

# THE LATEST WORD

December 2001

## Official IPERS Information ▲ Retain For Your Records

Iowa Public Employees' Retirement System ▲ PO Box 9117 ▲ Des Moines IA 50306-9117  
1-800-622-3849 or 515-281-0020 ▲ Benefits Fax Number 515-281-0053 ▲ Accounting Fax Number 515-281-0055  
E-mail: [info@ipers.state.ia.us](mailto:info@ipers.state.ia.us) Web site: [www.state.ia.us/ipers](http://www.state.ia.us/ipers)

## Seasonal Employment

An employee hired for seasonal (e.g., summer or winter) employment may be excluded from IPERS coverage as a temporary employee. However, if an employee is hired as a seasonal employee, is paid \$300 in two consecutive calendar quarters, and then returns to perform additional service in the following season (without a formal severance), the employee would begin to have IPERS withheld as a permanent employee. Once an employee's status changes from temporary to permanent under this rule, the employee will be covered for all future periods of employment with that covered employer until there is a formal severance, or the employee receives no wages from a covered employer for four (4) consecutive quarters.

## Independent Contractor or Employee

The courts and the IRS consider many facts in deciding whether a worker is an independent contractor or employee. The relevant facts fall into three main categories: behavioral control; financial control; and relationship of parties. In each case, it is very important to consider all the facts – generally no single fact provides the answer.

**Behavioral Control** factors indicate a right to direct or control how the worker does the work. Instructions and training are two examples of behavioral control. "Instruction" includes, but is not limited to, telling the person how, when, or where to do the work; what tools or equipment to use; what assistants to hire to help with the work and where to purchase supplies or services. Training as it relates to required procedures and methods, this indicates that the business wants the work done in a certain way. These examples support employee/employer relationships.

**Financial Control** factors also indicate control over the business part of work. There is no precise dollar test, but a significant personal investment in a product or tools used to perform the work indicates independent contractor. Expenses not reimbursed for some or all business expenses indicate independent contractor. Opportunity for profit or loss suggests an independent contractor relationship.

**Relationship of the Parties** factors illustrate how the business and the worker perceive their relationship. Employee benefits received, such as insurance, pension, or paid leave, indicates an employee relationship. Written contracts stating what both parties intend as a relationship of this employment may be very significant if it is difficult to determine status as either independent contractor or employee.

If you are not sure whether you are

covering a worker in the correct status, please complete the Employee/Independent Contractor Determination form that is in the forms section of your employer handbook and send this to IPERS for determination. If there is a written contract between both parties, include this with the form. However, recitations in the contract will not govern IPERS' coverage decision.

## IPERS Coverage for Newly Elected Officials

As newly elected officials are taking office, we'd like to remind reporting officials to notify all eligible employees of their optional coverage rights. Most part-time elected officials are IPERS covered unless they complete and submit an *Election for Termination of IPERS Coverage* form within 60 days of taking office. Please see page 3.2 of IPERS' *Employer Handbook* for detailed instructions and a complete list of optional coverage positions.

## Student Coverage

IPERS has been receiving many beneficiary forms for employees who are between the ages of 14 and 17. For IPERS purposes, high school students should not be covered. Iowa Administrative Code 581 IAC 21.5(1)"a"(19)(97B) reads:

“Persons who are enrolled as students and whose primary occupations are as students are not covered. Full-time and part-time students who are employed part-time by the educational institutions where they are enrolled as students are not covered. Full-time and part-time students who are employed full-time or part-time by a covered employer other than the educational institution where they are enrolled are covered. Full-time employees who are enrolled as part-time students in the educational institution where they are employed are covered. Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers.

The paragraph above shall not be construed to require or permit IPERS coverage for high school students and students in the lower grades who are concurrently employed (including employment during breaks between quarters, semesters, or annual academic terms) by a covered employer.” [Emphasis added]

Please keep these coverage rules in mind when you hire an employee who is also a student.

## Citizen Coach

The term “citizen coach” is used by many schools to describe coaches who perform no other work for the employing school. Sporting event coaches and drama

coaches are often hired as citizen coaches. The employing schools have a certain amount of discretion to determine whether these types of positions will be classified as temporary or permanent. However, the determination of temporary or permanent status must be made in a consistent, nonarbitrary manner.

In determining temporary or permanent status, employers must establish (among other things) the parties’ intent when the citizen coach was hired. Recitations in a contract indicating temporary or independent contractor status do not necessarily govern the IPERS coverage decision.

If the appointment is intended to last for one season only, and will not exceed six months, the position may be labeled as temporary, and the citizen coach is excluded from IPERS coverage. However, if the citizen coach is paid \$300 in two consecutive quarters, IPERS’ administrative rules require that IPERS coverage must begin the next following quarter. There must be a formal termination at the end of the one season, and a reapplication for the position at the beginning of the next season to avoid this result.

If an appointment is ongoing from year to year with no true termination of the relationship between seasons and the parties’ expectation is that the citizen coach will return each year, this would indicate to IPERS that the position is permanent and is subject to mandatory IPERS coverage. Depending on the facts, IPERS may require coverage as early as the date of hire.

If you need assistance with coverage of citizen coaches, please contact the Compliance Team.

## New Mentoring and Induction Program

Through 2001 legislation, Iowa’s school districts have access to a new program called the Mentoring and Induction Program. Through this two-year program Iowa can now provide effective professional support for beginning teachers and strong professional development and continued learning for experienced teachers.

