

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

### Regulatory Analysis

Notice of Intended Action to be published: 495—Chapter 6  
“Covered Wages”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 97B.4 and 97B.15

State or federal law(s) implemented by the rulemaking: Executive Order 10 and Iowa Code sections 17A.3, 97B.4, and 97B.15

### *Public Hearing*

A public hearing at which persons may present their views orally or in writing will be held as follows:

May 5, 2026  
1 to 2 p.m.

IPERS Boardroom  
7401 Register Drive  
Des Moines, Iowa  
Via videoconference call:  
[Join Online Meeting](#)  
Meeting ID: 243 870 453 017 71  
Passcode: kM68fC6e

### *Public Comment*

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Public Employees' Retirement System (IPERS) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Cheryl Vander Hart  
Iowa Public Employees' Retirement System  
7401 Register Drive  
Des Moines, Iowa 50321  
Phone: 515.281.7623  
Email: [cheryl.vanderhart@ipers.org](mailto:cheryl.vanderhart@ipers.org)

### *Purpose and Summary*

This proposed chapter was reviewed as part of the Red Tape Review process laid out in Executive Order 10. As a result of this review, IPERS removed restricted terms, combined or eliminated duplicative language, and made editorial updates to ensure the chapter reflects current policies and procedures. IPERS is a State retirement system that provides for the payment of annuities, enables employees to care for themselves in retirement, improves public employment within the State, reduces excessive personnel turnover, and offers suitable attraction to public service. IPERS is required to administer the retirement system.

### *Analysis of Impact*

- Persons affected by the proposed rulemaking:**
  - Classes of persons that will bear the costs of the proposed rulemaking:**  
This proposed rulemaking does not have a cost to the public.
  - Classes of persons that will benefit from the proposed rulemaking:**

This proposed rulemaking will benefit all IPERS members and beneficiaries and IPERS-covered public employers.

**2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

• **Quantitative description of impact:**

This proposed chapter will benefit over 2,000 IPERS-covered employers and over 400,000 IPERS-covered employees or members by removing restrictive terms and reducing duplicative terms found both in rule and in the Iowa Code.

• **Qualitative description of impact:**

This proposed rulemaking will benefit all IPERS members and beneficiaries and IPERS-covered public employers.

**3. Costs to the State:**

• **Implementation and enforcement costs borne by the agency or any other agency:**

IPERS has always incurred personnel and other administrative costs associated with implementing the agency's administrative rules while carrying out agency functions. Implementation of this proposed rulemaking adds no additional expense.

• **Anticipated effect on State revenues:**

This proposed rulemaking will not impact State revenues. IPERS is a trust fund, separate and distinct from the General Fund of the State.

**4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

IPERS is required to adopt rules to regulate and provide for the nature and extent of the proofs and evidence, and their method of taking, in order to establish the right to benefits authorized under Iowa Code chapter 97B.

**5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

IPERS has not identified any less costly methods or less intrusive methods.

**6. Alternative methods considered by the agency:**

• **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

• **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

*Small Business Impact*

**If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:**

• Establish less stringent compliance or reporting requirements in the rulemaking for small business.

• Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

• Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

• Establish performance standards to replace design or operational standards in the rulemaking for small business.

• Exempt small business from any or all requirements of the rulemaking.

**If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?**

The proposed rulemaking does not create a substantial impact on small business.

*Text of Proposed Rulemaking*

ITEM 1. Rescind 495—Chapter 6 and adopt the following **new** chapter in lieu thereof:

CHAPTER 6  
COVERED WAGES

**495—6.1(97B) IRS requirements.** Wages as defined under Iowa Code section 97B.1A(26) are subject to any annual compensation limits under Sections 401(a)(17)(A) and (B) of the Internal Revenue Code.

**495—6.2(97B) IPERS coverage for various forms of compensation.** The following is a list of various types of compensation and the corresponding IPERS coverage treatment:

**6.2(1) *Vacation pay or annual leave pay.*** Vacation pay or annual leave pay means the amount paid to an employee during a period of vacation.

