

CHAPTER 7
SERVICE CREDIT AND VESTING STATUS

[Prior to 11/24/04, see 581—Ch 21]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

495—7.1(97B) Service credit.

7.1(1) General.

a. A member shall receive membership service credit for service rendered after July 4, 1953. Service is counted to the complete quarter calendar year. A calendar year shall not include more than four quarters.

b. From July 4, 1953, through June 30, 1965, a member received one quarter of service credit for each quarter in which the member's covered wages totaled at least \$200. From July 1, 1965, through June 30, 1992, a member received one quarter of service credit for each quarter in which the member's covered wages totaled at least \$300. For quarters beginning July 1, 1992, and later, a member shall receive one quarter of service credit for each calendar quarter in which at least \$1 of covered wages is reported.

c. Notwithstanding paragraph 7.1(1)"*b*" above, a member who is on an unpaid leave of absence and who during the period covered by the unpaid leave performs services for the covered employer granting the unpaid leave shall not receive service credit for such services until the employer has reported \$1,000 in each of two consecutive quarters included in the unpaid leave period, and such service credit shall be granted only with respect to quarters beginning after said two consecutive quarters.

d. A nonvested member who terminates covered employment prior to attaining the age of 55, but who has covered wages in the year in which the member attains the age of 55 shall be treated as a vested member.

e. Notwithstanding paragraph 7.1(1)"*d*" above, effective July 1, 2012, a nonvested member who is not vested by age as of June 30, 2012, can only become vested by age if the member terminates employment at age 65 or older while in covered employment.

7.1(2) Service credit for persons employed by institutions operating on a nine-month basis. An employee working in a position for a school district or other educational institution which operates on a nine-month basis shall receive credit for the third quarter when covered wages are reported in the second and fourth quarters. A member who was on an approved leave of absence in the second quarter, but who has service credit for that quarter, whether by operation of law or through a service purchase, and who returns to work in the fourth quarter immediately following shall also receive credit for the missing third quarter. In order for the member to receive this service credit, the quarters before and after the third quarter must be reported for the same occupation class code.

7.1(3) Approved leave periods.

a. Effective July 1, 1998, a member's service is not deemed interrupted while a member is on a leave of absence that qualifies for protection under the Family and Medical Leave Act of 1993 (FMLA), or would qualify but for the fact that the type of employment precludes coverage under the FMLA, or during the time a member is engaged in military service for which the member is entitled to receive credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 U.S.C. Sections 4301 to 4333).

b. Reentry into public employment by an employee on military leave can be achieved if the individual accepts employment with a covered employer. Reemployment may begin anytime within 12 months of the individual's discharge from military service or, if longer, within the period provided under USERRA. Upon reemployment the member shall receive credit for all service to which the member is entitled pursuant to USERRA.

Notwithstanding any provision of Iowa Code chapter 97B or these rules to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).

For reemployments initiated on or after December 12, 1994, a member shall be treated as receiving compensation for each quarter during the member's period of military service equal to the compensation that the member would have received but for the period of military service, as certified by the member's

employer on forms supplied by IPERS. The member's deemed compensation during the period of military service shall be taken into consideration in determining a member's make-up contributions, if any, and the member's high three-year average covered wage.

For reemployments initiated on or after December 12, 1994, following a military leave described in this subrule, make-up contributions shall be permitted with respect to employee contributions that would have been made during the period of military service if the member had actually been in covered employment during the period earning the deemed compensation provided for under this subrule. Make-up contributions shall be permitted during the five-year period that begins on the date of reemployment or, if less, a period equal to three times the period of military service.

The member shall request the foregoing make-up contributions (except contributions for periods prior to January 1, 1995, which shall be made as posttax contributions) on forms to be filed with the employer, which shall forward a copy to the system. Make-up contributions shall be made as pretax contributions under Internal Revenue Code Section 414(h)(2). Employers must comply with a member's request to begin make-up contributions during a period not exceeding that described in the preceding paragraph and shall forward said amounts to the system in the same manner as provided for pick-up contributions under Iowa Code section 97B.11A. An election to make up employee contributions under this subrule shall be irrevocable.

c. Effective for leaves of absence beginning on or after July 1, 1998, an eligible member must make contributions to the system in order to receive service credit for the period of the leave (except for leaves under paragraphs "a" and "b" above).

d. Reentry into public employment by an employee on a leave of absence under paragraphs "a" and "b" can be achieved by the employee by accepting employment with any public employer, provided that any interruption between the end of the period of leave of absence and reentry into public employment meets the requirements of the FMLA, USERRA and this subrule.