Mentoring veteran teachers and retirees will receive \$1000 per school year, paid a minimum of \$500 per semester. We have received numerous calls from schools asking how this money should be treated for IPERS purposes. After careful study of the legislation and IPERS current statutes and rules, IPERS has determined that all wages paid through the Mentoring Program are considered IPERS covered wages because the mentoring duties are expected to last longer than six months.

More specific questions have arisen regarding retirees who will be participating in the program. Currently, all retirees must satisfy a bona fide retirement period before returning to any employment with an IPERS covered employer. A retiree may not return to any employment with a covered employer for one full month following their retirement and may not return to covered employment for a further three months (a total of four months). This further three-month requirement has been interpreted as allowing retirees to return to temporary status work but not to permanent status. Based on

current law, wages received by retirees through the Mentoring Program may not be considered temporary work.

If a retiree is selected to return to employment under the mentoring program, they may not perform these duties until the four-month bona fide retirement period has expired. For example, if retirement was in June 2001, the retiree may not return to work under the Mentoring Program until November 2001. All retirees who wish to serve as mentors should be made aware of the bona fide retirement period provisions.

Payments made under the Mentoring Program cannot be deferred for later payments or classified as temporary employment. Also, mentors cannot be paid as independent contractors or “volunteer” their time.

Further information about the Mentoring and Induction Program is found on the Iowa Department of Education’s web site: <http://www.state.ia.us/educate> and in Senate File 476 and House File 413, both of which may be viewed via the Department of Education’s web site.

## Paper Wage Reporting

In previous issues of The Latest Word, an alert was given concerning the possibility of an administrative charge for large employers, with 50 or more covered employees, who are still reporting on paper and not submitting their quarterly wage report on magnetic media. IPERS will shortly be filing administrative rules to assess a \$50 administrative charge for every quarter of noncompliance. If

approved as adopted, the charge will be in effect for wages reported for the quarter ending March 31, 2002 and after.

Formatting information for electronic reporting is available in the Employers’ Handbook. IPERS’ accounting staff is available to answer any questions you may have.

## Internet Initiative Means Changes

As announced in the September 2001 issue of The Latest Word, IPERS staff members have begun the push for improved services for its employer and member clients using the internet. It has become apparent to us that this project will require us to alter our way of doing business and therefore will have an impact on you as employers. It is unknown what type of changes will be needed from you, but we do know THERE WILL BE CHANGE.

The IPERS staff will make every effort to give you as much advance warning as possible. Implementation will take time. We ask for your patience and help in converting to a wage reporting system which will provide employers, members and IPERS staff more timely and accurate wage information.

As we move forward we will be contacting many of you in order to gather information pertaining to technical and procedural processes that you currently have in place. Thank you in advance for your help.

## Veteran’s Rights

Many IPERS members are serving their country in the National Guard or Army/Navy/Air Force Reserves. As these individuals are called upon to fulfill their military duties following the incidents of September 11, questions will undoubtedly arise about what effect a military leave will have upon such members’ IPERS benefits. You should encourage such individuals to contact IPERS directly for detailed information, but here is some basic information for your use.

First, IPERS is subject to the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), and complies with the terms of that Act.

Second, if a member is called into active military duty from a covered position and returns to a covered position in Iowa within 12 months of being released from active duty, the individual will receive free IPERS service credit for the military leave.

Third, a member who returns to covered employment may, but is not required to, make IPERS contributions for the period of military leave and have the employer make the appropriate matching contributions. Generally, making the employee contributions and having the employer make their matching contributions will not increase the retirement benefit available to members, but it will increase the amount of a refund and may have an effect on the amount of the member's death benefits. The member must sign an irrevocable agreement to make such contributions, and the payment period cannot exceed 5 years.

Fourth, even if a member does not return to IPERS covered employment within 12 months after being released from active duty, the period of military service can still be purchased if the member is vested or returns to covered employment at a later date.

Finally, IPERS wishes to emphasize that the rights requirements, and limitations described in this article are solely limited to IPERS benefits. Individual employers may have more strict return to employment policies with respect to other fringe benefits or entitlements.

**REMINDERS:**

❖ Effective January 1, 2002, the IRC limitation on covered wages is \$200,000.

**IPERS’ Investment Returns for FY ‘01**

The IPERS investment portfolio ended Fiscal Year 2001 with a market value of \$15.9 billion. The portfolio earned the following investment returns, for periods ending June 30, 2001:

	One Year	Three Years	Five Years	Ten Years
IPERS’ Investment Return	(4.73%)	6.82%	11.65%	11.20%

As you may know, IPERS’ actuary assumes that over the long term, IPERS will earn an average 7.50% annual investment return. Although the System did not achieve that goal for Fiscal Year 2001, which then also reduced our three-year average annual return, our longer term performance has exceeded the actuary’s assumed rate of return.

The FY ’01 market value loss will be partially offset by our actuary’s methodology for determining year-end asset values, because a multi-year “smoothing” calculation is applied. Market value gains from past fiscal years that have not yet been fully credited in this calculation will help to decrease the market value reduction from FY ’01.

While the Investment staff of IPERS obviously prefers to earn positive returns, we are pleased that the loss was not greater during the very difficult capital market conditions over this period. The broad diversification of the IPERS portfolio across several asset classes helped to minimize the loss. IPERS’ best performing assets for the year were our real estate and bond holdings, with returns of 12.9% and 10.9% respectively. Worst performing assets were private equity and international equity, with returns of (26.1%) and (23.3%) respectively.

IPERS’ Comprehensive Annual Financial Report, due to be mailed to employers by March 2002, will provide much more detail on the investment returns, portfolio structure and strategy.