**6.2(2) *Sick pay.*** Sick pay means the amount paid to an employee during a period of sick leave.

**6.2(3) *Workers' compensation payments and other third-party payments.*** Payments for sick leave that are a continuation of salary payments if paid from the employer's general assets, regardless of whether the employer labels the payments as sick leave, short-term disability, or long-term disability, are covered wages.

**6.2(4) *Compensatory time.*** Each employer must use either the calendar year or a fiscal year other than the calendar year when setting its compensatory time, as defined under Iowa Code section 97B.1A(26) "a"(1)(e), policy. Employers must submit wages reported to IPERS in accordance with the employer's policy.

**6.2(5) *Banked holiday pay.*** If an employer codes banked holiday time as holiday or additional accrued vacation time, the banked holiday pay will be vacation pay under subrule 6.3(1). If an employer codes banked holiday time as compensatory time, the banked holiday pay will be combined with compensatory pay and subject to the limits set forth in subrule 6.3(4).

**6.2(6) *Special lump sum payments.*** Wages do not include catastrophic leave paid in a lump sum, bonuses, tips, honoraria, or student loan repayment compensation. Exclusion of payments as described in this subrule applies whether the payment is in a lump sum or in installments.

**6.2(7) *Covered wage treatment for supplemental payments.***

*a.* In this chapter, "covered wages" has the meaning as set forth in Iowa Code section 97B.1A(26) "b"(1). "Wages" does not include bonuses as set forth in Iowa Code section 97B.1A(26) "a"(2)(n). In addition, in this section, "bonuses" means:

- (1) Recruitment payments.
- (2) Retention payments.
- (3) Payments to members who achieve improvements in their employer's financial status or performance ratings.
- (4) Employee performance incentive payments.
- (5) Extraordinary job performance payments.
- (6) Payments for the possession, attainment, or maintenance of special skills or professional certifications (does not apply to advancements in a member's placement in wage or salary schedule, or placement in a higher tier wage or salary schedule).
- (7) Payments to members made in lieu of merit increases because the members' wage or salary scales are capped.
- (8) Payments similar in substance to those enumerated above without regard to the payments' titles, tag lines, labels or classifications by employers.

*b.* Bonuses do not include:

(1) Payments authorized by statute and used to increase the general level of teacher pay, except as otherwise provided in this subrule (for example, when such moneys are used to pay retention bonuses).

(2) Payments for which additional, or new and different, job duties are required in order to receive the payment.

(3) Payments for employment longevity.

c. Payments that are otherwise to be treated as covered wages under paragraph 6.2(7) “b” are not covered if IPERS determines that the payments are made for subparagraphs 6.2(7) “a”(1) through “a”(8) or for other subrules, including but not limited to recruitment or retention bonuses, retirement incentive and severance payments, reimbursements of business expenses, and payment of allowances.

d. IPERS has final authority to determine if supplemental payments not described in paragraphs 6.2(7) “a,” “b” and “c” should be treated as excluded bonus payments or covered wages. In making its determination, IPERS may consider but is not limited to such factors as the supplemental payments’ similarity to payments described in paragraphs 6.2(7) “a,” “b” and “c,” whether such payments are discretionary with the employer and whether, on the one hand, the payments are regular and periodic over the working careers of a broad group of individuals or, on the other hand, are short-term, irregular, or ad hoc payments whose primary effect is to spike certain members’ final average salaries.

**6.2(8) Other special payment arrangements.** Wages do not include amounts paid pursuant to special arrangements between an employer and employee whereby the employer pays increased wages and the employee reimburses the employer or a third-party obligor for all or part of the wage increase. This limitation includes but is not limited to the practice of increasing an employee’s wages by the employer’s share of health care costs and having the employee reimburse the employer or a third-party provider for such health care costs. Wages do not include amounts paid pursuant to a special arrangement between an employer and employee whereby wages in excess of the covered wage ceiling for a particular year are deferred to one or more subsequent years. Wages do not include employer contributions to a plan, program, or arrangement that are not included in the employee’s federal taxable income. However, certain employer contributions under Internal Revenue Code (IRC) Section 125 plans may be treated as covered wages under rule 495—6.4(97B) subject to the terms of that rule.