e. Credit for a leave of absence shall not be granted and cannot be purchased for any time period which begins after or extends beyond an employee's termination of employment as certified by the employer. This includes a certification of termination of employment made by an employer on a refund application. Employers shall be required to certify all leaves of absence for which credit is being requested using an affidavit furnished by IPERS and accompanied by a copy of the official record(s) which authorized the leave of absence. The provisions of this subrule denying credit for leaves of absence in cases in which the member takes a refund shall not apply to employees who were on leaves of absence that began before November 27, 1996, and took a refund before such date. The provisions of the subrule requiring employers to certify all leaves of absence using an affidavit furnished by IPERS shall apply to all requests for leave of absence credit filed after November 27, 1996, regardless of when the leave of absence was granted.

f. Effective July 1, 2008, free service credit will be given in the calculation of death benefits for members who served military duty and met the following conditions:

- (1) Served in a combat zone or hazardous duty area,
- (2) Sustained a service-related injury or disease that prevented the member from returning to IPERS-covered employment, and
- (3) Died of the service-related injury or disease within two years after suffering the injury or disease.

[ARC 8601B, IAB 3/10/10, effective 4/14/10; ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 4337C, IAB 3/13/19, effective 4/17/19]

495—7.2(97B) Vesting status.

7.2(1) General.

a. Effective July 1, 1990, through June 30, 2005, a member achieves vested status when the member has served and made contributions in 16 or more quarters of IPERS covered employment or attains the age of 55. The vested status of a member may also be determined when the member's contribution payments cease. At that time a comparison of the membership date and termination date will be made. If service sufficient to indicate vested status is present, after any periods of interruption in service have been taken into consideration, the member shall be considered a vested member. All vested members receive all the

rights and benefits of a vested member in IPERS until or unless the member files for a refund of accumulated contributions.

b. Effective July 1, 2005, a terminated nonvested member who has not attained the age of 55 shall not become vested upon attainment of the age of 55 while an inactive member. However, a member who terminates before attaining the age of 55 who has covered wages in the calendar year when the member terminates and the member attains the age of 55 in that year shall become vested, even if the member has less than 16 quarters of service credit on file at termination.

c. Effective July 1, 2012, vesting by age and vesting by service shall be determined as provided in Iowa Code section 97B.1A(25) “a” through “d.” A member who is vested by age or by service as of June 30, 2012, shall remain vested following the implementation of new vesting requirements on July 1, 2012.

7.2(2) *Inactive members who become vested due to a statutory reduction in years.* Effective July 1, 1988, an inactive member who had accumulated, as of the date of the member’s last termination of employment, years of membership service equal to or exceeding the years of membership service specified in this rule for qualifying as a vested member on the date of termination shall be considered vested.

7.2(3) *Vesting upon complete or partial termination.* In the case of a complete or partial termination of this fund, any affected member shall have a vested interest in the accrued benefit as of the date of such termination, to the extent such benefit is then funded.

7.2(4) *Benefit nonforfeitable upon attaining normal retirement age.* For purposes of compliance with the Internal Revenue Code and related guidance, the normal retirement benefit, which is the benefit calculated under Iowa Code sections 97B.49A through 97B.49D, is nonforfeitable upon attainment of normal retirement age, which: (1) prior to July 1, 2012, is age 55 or the completion of 16 quarters of IPERS covered employment, whichever is later; and (2) for members who are not vested under one of the methods under (1) on July 1, 2012, is age 65 or completion of 28 quarters of IPERS covered employment, whichever is later. The retirement benefit is subject to the provisions of Iowa Code section 97B.52A. This subrule is not to be construed as a reduction or limitation of rights heretofore existing, nor as an indication that vested benefits would be forfeitable before the stated age is attained.

7.2(5) *Vesting at age 55 prior to July 1, 2012.* IPERS shall interpret Iowa Code section 97B.1A(25) “a”(3) as follows: for periods prior to July 1, 2012, the phrase “has attained the age of fifty-five or greater while in covered employment” means “has attained the age of fifty-five or greater while an active member, as defined in Iowa Code section 97B.1A(3)”.

7.2(6) *Vesting after June 30, 2012.* For periods after June 30, 2012, the member becomes vested if the member meets one of the following requirements:

a. For a member in a special service, has attained the age of 55 or greater while in covered employment.

b. For a member in regular service, has attained the age of 65 or greater while in covered employment.

The phrase “covered employment” means “active member” as defined by Iowa Code section 97B.1A(3).

[ARC 0017C, IAB 2/22/12, effective 3/28/12; ARC 4337C, IAB 3/13/19, effective 4/17/19]

These rules are intended to implement Iowa Code sections 97B.1A, 97B.1A(13), 97B.1A(20), 97B.1A(25), and 97B.43.

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