



Title III: Benefits

Chapter A: Retirement, Disability, Survivorship, and Death Benefit Program **Article TBD: Eligibility**

Sec. 1 Definition of “Teacher” or “Member”

A “teacher” or “Member,” as defined in 40 ILCS 5/17-106, includes any educational, administrative, professional, or other staff member employed in the public schools in District 299 in a position requiring certification or licensure under the School Code, including any educational, administrative, professional, or other staff employed in a charter school operating in compliance with the Charter School Law, and employees of the Board, but excluding persons contributing concurrently to any other public employee pension system in Illinois for the same employment, persons receiving retirement pensions under another Article of this Code for that same employment, persons employed on an hourly basis (as defined by the Illinois Pension Code and Fund Administrative Rule, below), and retirees who are employed on a temporary basis in accordance with the Fund’s Return to Work Rules.

Individuals who are licensed or certified under the Illinois School Code (“School Code”) (105 ILCS 5/21B-20) are eligible Members of the Fund. Appendix A contains a list of Illinois State Board of Education (“ISBE”) licensed positions. This list is subject to revision.

Sec. 2 Automatic Enrollment

Any employee who qualifies as a Member of CTPF automatically becomes a Member as a condition of employment and is deemed to consent to deductions from his or her salary for CTPF contributions.

Sec. 3 Presumption of Membership

All of an Employer’s licensed/certified teachers or staff regardless of their position shall presumptively be participants in the Fund, unless the Employer establishes to the satisfaction of the Board that an individual licensed/certified teacher or staff member is not working as a teacher or administrator directly or indirectly with the Employer. Appendix B is a list of positions that do not currently require ISBE licensure and therefore are not presumed participants of the Fund. This list is subject to revision.

Sec. 4 Use of Third-Party Employment Agencies

In accordance with 40 ILCS 5/17-106 and Sec. 1, all licensed/certified educational, administrative, professional, or other staff members employed in the public schools of District 299 are Members of the Fund, regardless of their designation as an employee of a third-party contractor, of an employment agency, or of any other vendor (“Third Party Vendor”). An Employer that uses a Third Party Vendor to provide licensed/certified

teachers or staff, including substitute teachers, is considered a joint employer with the Third Party Vendor and all such licensed/certified teachers are required to participate in CTPF. An Employer has the obligation to secure and to maintain records of each such Member's hours of service and compensation.

Sec. 5 Consultants and Independent Contractors

An individual who contracts with an Employer to provide services in a position for which a license or certificate is required qualifies as a Member. Contributions are required even if the contract or agreement characterizes the individual as an "independent contractor." Paying an individual who qualifies as a Member through accounts payable rather than through payroll does not exempt the Employer from being required to make contributions to CTPF for such an individual.

Sec. 6 R.O.T.C. Instructors

Teachers who are certified or licensed by the U.S. Army under 10 U.S.C. § 2033 to teach in an R.O.T.C. program shall be considered certified or licensed for purposes of Section 17-106 (provided the instructor complies with any ISBE requirements).

Sec. 7 Exchange and Foreign Teachers

A teacher from a foreign country who is admitted by the U.S. Citizenship and Immigration Services under a J-1 or J-2 visa does not qualify for membership in CTPF. A foreign teacher who is employed only under a work permit does not qualify for membership in CTPF. A teacher from a foreign country who is licensed/certified in Illinois, not admitted as an exchange alien or on a J-2 visa, and performs the duties of a classroom teacher qualifies for CTPF membership.

Sec. 8 Professional Development Staff

Licensed/certified individuals providing professional development on a full-time or part-time basis for an Employer qualify for CTPF membership.

Sec. 9 Exclusion of Hourly Employees

Every certified/licensed teacher is presumptively considered to be a participant in the Fund. As provided by these Administrative Rules and Article 17 of the Pension Code, "hourly employees" are excluded from Membership in the Fund, but the Employer has the burden of proving the "hourly" status is legitimate and warranted by specific facts. While hourly employees may be excluded as Members of the Fund in accordance with these Administrative Rules, an Employer may not reclassify a non-hourly employee as an hourly employee to avoid the Employer's obligation to contribute.

For guidance on what makes a Teacher hourly, the Trustees will rely on U.S. Department of Labor regulations implementing the Fair Labor Standards Act ("FLSA"). A "salaried" employee is not an "hourly" employee. The definition of what constitutes "salary basis" under the FLSA is:

An employee who regularly receives a predetermined amount, which is not subject to reduction because of variations in the quality or quantity of the work performed, is paid on a salary basis.