IPERS may investigate any employers and employees that may have knowingly and willfully entered into the types of arrangements described in this subrule under Iowa Code section 97B.40 for engaging in a fraudulent practice. If IPERS determines that its calculation of a member’s monthly benefit includes amounts paid under an arrangement described in this subrule, IPERS will recalculate the member’s monthly benefit, after making the appropriate wage adjustments. IPERS may recover the amount of overpayments caused by the inclusion of the payments described in this subrule from the monthly amounts plus interest payable to the member or amounts payable to the member’s successor(s) in interest, in addition to remedies provided under Iowa Code section 97B.40.

**6.2(9) Wage equivalents.** Items such as food, lodging and transportation are includable as employee income, if they are paid as compensation for employment, as wage equivalents as that term is used in Iowa Code section 97B.1A(26) “a”(1)(a). Wage equivalents that are not included in the member’s federal taxable income shall be deemed to be for the convenience of the employer. A wage equivalent is not reportable if the employer certifies that there was a substantial business reason for providing the wage equivalent, even if the wage equivalent is included in the employee’s federal taxable income.

**6.2(10) Members of the general assembly.** Wages for members of the general assembly, as set forth in Iowa Code section 97B.1A(26) “a”(1)(d), do not include expense payments except that, effective July 1, 1990, wages include daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly. Such nontravel expenses of office during a session of the general assembly cannot exceed the maximum established by law for members from Polk County. A member of the general assembly who has elected to participate in

IPERS will receive four quarters of service credit for each calendar year during the member's term of office, even if no wages are reported in one or more quarters during a calendar year.

**6.2(11)** *Wages paid as a back pay settlement.* Employers calculate IPERS contributions on the gross amount of a back pay settlement before the settlement is reduced for taxes, interim wages, unemployment compensation, and similar mitigation of damages adjustments. Employers calculate IPERS contributions by reducing the gross amount of a back pay settlement by any amounts not considered covered wages under Iowa code section 97B.1A(26) "a"(2).

Notwithstanding subrule 6.3(12), IPERS treats a back pay settlement that does not require the reinstatement of a terminated employee and payment of the amount of wages that would have been paid during the period of severance (before adjustments) as a "special lump sum payment" under subrule 6.2(6), which is not covered.

**6.2(12)** *Limitations on benefits and contributions.*

*a. Section 415(b) limitations on benefits.* A member may not receive an annual benefit that exceeds the dollar amount specified in IRC Section 415(b)(1)(A), subject to the applicable adjustments in IRC Sections 415(b) and 415(d). For purposes of applying the limits under IRC Section 415(b) (Limit), the following will apply:

(1) With respect to a member who does not receive a portion of the member's annual benefit in a lump sum:

1. The member's Limit will be applied to the member's annual benefit in the first limitation year without regard to any automatic cost-of-living increases;

2. To the extent the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost-of-living increases under the IPERS trust fund until such time as the benefit plus the accumulated increases are less than the applicable Limit; and

3. Thereafter, in any subsequent limitation year, the member's annual benefit including any automatic cost-of-living increase will be tested under the then applicable benefit Limit, including any adjustment to the IRC Section 415(b)(1)(A) dollar limit under IRC Section 415(d) (cost-of-living adjustments) and the regulations thereunder; and

(2) With respect to a member who receives a portion of the member's annual benefit in a lump sum:

1. The member's applicable Limit will be applied taking into consideration automatic cost of living increases as required by IRC Section 415(b) and applicable Treasury Regulations; and

2. A member's annual benefit payable under the system in any limitation year will not be greater than the Limit applicable at the annuity starting date, as increased in subsequent years pursuant to IRC Section 415(d) and the regulations thereunder. If the form of benefit without regard to the automatic benefit increase feature is not a straight life or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent straight life annuity benefit determined using the assumptions required by Treasury Regulations, including the mortality table specified in Revenue Ruling 2001-62 or Revenue Ruling 2007-67, as applicable.

