



# Learning from History – NPERS Form Updates, & How to Avoid the Most Common Mistakes

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# Early Retirement Inducement (ERI) & Termination Certification Forms

COMMON MISTAKES, AND HOW TO AVOID THEM

# ERI Forms

- ▶ In 2017 the Legislature inserted into LB415 a requirement that School Plan employers and members must certify:
  - ▶ Whether an employee took an ERI at termination, and, if so, describe the nature of the ERI; and
  - ▶ That there was no Prearranged Return to Work (PRW)
- ▶ LB415 charged NPERS with collecting this info
- ▶ NPERS developed the ERI forms (a.k.a. LB415 Forms) to satisfy these requirements

# History of ERI Form Revisions

- ▶ In December 2017, NPERS published the first version of the ERI Forms
- ▶ We received feedback from various schools and members about how to improve the forms
- ▶ After approximately 90 days, NPERS revised the forms in response to feedback from the stakeholders

# Revised ER Form



## EMPLOYER – SCHOOL PLAN EARLY RETIREMENT INDUCEMENT AND TERMINATION CERTIFICATION

**Employer Certification:** School Plan members are required by law to experience a 180-day bona fide separation from service with all employers participating in the School Plan<sup>1</sup> to be considered “terminated” and eligible to receive a refund or retirement benefit. In addition, the Internal Revenue Code does not allow individuals who terminate and receive a refund or retirement benefit to prearrange a return to work.

Employers participating in the School Plan must disclose any early retirement inducements paid to School Plan members. “Early retirement inducements” include, but are not limited to, any benefit, bonus, insurance payment, salary payment, or wage payment linked to a member’s termination, except for payments of accrued unused leave converted to cash.<sup>2</sup>

**Subject to the penalty of prosecution under Neb. Rev. Stat. § 79-949, I certify that:**

1. I am the administrator, or authorized designee, of an employer participating in the School Plan which is, or was, the employer of the above-named member of the School Plan.
2. The member held the position of \_\_\_\_\_.
3. Check **one** of the following:

- ☐ The member **DID NOT** accept, has not received, and will not receive, an early retirement inducement.
- ☐ The member **DID** accept and receive, or will receive, an early retirement inducement. **Complete a, b and c.** ↴

**a. Attach a written description of the early retirement inducement to this form.**

b. What is the dollar value of the early retirement inducement? \$ \_\_\_\_\_.

c. What is the final disbursement date of the early retirement inducement? \_\_\_\_\_.

4. Check **one** of the following:

- ☐ There **WAS NO** prearranged agreement with the member to have the member return to service **in any capacity** with my employer following the member’s termination of employment except intermittent substitute service.<sup>3</sup>
- ☐ There **WAS** a prearranged agreement with the member to have the member return to service **in any capacity** with my employer following the member’s termination of employment except intermittent substitute service.<sup>3</sup>

**Complete a.** ↴

**a. Attach a written description of the prearranged agreement to return to service to this form.**

Member's Name	Last	First	Middle	Member's Date of Birth	-	-
Member's Social Security Number	-		Member's Email Address			
Member's Address			City	State	Zip	
Home Phone or Cell Phone			Employer			

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1. I am the administrator, or authorized designee, of an employer participating in the School Plan which is, or was, the employer of the above-named member of the School Plan.

2. The member held the position of \_\_\_\_\_.

3. Check **one** of the following:

- ☐ The member **DID NOT** accept, has not received, and will not receive, an early retirement inducement.
- ☐ The member **DID** accept and receive, or will receive, an early retirement inducement. **Complete a, b and c.** ↴

**a. Attach a written description of the early retirement inducement to this form.**

b. What is the dollar value of the early retirement inducement? \$ \_\_\_\_\_.

c. What is the final disbursement date of the early retirement inducement? \_\_\_\_\_.

4. Check **one** of the following:

- ☐ There **WAS NO** prearranged agreement with the member to have the member return to service **in any capacity** with my employer following the member’s termination of employment except intermittent substitute service.<sup>3</sup>
- ☐ There **WAS** a prearranged agreement with the member to have the member return to service **in any capacity** with my employer following the member’s termination of employment except intermittent substitute service.<sup>3</sup>

**Complete a.** ↴

**a. Attach a written description of the prearranged agreement to return to service to this form.**

I understand and acknowledge that knowingly making a false statement, report, or representation to NPERS could result in criminal prosecution.