“Salary” is sometimes also referred to as “fixed pay.” The language “not subject to reduction because of variations” means that a salaried employee’s pay cannot bear a direct causal relationship to the quality or quantity of the work performed. A Teacher compensated on a per diem basis or on a weekly/monthly/annual basis is receiving fixed pay.

An Employer may submit evidence that a Teacher is legitimately an “hourly” employee. This evidence should include, *inter alia*, the Employer’s written compensation policy with regard to all categories of employees, as well as any contractual arrangement with the affected employee. An Employer or Third Party Vendor paying an individual who qualifies as a Member on an “hourly” or any other basis does **not**, alone, establish that the Teacher is “employed” on an hourly basis.

A licensed or certified Teacher’s “hourly” status is fact-specific and the CTPF audit team or a CTPF-retained audit firm may, *inter alia*, require detailed Payroll Records and interviews in order to determine whether the licensed or certified Teacher is an eligible Member.

Sec. 10 Specific Considerations Regarding Salaried vs. Hourly Status

The Trustees and their designees will consider credible evidence and will evaluate all of the facts and circumstances, including the following factors, in determining whether a licensed or certified Teacher is an “hourly” employee:

1. **Clocking In.** Clocking or signing in/out or otherwise recording time is not indicative of either salaried or hourly status. However, if payment each period varies in direct relation to the number of hours recorded, the Teacher may be considered hourly. A set hourly wage multiplied by the number of hours (or fractions thereof) actually worked could be evidence of employment on an hourly basis. The Trustees will also consider whether compensation is determined and paid in time increments such as 6 minutes (tenths of an hour) or 15 minutes (quarter of an hour). Rounding time worked “up to the nearest hour” may be evidence of fixed pay compensation.
2. **Intermittent and Unscheduled Work.** If a licensed/certified teacher works an ad hoc schedule, on an infrequent or intermittent basis for less than a day, or for one-time events such as proctoring an exam or covering a prep period, to assist with parent-teacher meetings, to monitor a class trip, or to supplement staff when there is an emergency and the teacher is actually paid on an hourly basis, the teacher will be considered hourly. But if the teacher is paid a fixed fee for any portion of a day and performs these same duties, the teacher is a per diem employee and is covered by the Fund.
3. **Substitute Teachers Are Presumptively Not Hourly.** Substitute teachers are presumptively in the Fund. To borrow from classifications used by CPS, “cadre substitutes” and “day-to-day substitutes” require a license/certificate to teach, so they are presumptively participants in the Fund. Additionally, CPS pays substitutes a “flat rate per day,” meaning that such CPS Teachers are per diem employees, and not hourly.

4. **Substitute Teaching as Second Job.** If a teacher is employed outside of District 299 and occasionally works for a few hours as a substitute and is paid on less than a per diem basis for the actual time worked, then the Trustees may conclude that the work is not consistent with salaried or fixed pay status.

5. **Part-Time Teachers.**

“Part-time” or “temporary” employees are not automatically “hourly” employees. A licensed or certified Teacher who does not work full-time, but who is paid a fixed fee, per diem, or salary, prorated to correspond to the length of the employee’s assignment, is a covered Member. For example, an employment agreement with the following provisions would establish the right to be a Member in the Fund:

“[A] teacher assigned to half-time shall have his or her salary and benefits prorated by 0.5. Such part-time teachers shall maintain benefits and seniority accrued through their assignment to a part-time position.”

A reduction in pay due to a reduction of hours does not necessarily indicate hourly status. Although working fewer hours and earning less money, the Teacher receives a fixed amount and so is still considered salaried. For example, a Teacher who teaches twice a week and is paid a flat rate for those days, regardless of variations in the “quality or quantity” of the employee’s work, is considered a per diem employee, and not hourly, even though the employee only works part of the school week. A fixed or “flat” fee for any portion of a day is indicative of a fixed pay or per diem employee.

6. **Earnings Similar to Full-Time Teachers.** When a purportedly “hourly” Teacher has earnings and total hours worked that are consistent with the compensation paid to, and hours worked by, non-hourly employees, the Fund may conclude that the Teacher is not an hourly employee. For example, if a purportedly “hourly” Teacher’s salaried counterpart has a similar salary and similar hours (e.g. a salary of \$35,000 and hours reflecting full-time employment) to the purportedly “hourly” Teacher, then the purported “hourly” Teacher is not an hourly employee.