*b. Section 415(c) limitations on contributions and other member additions.* Member contributions and other additions paid to the system may not exceed the annual limits on contributions and other additions allowed by IRC Section 415(c). For purposes of applying these limits, the definition of "compensation," where applicable, will be compensation as defined in Treasury Regulation Section 1.415(c)-2(d)(3), or successor regulation. The foregoing definition of compensation will exclude member contributions picked up under IRC Section 414(h)(2) and, for plan years beginning after December 31, 1997, compensation will include the amount of any elective deferrals, as defined in IRC Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the member and that is not includible in the gross income of the member by reason of IRC Section 125 or 457 and, for plan years beginning on and after January 1, 2001, pursuant to IRC Section 132(f)(4).

*c. Limitation year.* The limitation year is the calendar year.

**6.2(13)** *Employer payments treated as remuneration counted against the reemployment earnings limit.* All taxable or nontaxable compensation, regardless of the title, tag line, label, or classification attributed to that compensation paid by IPERS-covered employers to retired reemployed IPERS members, is considered remuneration when determining reemployment earnings limits and reductions as set forth under Iowa Code section 97B.48A and rule 495—12.8(97B). This rule applies whether the compensation is paid pursuant to individual contracts or otherwise, and regardless of whether it is considered covered or noncovered compensation under Iowa Code section 97B.1A(26) and the administrative rules thereunder, except for:

- a. Contributions to health insurance plans and programs, and
- b. Reimbursements of actual work-related expenses required by the retired reemployed members' jobs.

**6.2(14)** *Employer contributions as remuneration counted against the reemployment earnings limit.* Employer contributions made on behalf of retired reemployed members to tax qualified and nonqualified retirement and deferred compensation plans and to other fringe benefit arrangements, excluding health insurance plans and programs, constitute remuneration from employment that is applied to the reemployment earnings limits and reductions set forth under rule 495—12.8(97B). Such contributions, even if counted as remuneration hereunder, are not counted as covered wages, unless the facts in the particular case indicate that, under the circumstances, the arrangement should be treated as covered wages under rules 495—6.1(97B) through 495—6.4(97B). Nonelective employer contributions to the following constitute remuneration when determining reemployment earnings limits: tax qualified retirement and deferred compensation plans; all nonqualified retirement plans and deferred compensation arrangements; IRAs; rabbi, secular, and other trust arrangements; split dollar and other life insurance arrangements; and long-term care insurance. Bonuses and allowances are also counted as reemployment earnings.

**495—6.3(97B) Month for which wages are to be reported.** Wages are reportable for the month in which they are actually paid to the employee, except when employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, receive lump sum payments of extra duty pay, and similar situations involving regular and periodic lump sum payments that IPERS in its sole discretion determines should be treated as covered wages. The employer shall file wage adjustments with IPERS allocating the wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions and interest to IPERS.

**6.3(1)** Actual and constructive receipt. An employer cannot report wages as having been paid to employees as of a monthly reporting date if the employee has not actually or constructively received the payments in question. For example, wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on June 30 would be reported as June wages, but wages that are mailed, transmitted via electronic funds transfer for direct deposit, or handed to an employee on July 3 would be reported as July wages.

**6.3(2)** One quarter of service is credited for each quarter in which a member is paid IPERS-covered wages.

a. "Covered wages" are defined by Iowa Code section 97B.1A(26) "b"(1).

b. If a member is employed by more than one employer during the calendar year, the total amount of wages paid by all covered employers is included in determining the annual covered wage limit established under IRC Sections 401(a)(17)(A) and (B). If the amount of wages paid to a member by several employers during any given month exceeds the covered wage limit as determined for that calendar year, the amount of the excess is not subject to contributions required by Iowa Code section 97B.11. IPERS will not accept excess wages and applicable contributions from employers and will return excess contributions as provided in 495—subrule 4.3(7).

