

April 20, 2005
OPINION NUMBER 05-0095

92-A-2-(k)

Retirement-School Board
Employee Retirement System

Mr. Patrick Cosper
Director
State of Louisiana School Employees'
Retirement System
P. O. Box 44516
Baton Rouge, LA 70804-4516

La. R.S. 11:1152(J)(4) provides a method for determining the benefit amount to be added to the base benefit when the participant continues employment after termination from the DROP program for a period of thirty-six months or more.

Dear Mr. Cosper:

You have requested an opinion from our office on behalf of the Louisiana School Employees' Retirement System. You ask that our office clarify the language contained in La. R.S. 11:1152(J)(4).

Your question concerns the use of the phrase "average compensation". The term is defined in La. R.S. 11:1002(6) and states in pertinent part,

"Average compensation" shall be based on the thirty-six highest successive months of employment, or on the highest thirty-six successive joined months of employment where interruption of service occurred...

La. R.S. 11:1152(J)(4), on the other hand, provides for the specific instance when an employee works at least thirty-six months after his participation in the Deferred Retirement Options Plan (DROP) program. The statute provides as follows:

If the participant continues employment after termination of participation in the plan for a period of thirty-six months or more, his monthly retirement benefit shall equal his base benefit plus an amount based on the service credit for the additional employment, together with conversion of the net amount of sick and annual leave accumulated during that period of employment, based upon the final average compensation for the period of employment after termination of participation in the plan.

It is our office's opinion that the phrase "average compensation" used in La. R.S. 11:1152(J)(4) applies to the method used to determine the additional amount of benefits to be paid to the participant for the three plus years of employment after his termination from the DROP program. Our reading of the statute indicates that the participant is entitled to the base salary plus an additional amount based on his service credit for the additional three or more years of employment after termination from the DROP program.

I believe the above addresses your concerns. Should you have any questions, please do not hesitate to contact this office.

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By:

CHARLES H. BRAUD, JR.
Assistant Attorney General

CCF, Jr./CHB, Jr./sfj

SYLLABUS

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Mr. Patrick Cospers
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P. O. Box 44516
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DATE RECEIVED:

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Charles H. Braud, Jr.
Assistant Attorney General