7. **Member Working in Optional Service.** After-school, coaching, overtime, and other extracurricular work, whether on an hourly or salaried basis, is not covered pensionable work under the Code.

8. **Agreement or Employee Handbook as Evidence of Hourly Status.** The Board will consider factors such as: what does the Teacher’s contract of employment, the employee manual or handbook, the employer’s compensation policy, or any applicable labor agreement provide in terms of the Teacher’s status and pay and work schedule.

9. **History of Participation in CTPF or TRS.** A licensed or certified Teacher’s history of participation in CTPF or TRS as a salaried employee may be evidence of coverage. In other words, the Trustees will consider whether the Teacher has previously earned creditable service as a Teacher with CTPF or with TRS. For

example, a Teacher who has reached the maximum years of creditable service under the Pension Code might not want to contribute after that date; but a Teacher cannot convert his or her status to hourly in order to avoid contributing to the Fund. The Trustees will review the Teacher's previous work history in determining whether the designation is consistent with the facts.

10. **Paid Benefits.** The Board will not consider the presence or absence of other employment benefits, such as health insurance, sick leave pay, classroom allowances, holiday pay, vacation pay, etc., from a Teacher's outside employment or from the Employer to be dispositive in determining eligibility.
11. **Per Diem and Hourly in Same Week.** A Teacher is not considered hourly when the Teacher works, for example, in a classroom 3 days per week and then works "hourly" for a portion of 2 other days; such a Teacher is not an hourly employee for any portion of the week or the school year.
12. **Employment Relationship as a Whole.** A licensed or certified Teacher's status will be determined after due consideration is given to the employment relationship as a whole. Conclusory labels or classifications will not be given weight if the facts of the employment relationship point in the opposite direction. For Charter Schools, the Trustees will consider the information the Charter School provides to CPS. The Charter School must submit to CTPF any list of licensed personnel filed with CPS and the Charter School's written compensation policy with regard to all categories of employees, including any contractual written arrangement with any Teacher that the Charter School claims is an hourly employee.

Sec. 11 Required Licensed or Certified Teachers in Instructional Positions

The Fund is a third-party beneficiary of provisions of the School Code that require a minimum number of licensed/certified Teachers in ISBE-licensed positions and job codes at a charter school. Thus, the Rules set forth below (please refer to 105 ILCS 5/27A-10 (c-5) and (c-10) as amended) apply:

(a) At least 50% of the individuals employed in instructional positions by a charter school that is operating in a city having a population exceeding 500,000 [Chicago] and that is established on or after April 16, 2003 shall hold teaching certificates issued under Article 21 of this Code.

At least 75% of the individuals employed in instructional positions by a charter school that is operating in a city having a population exceeding 500,000 and that was established before April 16, 2003 shall hold teaching certificates issued under Article 21 of this Code.

(b) Notwithstanding any provision in subsection (c-5) to the contrary, in any charter school established before July 30, 2009, at least 75% of the

individuals employed in instructional positions by the charter school shall hold teaching certificates issued under Article 21 of the School Code beginning with the 2012-2013 School Year. In any charter school established after July 30, 2009, at least 75% of the individuals employed in instructional positions by a charter school shall hold teaching certificates issued under Article 21 of the School Code by the beginning of the fourth school year during which a student is enrolled in the charter school.

If a charter school fails to meet these statutory requirements, there is a significant possibility that the Fund will be deprived of both covered Members and pension contributions. Should the Fund become aware of such shortfalls, the Fund reserves the right to report the same to the Chicago Board of Education and to take such further action to protect its membership and funding, as it deems appropriate.

Sec. 12 Enrollment as a CTPF Member

Demographic information must be submitted by the Employer on behalf of each new CTPF Member. Each new Member must complete a Member Enrollment form. A Beneficiary Designation form is sent to Members annually with Member statements and must be submitted to CTPF as soon as possible.

Whenever a Member wishes to change a previously designated beneficiary, the Member must submit a new Beneficiary Designation form. Such a change may be necessary due to a change in the Member's family status (e.g., marriage, birth, divorce, or death).

Sec. 13 Tier I and Tier II Membership [Reserved]

Sec. 14 Qualification to Participate in CTPF During School Year [RESERVED]

Sec. 15 Notification of Felony Conviction

Members who have been convicted of work-related felonies are not eligible for CTPF benefits. According to the Illinois Compiled Statutes (40 ILCS 5/17-149.1): None of the benefits provided for in this Article shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his or her service as a teacher.