**495—6.4(97B) Covered wage treatment for employer contributions to IRC Section 125 plans.** If certain conditions are met, employer contributions to fringe benefit programs that qualify under IRC

Section 125 may be treated as covered wages. The following subrules set forth IPERS' regulations for determining covered wage treatment and for making wage adjustments when employer-paid contributions have been covered or excluded in violation of the standards set forth below.

**6.4(1) Section 125 plans.** For purposes of this rule, a Section 125 plan means an employer-sponsored fringe benefit plan that is subject to IRC Section 125. Some of the common names for this type of plan are cafeteria plan, flexible benefits plan, flex plan, and flexible spending arrangement.

*a.* Effective January 1, 2017, employers must annually certify to IPERS, on a form approved by the system, that their Section 125 plans meet all IRC requirements.

*b.* If an employer does not certify its Section 125 plan's compliance with the IRC, all employer contributions to fringe benefit plans are excluded from IPERS coverage.

**6.4(2) Elective employer contributions.** For purposes of this rule, "elective employer contributions" means employer contributions made to a Section 125 plan that can be received in cash or used to purchase benefits under the Section 125 plan. Generally, elective employer contributions that are not subject to special eligibility requirements qualify as covered wages.

**6.4(3) Mandatory minimum coverage requirements.** The term "elective employer contributions" does not include employer contributions that must be used to purchase benefits under a Section 125 plan. For example, if an employer provides \$2,500 to its employees to purchase benefits in a Section 125 plan, but requires that all employees must use \$1,000 of that amount to purchase single health coverage, the cost of the single coverage is deducted. In this example, \$1,000 would be subtracted from the \$2,500 provided, resulting in \$1,500 of covered wages.

**6.4(4) Uniformity determined coverage group by coverage group.** Under Iowa Code section 97B.1A(26)"a"(1)(b), elective employer contributions are treated as covered wages only if made uniformly available and not limited to highly compensated employees. The application of the uniformity concept may be illustrated as follows: Employer Z has two major groupings of employees covered under its cafeteria plan: teaching staff and support staff. Every member of the teaching staff is provided \$3,000 to purchase benefits under the Section 125 plan. Every member of the teaching staff must take single coverage costing \$1,500. Every member of the support staff is provided \$2,500 and must also take the single coverage costing \$1,500. Each member of the teaching staff would have \$1,500 treated as covered wages, and each member of the support staff would have \$1,000 treated as covered wages. This would be considered uniform treatment.

Uniformity is not destroyed by the fact that the amount available to members of a coverage group varies because the actual cost of mandatory minimum coverage varies depending on actuarial factors that apply to each individual. For example, assume Employer Z above also requires each employee to have long-term disability coverage. In Employer Z's case, the actual cost of disability coverage will vary from individual to individual. In that case, Employer Z would also deduct the actual cost of the required disability coverage, individual by individual, when determining IPERS-covered wages.

Uniformity is not destroyed if an employer has two groups of employees who, as a result of collective bargaining, have differing entitlements to employer contributions. For example, Employer Y has a contract that provides \$3,500 to each employee to purchase benefits under the Section 125 plan. Every employee may take all the cash by waiving participation in the plan, or may use all or part of the employer contributions to the Section 125 plan. In the collective bargaining process, a new contract is adopted that states that the employer will still provide \$3,500 to each employee to purchase benefits under the Section 125 plan. However, under the new contract, persons who waived participation before April 15 may still waive participation in the plan and take all the cash, but persons who did not waive participation and those hired after April 15 must have single coverage costing \$1,700. Employer Y would be treated as having two groups of employees with different elective employer contribution amounts. The grandfathered group (employees who waived participation before April 15) would have covered wages of \$3,500, and the group consisting of those who did not waive participation before April 15 and new employees would have covered wages of \$1,800.

