

90 compensation in any one of the years used may not exceed the previous year's compensation by
 91 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
 92 of the dollar during the previous year, as measured by a United States Bureau of Labor
 93 Statistics Consumer Price Index average as determined by the board.

94 (b) In cases where the participating employer provides acceptable documentation to the
 95 office, the limitation in Subsection (3)(a) may be exceeded if:

96 (i) the member has transferred from another agency; [or]

97 (ii) the member has been promoted to a new position[-]; or

98 (iii) for a member that is employed by a local education agency as defined in Section
 99 53E-1-102:

100 (A) the member has moved to a new position at the same local education agency due to
 101 a program need that causes the member to become a ~~full-time~~ [regular] ~~full-time~~ full-time employee when
 101a the
 102 member was previously not a ~~full-time~~ [regular] ~~full-time~~ full-time employee; or

103 (B) the percentage increase is due to a ~~union-negotiated increase~~ [union-negotiated increase] negotiated increase
 103a through designated representatives under Subsection 34-20-9(1)(a) ~~for a group of~~
 104 members that includes the member.

105 (c) If the member retires more than six months from the date of termination of
 106 employment, the member is considered to have been in service at the member's last rate of pay
 107 from the date of the termination of employment to the effective date of retirement for purposes
 108 of computing the member's final average salary only.

109 (d) If the member has less than five years of service credit in this system, final average
 110 salary means the average annual compensation paid to the member during the full period of
 111 service credit.

112 (e) The annual compensation used to calculate final average salary shall be based on:

113 (i) a calendar year for a member employed by a participating employer that is not an
 114 educational institution; or

115 (ii) a contract year for a member employed by an educational institution.

116 (4) "Participating employer" means an employer which meets the participation
 117 requirements of Sections 49-12-201 and 49-12-202.

118 (5) (a) "Regular full-time employee" means an employee whose term of employment
 119 for a participating employer contemplates continued employment during a fiscal or calendar
 120 year and whose employment normally requires an average of 20 hours or more per week,

183 equipment;

184 (ii) the cost of any employment benefits paid for by the participating employer;

185 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
186 otherwise ineligible for service credit;

187 (iv) any payments upon termination, including accumulated vacation, sick leave
188 payments, severance payments, compensatory time payments, or any other special payments;

189 (v) any allowances or payments to a member for costs or expenses paid by the
190 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
191 housing costs, insurance costs, equipment costs, and dependent care costs; or

192 (vi) a teacher salary bonus described in Section 53F-2-513.

193 (d) The executive director may determine if a payment not listed under this Subsection
194 (2) falls within the definition of compensation.

195 (3) "Final average salary" means the amount calculated by averaging the highest three
196 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
197 (d).

198 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
199 compensation in any one of the years used may not exceed the previous year's compensation by
200 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
201 of the dollar during the previous year, as measured by a United States Bureau of Labor
202 Statistics Consumer Price Index average as determined by the board.

203 (b) In cases where the participating employer provides acceptable documentation to the
204 office, the limitation in Subsection (3)(a) may be exceeded if:

205 (i) the member has transferred from another agency; ~~or~~

206 (ii) the member has been promoted to a new position~~[-]; or~~

207 (iii) for a member that is employed by a local education agency as defined in Section
208 53E-1-102:

209 (A) the member has moved to a new position at the same local education agency due to
210 a program need that causes the member to become a ~~full-time~~ ~~employee~~ ~~when~~
210a the

211 member previously was not a ~~full-time~~ ~~employee~~; or

212 (B) the percentage increase is due to a ~~negotiated increase~~ ~~through designated representatives~~ ~~under Subsection 34-20-9(1)(a)~~ ~~for a group of~~
212a members that includes the member.
213

307 compensation in any one of the years used may not exceed the previous year's compensation by
 308 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
 309 of the dollar during the previous year, as measured by a United States Bureau of Labor
 310 Statistics Consumer Price Index average as determined by the board.

311 (b) In cases where the participating employer provides acceptable documentation to the
 312 office, the limitation in Subsection (4)(a) may be exceeded if:

313 (i) the member has transferred from another agency; ~~or~~

314 (ii) the member has been promoted to a new position~~[-];~~ or

315 (iii) for a member that is employed by a local education agency as defined in Section
 316 53E-1-102:

317 (A) the member has moved to a new position at the same local education agency due to
 318 a program need that causes the member to become a ~~H→~~ [regular] ~~←H~~ full-time employee when
 318a the
 319 member previously was not a ~~H→~~ [regular] ~~←H~~ full-time employee; or

320 (B) the percentage increase is due to a ~~H→~~ [union-negotiated increase] negotiated increase
 320a through designated representatives under Subsection 34-20-9(1)(a) ~~←H~~ for a group of
 321 members that includes the member.

322 (c) If the member retires more than six months from the date of termination of
 323 employment, the member is considered to have been in service at the member's last rate of pay
 324 from the date of the termination of employment to the effective date of retirement for purposes
 325 of computing the member's final average salary only.

326 (d) If the member has less than five years of service credit in this system, final average
 327 salary means the average annual compensation paid to the member during the full period of
 328 service credit.

329 (e) The annual compensation used to calculate final average salary shall be based on:

330 (i) a calendar year for a member employed by a participating employer that is not an
 331 educational institution; or

332 (ii) a contract year for a member employed by an educational institution.

333 (5) "Participating employer" means an employer which meets the participation
 334 requirements of:

335 (a) Sections 49-12-201 and 49-12-202;

336 (b) Sections 49-13-201 and 49-13-202;

337 (c) Section 49-19-201; or