I understand this form must be completed, signed, and received by NPERS **within twenty (20) calendar days** of the member’s termination.

Employer Signature \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Employer: \_\_\_\_\_

Please contact the NPERS Employer Reporting Section at 402-471-6098 or 402-471-9497 with questions regarding the completion of this form.

<sup>1</sup> “Employer participating in the School Plan” means any public school district (except Class V school districts), ESUs, and the Nebraska Department of Education (NDE) for those employees who are authorized by law to participate in the School Plan while working for NDE.

<sup>2</sup> Please refer to Neb. Rev. Stat. §§ 79-902(11) & (44), 79-921, and 79-949, for more detailed information.

<sup>3</sup> Intermittent volunteer service or intermittent substitute service may be performed during the 180-day period as long as it is not prearranged.

NPERS2419 NPERS2412 Rev. 03/2018

BANK CODE

PRINT



# Revised EE Form

Name Last First Middle		Date of Birth - -	
Social Security Number - -		Email Address	
Address City State Zip			
Home Phone or Cell Phone		Employer	


## MEMBER – SCHOOL PLAN EARLY RETIREMENT INDUCEMENT AND TERMINATION CERTIFICATION

**Member Certification:** School Plan members are required by law to experience a 180-day bona fide separation from service with all employers participating in the School Plan<sup>1</sup> to be considered “terminated” and eligible to receive a refund or retirement benefit. In addition, the Internal Revenue Code does not allow individuals who terminate and receive a refund or retirement benefit to prearrange a return to work.

School Plan members must also disclose receipt of any early retirement inducements. “Early retirement inducements” include, but are not limited to, any benefit, bonus, insurance payment, salary payment, or wage payment linked to a member’s termination, except for payments of accrued unused leave converted to cash.<sup>2</sup>

**Subject to the penalty of prosecution under Neb. Rev. Stat. § 79-949, I certify that:**


1. Check one of the following:

- ☐ I **DID NOT** accept, have not received, and will not receive, an early retirement inducement.  
☐ I **DID** accept and receive, or will receive, an early retirement inducement. **Complete a, b and c.** 

**a. Attach a written description of the early retirement inducement to this form.**

- b. What is the dollar value of the early retirement inducement? \$ \_\_\_\_\_  
c. What is the final disbursement date of the early retirement inducement? \_\_\_\_\_.

2. Check one of the following:

- ☐ I **DO NOT** have a verbal or written prearranged agreement to return to service **in any capacity** with any employer participating in the School Plan following my termination except intermittent substitute service.<sup>3</sup>  
☐ I **DO** have a verbal or written prearranged agreement to return to service **in any capacity** with any employer participating in the School Plan except intermittent substitute service. **Complete a.** 

**a. Attach a written description of the prearranged agreement to return to service to this form.**

I understand that I **must** notify NPERS in writing if I return to service in any capacity with any employer participating in the School Plan during the 180 days following my termination.

4. I understand that I **must** notify NPERS in writing if I accept employment under a personal service contract (including as an independent contractor) with any employer participating in the School Plan during the 180 days following my termination.

5. I understand that I **must** notify NPERS in writing if I accept employment with a private leasing company, temporary staffing agency, or any other entity, and my employment requires me to perform work at any employer participating in the School Plan during the 180 days following my termination.

I understand and acknowledge that knowingly making a false statement or representation to NPERS could result in criminal prosecution and/or recoupment of distributions made from my NPERS retirement account.

I understand this form should be completed, signed, and received by NPERS **before** NPERS will distribute any retirement benefits from my NPERS retirement account. To minimize processing delays I understand this form must be received by NPERS within 20 days of my termination.

Member Signature \_\_\_\_\_ Date: \_\_\_\_\_

Please contact NPERS Call Center at 1-800-245-5712 or 402-471-2053 if you have any questions about completing this form.

<sup>1</sup> “Employer participating in the School Plan” means any public school district (except Class V school districts), ESUs, and the Nebraska Department of Education (NDE) for those employees who are authorized by law to participate in the School Plan while working for NDE.

<sup>2</sup> Please refer to Neb. Rev. Stat. §§ 79-921(1) & (4), 79-921, and 79-949, for more detailed information.