**6.4(5) Highly compensated employee test.** Under Iowa Code chapter 97B, employer contributions must not discriminate in favor of highly compensated employees (HCEs). For purposes

of this subrule, an HCE is an employee who has reported wages and tips subject to Medicare tax in excess of the IRC Section 414(q) limit then in effect. IPERS applies the HCE limitation as follows. If elective employer contributions are made available to HCEs, the total elective employer contributions made available to the HCE group cannot exceed 25 percent of the total elective employer contributions made available under the Section 125 plan to all employees, including the HCEs. If the elective employer contributions available to the HCE group exceed the 25 percent limit (or if it is determined that the Section 125 plan discriminates in favor of HCEs under other IRS rules), elective employer contributions for HCEs cannot exceed the highest amount available to a nonexecutive coverage group of employees covered under such plan. The general application of these principles is illustrated below, using the 2002 IRC Section 414(q) dollar limit of \$90,000.

Employer W has a Section 125 plan that provides elective employer contributions totaling \$7,000 to executive staff, \$4,500 to teaching staff, and \$3,500 to support staff. There are no other limits or exclusions that apply. These amounts are treated as covered wages for each member of each group, provided that the total amount of contributions made available to HCEs does not exceed 25 percent of the total elective employer contributions for all employees covered under the plan. If elective employer contributions for the executive staff totaled \$70,000, and total elective employer contributions for the remainder of the staff totaled \$500,000, the HCE percentage of total elective employer contributions would be 12 percent (\$70,000 divided by \$570,000), and all elective employer contributions would be treated as covered wages for all groups. However, if elective employer contributions for the executive staff totaled \$70,000, and elective employer contributions for the remainder of the staff totaled \$200,000, the HCE percentage would be 26 percent (\$70,000 divided by \$270,000), and HCEs' elective employer contributions would be limited to \$4,500 per HCE for covered wage purposes.

**6.4(6)** *Elective employer contributions limited to dual coverage employees.* In some cases, a Section 125 plan provides for what appear to be mandatory employer contributions for health plan coverage, but the terms of the Section 125 plan permit dual coverage employees to waive coverage and receive the employer contributions in cash, if the employee can prove coverage under another health care plan. IPERS will continue to treat the full amount of employer contributions in such cases as not being IPERS-covered wages, even though individual employees with the described dual coverage may actually receive the employer contribution in cash.

**495—6.5(97B) Corrections of overpayments and underpayments of contributions and benefits caused by misreporting of covered wages.** IPERS uses the following guidelines in requiring corrections of overpayments and underpayments of contributions caused by misreported wages or IPERS-covered service. Corrections are made for all current employees omitted in error, active, retired, and inactive members, subject to the following limitations:

**6.5(1)** If employer and employee contributions were underreported, IPERS files wage adjustments and bills employers for all shortages of employer and employee contributions plus interest. Employers are entitled to collect reimbursement for the employee share of contributions as provided in Iowa Code section 97B.9. If retirement benefits have been underpaid as a result of the error, IPERS makes the appropriate adjustments and pays all back benefits upon receipt of the contribution shortage.

**6.5(2)** If employer and employee contributions were overreported, IPERS files wage adjustments and credits the appropriate contribution amounts to employers for distribution to the respective employee and employer contributors. If the reporting error caused an overpayment of retirement benefits, IPERS may offset excess contributions received against overpayments and will request a repayment of the remainder of the overpayment, if any, from the recipient. Wage adjustments, overpayments and underpayments, and unintentional reporting errors are determined as of the onset of the error. Notwithstanding the foregoing adjustment and collection standards, IPERS reserves the right to negotiate adjustments with individual employers in special situations, and no negotiated settlement with an employer constitutes a waiver of this rule or a binding precedent for other employers.

These rules are intended to implement Iowa Code sections 97B.1A(26), 97B.9, 97B.11, 97B.14 and 97B.14A.