This Section shall not operate to impair any contract or vested right acquired prior to January 1, 1988, nor to preclude the right to a refund. All teachers entering service after January 1, 1988 shall be deemed to have consented to the provisions of this Section as a condition of membership.

The School Code (105 ILCS 5/21-23b) requires the Employer to notify ISBE of any felony conviction of a CTPF Member. The Employer is required to contact the CTPF Chief Legal Officer as soon as possible if a CTPF Member is charged with a work-related felony and must inform the Fund of any developments in the case.

Appendix A: Individuals who are licensed or certified under the Illinois School Code ("School Code") (105 ILCS 5/21B-20) are eligible Members of the Fund. Below is a list of

ISBE licensed positions. This list is subject to revision.

Position Code	Position
<i>Regular Education Administrative</i>	
100	District Superintendent
101	Assistant/Associate Direct Superintendent
102	Chief Executive Officer
103	Principal
104	Assistant Principal
105	Supervisory Dean
107	General Administrator or General Supervisor
111	Director Area Vocational Center or Supervisor of more than one field in Career and Technical Education
114	Chief School Business Official
119	Head Teacher
120	Supervisor of One Field in Career and Technical Education
121	Administrator in a Bilingual Education Program
	Regional Superintendent (ROE ONLY)
123	Assistant Regional Superintendent
124	Dean of Students Admin (admin endorsement held)
125	Head of Gen Ed (Depart chair admin endorsement held)
<i>Special Education Administrative</i>	
151	Assistant Special Education Director
152	Special Education Director
153	Special Education Supervisor
154	Supervisor of More Than One School Support Personnel Area
155	Supervisor of One School Support Personnel Area
199	Citywide Administrator (CPS ONLY)
<i>Regular Education Instructional</i>	
200	Teacher
201	Reading Teacher
202	Bilingual Education Teacher
203	English as a Second Language Teacher
204	Visiting International Teacher
207	Speech Language Pathology Teacher
208	Career and Technical Educator (CTE)
209	Dean of Students Teacher (no admin endorsement)
210	Head of General Education (Department chair no admin. endorsement held)
<i>Special Education Instructional</i>	
250	Special Education Teacher
251	Bilingual Special Education Teacher
601	Resource Teacher Arts (Visual Art, Music, Drama, and Theatre)

602	Resource Teacher History
603	Resource Teacher Government/Civics/Political Science
604	Resource Teacher English/Language Arts
605	Resource Teacher Reading
606	Resource Teacher Math
607	Resource Teacher Science (all sciences)
608	Resource Teacher Foreign Language
609	Resource Teacher Economics
610	Resource Teacher Elementary
611	Resource Teacher Other
699	Citywide Resource Teacher (CPS ONLY)
Regular Education Ancillary Staff	
306	Curriculum Specialist
308	Instructional Coach
309	Library Information Specialist
310	Paraprofessional (Charter School only)
311	Reading Specialist
312	Technology Specialist
Special Education Ancillary Staff	
354	Cued Speech Interpreter
358	In-Service Coordinator
359	Sign Language Interpreter
372	School Counselor
373	School Counselor Intern
374	School Nurse
375	School Nurse Intern (9 week)
377	School Psychologist
378	School Psychologist Intern
379	School Social Worker
380	School Social Worker Intern
381	Speech Language Pathologist – non-teaching
382	Speech Language Pathologist Intern
383	Speech/Language Assistant
384	Speech/Language Paraprofessional (Charter School only)
387	Vocational Coordinator
399	Citywide Student Support Personnel (CPS ONLY)
Employed but not actively working	
999	Leave of Absence

Appendix B: The following position types do not currently require ISBE licensure and therefore are not presumed participants of the Fund. This list is subject to revision.

Accountant
Bookkeeper
Clerical Support Staff

Head/Executive Secretary
Other Office Staff
Information Technology Staff
Audio-Visual Staff
Advisor
Athletic Coach
Athletic Trainer
Attendance/Truant Officer
Other Athletic/Extracurricular Worker
Audiologist
Medical Service Personnel
Cook
Other Food Service Staff
Custodian
Maintenance, Craft, or Trade Worker
Grounds Staff
School Bus Driver
Transportation Mechanic
Other Transportation Staff