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**Subject to the penalty of prosecution under Neb. Rev. Stat. § 79-949, I certify that:**

1. Check one of the following:

- ☐ I **DID NOT** accept, have not received, and will not receive, an early retirement inducement.  
☐ I **DID** accept and receive, or will receive, an early retirement inducement. **Complete a, b and c.** 

**a. Attach a written description of the early retirement inducement to this form.** 

- b. What is the dollar value of the early retirement inducement? \$ \_\_\_\_\_  
c. What is the final disbursement date of the early retirement inducement? \_\_\_\_\_.

# ERI Form Statistics

- ▶ Employer (ER) Forms:

- ▶ **678** ER forms have been received since December 2017
- ▶ **22** ER forms had errors
- ▶ The error rate on ER forms is only **3.24%**

- ▶ Employee (EE) Forms:

- ▶ **506** EE forms have been received since December 2017
- ▶ **26** EE forms had errors
- ▶ The error rate on EE forms is only **5.14%**

# ERI Form Statistics (continued)

- ▶ Totals for both EE and ER Forms
  - ▶ **1184** forms have been received since December 2017
  - ▶ **48** had errors
  - ▶ The overall error rate is **4.05%**
- ▶ Some forms had multiple errors
- ▶ Some ERs made consistent errors



# Most Common ER Form Errors (in order of frequency)

- ▶ Failure to list member's position
- ▶ Failure to complete ERI section
- ▶ Failure to attach ERI explanation
- ▶ Included intermittent substituting as a Prearranged Return to Work (PRW)
- ▶ Failure to sign and/or date
- ▶ Failure to select PRW

# ER Form Error Examples – Failure to list member's position

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1. I am the administrator, or authorized designee, of an employer participating in the School Plan which is, or was, the employer of the above-named member of the School Plan.
2. The member held the position of \_\_\_\_\_.

# ER Form Error Examples – Failure to attach ERI explanation & complete ERI section

3. Check **one** of the following:

- ☐ The member **DID NOT** accept, has not received, and will not receive, an early retirement inducement.
- ☐ The member **DID** accept and receive, or will receive, an early retirement inducement. **Complete a, b and c.** ⚡

**a. Attach a written description of the early retirement inducement to this form.**

b. What is the dollar value of the early retirement inducement? \$ \_\_\_\_\_.

c. What is the final disbursement date of the early retirement inducement?

# ER Form Error Examples – Failure to select PRW option & Included intermittent sub as PRW

4. Check **one** of the following:

- ☐ There **WAS NO** prearranged agreement with the member to have the member return to service ***in any capacity*** with my employer following the member's termination of employment **except intermittent substitute service.**
- ☐ There **WAS** a prearranged agreement with the member to have the member return to service ***in any capacity*** with my employer following the member's termination of employment **except intermittent substitute service.**

**Complete a.** ↓

**a. Attach a written description of the prearranged agreement to return to service to this form.**

# ER Form Error Examples – Failure to sign and date

Employer Signature \_\_\_\_\_

Title: \_\_\_\_\_

Date \_\_\_\_\_

Printed Name: \_\_\_\_\_ Employer: \_\_\_\_\_

Please contact the NPERS Employer Reporting Section at **402-471-6098** or **402-471-9497** with questions regarding the completion of this form.

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<sup>3</sup> Intermittent volunteer service or intermittent substitute service may be performed during the 180-day period as long as it is not prearranged.



# Most Common EE Form Errors (in order of frequency)

- ▶ Failure to attach ERI explanation
- ▶ Failure to complete ERI section
- ▶ Failure to select PRW
- ▶ Failure to select ERI option
- ▶ Selected both ERI and PRW options

# EE Form Error Examples – Failure to select ERI option, complete ERI section, & attach ERI explanation

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**Subject to the penalty of prosecution under Neb. Rev. Stat. § 79-949, I certify that:**

1. Check **one** of the following:

☐

I **DID NOT** accept, have not received, and will not receive, an early retirement inducement.

☐

I **DID** accept and receive, or will receive, an early retirement inducement. **Complete a, b and c.** ↓

a. **Attach a written description of the early retirement inducement to this form.**

b. What is the dollar value of the early retirement inducement? \$ \_\_\_\_\_.

c. What is the final disbursement date of the early retirement inducement? \_\_\_\_\_.

