/01/2022.

2.81.5.7 DEFINITIONS:

- A. "Act" means the Retiree Health Care Act (Sections 10-7C-1 et seq. NMSA 1978)
- B. "Salary"

(1) For those independent public employers and participating employers affiliated with the Public Employees Retirement Act (PERA), "salary" ~~[means the base salary or wages paid for personal services rendered to the employer by the employee, including longevity pay, shift differentials, wages paid the employee for purposes of continuing the employee on the regular payroll while absent from work on account of vacation, holiday or illness. Salary shall not include overtime pay, allowances for housing, clothing, equipment or travel, or payments for unused sick leave unless the unused sick leave payment is made through continuation of the employee on the regular payroll for the period represented by that payment. Salary shall not include lump sum payments which are not part of the employee's fixed periodical compensation such as lump sum annual and sick leave not paid for purposes of continuation of the employee on the regular payroll. Salary shall not include any other form of remuneration not specifically designated by law as included in salary for PERA purposes. Lump sum or payments over time made to an employee where services are not rendered are not included in the definition of salary such as where the employer "buys out" the employee's contract. Included is any sums due the employee but withheld and paid for benefits of a voluntary "cafeteria" plan.]~~ has the meaning ascribed to it as set forth in the Public Employees Retirement Act, Section 10-11-2 NMSA 1978, and as amended from time to time.

(2) For those participating employers affiliated with the Educational Retirement Act (ERA) "salary" means the total remuneration paid for personal services rendered to the employer by the employee for services rendered during each of the four calendar quarters of a fiscal year, beginning July 1 and ending June 30. This includes payment made directly to the employee of a third party on behalf of or for the benefit of the employee except that lump sum payment to the employee for accrued sick leave shall not be included. Bonuses or incentive pay for early retirement during the four quarters preceding the member's retirement shall not be included. Lump sum payment for up to thirty days of accrued annual or vacation leave shall be included. Sixty percent of the amount paid to an employee under a school bus owner/driver contract shall be included. Lump sum or payments over time made to an employee where services are not rendered are not included in the definition of annual salary such as where the employer "buys-out" the employee's contract. Included is any sums due the employee but withheld and paid for benefits of a voluntary "cafeteria" plan.

[6/15/1998; 2.81.5.7 NMAC - Rn, 2 NMAC 81.5.7, 1/1/2010; A, 01/01/2022]