**Section 1600.400 Determination of Final Rate of Earnings Period**

a) This Section establishes a mechanism for determining the period of employment that is used to calculate a participant's final rate of earnings. This Section is not intended to provide guidance on any other aspect of determining the amount of the final rate of earnings.

b) Final Rate of Earnings for Tier 1 Members

1) For all Tier 1 Members participating in the Traditional or Portable Benefit Packages, SURS will calculate the average annual earnings during the 4 consecutive academic years of service in which the participant's earnings were the highest. The academic year for a participant begins on the first day of the fall term of his or her employer and ends on the day before the first day of the next fall term. For example, if the first day of the employer's fall term is August 15, then the academic year begins on August 15 and ends: on the following August 14 if the next fall term begins August 15; August 12 if the next fall term begins August 13; or the following August 17 if the next fall term begins August 18. If the employer does not have an academic program divided into terms, the academic year begins on September 1 and ends on the following August 31. For all such Tier 1 Members, except those identified in subsection (b)(2), the final rate of earnings will be that amount calculated under this subsection (b)(1).

2) For a Tier 1 Member who is paid on an hourly basis or who receives an annual salary in installments during 12 months of each academic year, SURS will also calculate average annual earnings during the 48 consecutive calendar month period ending with the last day of final termination of employment. The final rate of earnings for a participant identified under this subsection (b)(2) will be the larger of the calculation under this subsection (b)(2) or the calculation under subsection (b)(1).

c) Final Rate of Earnings for Tier 2 Members means:

1) *For* a Tier 2 Member *who is paid on an hourly basis or who receives an annual salary in installments during 12 months of each academic year, the average annual earnings obtained by dividing by 8 the total earnings of the employee during the 96 consecutive months in which the total earnings were the highest within the last 120 months prior to termination.*

2) *For any other* Tier 2 Member, *the average annual earnings during the 8 consecutive academic years within the 10 years prior to termination in which the employee's earnings were the highest.*

3) *For an employee with less than 96 consecutive months or 8 consecutive academic years of service, whichever is necessary, the average earnings during his or her entire period of service.* [40 ILCS 5/15-112(b)]

d) A participant paid on an "hourly basis" is a participant who is paid per hour worked.

e) An "annual salary" is a salary paid over 12 months for work to be performed during all 12 months of the academic year. SURS will determine if a participant receives an annual salary by looking at the period for which services were performed, not the period over which salary payments were received, and, in determining annual salary, will not consider payment for summer teaching or any additional contracts for summer school, overloads, or any other extra services. For example, an academic employee who receives a contract to teach 9 or 10 months of the academic year, but who chooses to be paid over 12 months, is not receiving an annual salary. For further example, an academic employee who receives a contract to teach less than 12 months of the academic year plus a contract to teach summer school is not receiving an annual salary even though he or she may perform work for 12 months and be paid over 12 months as a result of teaching summer school.

f) In determining a participant's "earnings", the system allocates earnings to the period in which the corresponding work was performed. Earnings are not determined by when the payment is made. For example, a participant has a 9-month contract to teach from September through May and will be paid $90,000. The participant has the option of receiving payment over 9 months (September through May at $10,000 per month) or over 12 months (September through August at $7,500 per month). The payment method chosen does not change the participant's earnings. If the participant chooses to receive payment over 9 months or over 12 months, the earnings and the period to which they are allocated does not change. For further example, the same participant receives a contract to teach summer school during the following June, July and August and will be paid $15,000. The participant has earnings during each of those 3 months of $5,000. If the participant was receiving the prior 9-month contract payments during the summer, as well as $5,000 each month for the summer contract, the payments to the participant would be $12,500 during June, July and August, but the earnings would be $5,000 in each month. For further example, if the participant received a lump sum payment in October of $15,000 for the summer contract, that payment is not "earnings" in October, but is "earnings" allocated to the summer months.

g) This Section is effective beginning March 1, 2005, with respect to Tier 1 Members. However, a Tier 1 Member who, on March 1, 2005, is within his or her final rate of earnings period prior to retirement may have his or her final earnings calculated under either subsection (b)(1) or (b)(2), even if subsection (b)(2) would not otherwise be applicable to that participant. The provisions of this Section applicable to Tier 2 Members are effective beginning January 1, 2011.

(Source: Amended at 38 Ill. Reg. 16375, effective July 17, 2014)