# EE Form Error Examples – Failure to select PRW option

2. Check one of the following:

- ☐ I **DO NOT** have a verbal or written prearranged agreement to return to service ***in any capacity*** with any employer participating in the School Plan following my termination except intermittent substitute service.<sup>3</sup>
- ☐ I **DO** have a verbal or written prearranged agreement to return to service ***in any capacity*** with any employer participating in the School Plan except intermittent substitute service. **Complete a.** ↓

a. ***Attach a written description of the prearranged agreement to return to service to this form.***



# Non-Contributing Member Forms

COMMON MISTAKES, AND HOW TO AVOID THEM

# Non-Con Form Common Errors

- ▶ Non-Cons must be submitted to NPERS within 20 days following the date of termination to ensure timely payment of benefits.
  - ▶ Some are coming in early, some late.
- ▶ Please check the termination dates being entered. Snow days have been problematic.
  - ▶ Please adjust the termination date for snow days.
  - ▶ If employees are required to work after the last regular school day listed in the contract due to snow days, the employer should adjust the termination date on the Non-Con.





# LB1005 – Why is it needed, & what does it do?

RETIREMENT SYSTEMS COMMITTEE OF THE LEGISLATURE OMNIBUS BILL

# LB1005 – Why is it needed?

- ▶ A national trend developed where employers withdraw from multi-employer or multiple employer pension plans entirely, or remove groups of individuals from plan eligibility
- ▶ This creates unfunded liabilities on the pension plan that impact the plan's ability to provide pension benefits
- ▶ Example - **Trouble in candy land: How Peeps, pensions and a lawsuit threaten to upend the American retirement system**
  - ▶ <https://www.msn.com/en-us/news/us/trouble-in-candy-land-how-peeps-pensions-and-a-lawsuit-threaten-to-upend-the-american-retirement-system/ar-AAvg7qx?li=BBnb7Kz>

# LB1005 – Why is it needed?

## The Peeps Case

- ▶ The company that makes Peeps was part of a 200-employer multi-employer pension system
- ▶ The company could not afford to keep operations open and pay for the pension benefits
- ▶ The company stopped new hires from joining the pension plan
  - ▶ This is a common practice in the private sector

# LB1005 – Why is it needed?

## The Peeps Case (continued)

- ▶ The company is involved in a law suit to avoid paying the \$60 million fee required by federal law to:
  - ▶ Offset the plan for the loss of income due to the reduced contributions; and
  - ▶ Ensure current the plan has sufficient funds to pay for current members' retirement benefits



# LB1005 – Why is it needed?

## The Peeps Case (continued)

- ▶ A different company (that makes Twinkies) left the pension plan in 2011/12 and successfully avoided paying a \$1 billion dollar fee
- ▶ **The pension went from being one of the most healthy in the country prior to the 2011/12 company leaving, to one of the most at risk**
- ▶ If changes aren't made, the plan will become insolvent, and members will just get pennies on the dollar when they retire
- ▶ Thus, either the remaining employers and employees must contribute more from their budgets, or benefits have to be reduced



# LB1005 –Why is it needed? (continued)

- ▶ The School Plan is a multiple employer plan
- ▶ Employers in the School Plan are taking steps to manage their budgets that include:
  - ▶ Consolidation, merger, or unification; and
  - ▶ Terminating large groups of employees and contracting for those services (i.e., bus drivers, food service workers, para-educators, maintenance workers, etc.)
- ▶ However, these steps are reducing contributions to the plan, and creating unfunded liabilities for the plan

# LB1005 –What does it do?

- ▶ LB1005:
  - ▶ Ensures the School Plan will not be financially liable for a school's business transaction, minimize the risk that the State, other employers in the School Plan, or plan members bear the cost of one school's business transaction; and
  - ▶ Lays out a process to help schools learn the true cost of their business transaction, put schools on notice of what they must pay when contemplating a business transaction, and ensure that the retirement system is not financially harmed by a school's business transaction

# LB1005 – The Steps to Learn the Costs

- ▶ When a school contemplates a business transaction that could result in employees losing eligibility to participate in the School Plan, the school should notify the PERB/NPERS
- ▶ The PERB/NPERS will get an estimate from our contracted actuary on the cost of an actuarial study to determine whether there will be any costs to the retirement system that must be passed on to the school, and the amount of the costs

# LB1005 – The Steps to Learn the Costs (continued)

- ▶ If the school pays for the study, the actuary will conduct the study, and the PERB/NPERS will make findings on whether there is a cost, and the amount of the costs
- ▶ If the school engages in the business transaction, the school must pay the PERB/NPERS the costs
- ▶ If a school fails to timely notify the PERB/NPERS, and engages in a business transaction that creates cost for the School Plan, the school will be liable for all costs associated with calculating the cost and the actuarial costs incurred by the School Plan



# Questions