

**REPORT OF THE
DEPARTMENT OF EDUCATION ON**

**Application Of Retirement
Benefits By Public
School Systems To
Their Teachers Who
Have Multiple Contracts
With The Board**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 40

**COMMONWEALTH OF VIRGINIA
RICHMOND
1993**

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With this policy change, the contribution cost for certain school employees will increase. In 1992-93, nineteen school divisions do not pay the five percent member contribution. If the supplemental pay received by the teachers in these school divisions were reported to the VRS, the teachers would be responsible for the five percent member contribution.

A change in the current VRS policy would require modifying Code of Virginia, Section 51.1-101 to include supplemental pay as creditable compensation for public school employees.

Executive Summary

HJR 168 requested the Department of Education, in cooperation with the Virginia Retirement System (VRS), to study the application of retirement benefits by public school systems to their teachers who have multiple contracts with the local school board.

In 1990, the General Assembly passed legislation providing that a separate contract in a form prescribed by the Board of Education be executed by a local school board with any employee who is receiving a monetary supplement for an athletic coaching assignment. This contract was to be separate from the employee's contract for teaching. During the 1991-92 school year, however, it was noted that local school divisions were excluding the compensation received for the coaching assignment from the individual salary amounts reported to the Virginia Retirement System (VRS). Therefore, this additional compensation would not be included in the calculation of the average final compensation of the employee for retirement purposes.

The VRS has considered coaching supplements, along with other types of supplements, as pay for extra duties outside of the normal teaching duties and therefore, these supplements should not be included in the creditable compensation for retirement.

If the current VRS policy is modified to include supplemental pay in the creditable compensation for retirement, there may be additional retirement benefits for the individual school employees. In one example, if a teacher's \$2,500 coaching supplement is included in the retirement calculation, the teacher's monthly retirement payment increases by approximately \$100. It should be noted, however, that there is no guarantee that any supplemental pay that is included in the annual contract salary and reported as creditable compensation to the VRS will be in used in the final calculation of retirement benefits. If the salary used to calculate the retirement benefit does not include the period of time when the supplemental pay was reported, the supplemental pay provides no additional benefit. Therefore, the local school divisions (and employees) will have funded contributions toward retirement benefits that will not be realized.

If the current VRS policy is modified, there will be additional cost for local school divisions. In 1990-91, local school divisions reported expenditures for supplemental pay in excess of \$20.6 million. The estimated additional retirement contribution cost to local school divisions for including the supplemental pay in the salary amounts reported to the VRS is \$2.3 million. In addition, the local school divisions may experience an increase in the employer retirement contribution rate over time because of increased retirement benefits resulting from inclusion of the supplemental payments in the calculation of average final salary at retirement.

House Joint Resolution No. 168

HJR 168 requested the Department of Education, in cooperation with the Virginia Retirement System (VRS), to study the application of retirement benefits by public school systems to their teachers who have multiple contracts with the local school board. A copy of HJR 168 is included as Attachment A.

Background Information:

In 1990, the General Assembly passed legislation (Attachment B) providing that a separate contract, in a form prescribed by the Board of Education, be executed by a local school board with any employee who is receiving a monetary supplement for an athletic coaching assignment. This contract was to be separate from the employee's contract for teaching. The Board of Education adopted an athletic coaching contract form which became effective for the 1991-92 school year (Attachment C).

During the 1991-92 school year, however, it was noted that local school divisions were excluding the compensation received for the coaching assignment from the individual salary amounts reported to the Virginia Retirement System. Therefore, this additional compensation would not be included in the calculation of the average final compensation of the employee for retirement purposes.

Virginia Retirement System Policy

Code of Virginia, Section 51.1-101 (Attachment D) sets forth the statutory definition of creditable compensation for retirement purposes to mean "the full compensation payable annually to an employee working the full working-time for his covered position..."

The longstanding VRS administrative policy interpretation of this statutory definition has been that the only compensation reportable to the Retirement System as creditable compensation for retirement purposes is the salary included in the annual teacher salary contract rate between the school boards and teachers.

Historically, coaching supplements, along with other types of supplements, have been paid outside of the annual teaching contract. These supplements have been treated by VRS as pay for extra duties outside of the normal teaching duties, not unlike part time or hourly pay. Therefore, these supplemental amounts are not included in the creditable compensation for retirement. This administrative policy position has been shared over time with the local school divisions through VRS Directive 80-3, dated May 14, 1980 (Attachment E), Directive 87-3, dated June 3, 1987 (Attachment F) and the VRS Benefits Manual, Section 2-100 (Attachment G).

Therefore, the local school divisions are correctly following current VRS policy by excluding the compensation received for the coaching assignments from the individual salary amounts reported to the VRS.

Modifications to Current VRS Policy

The following section highlights the impact of modifying the current VRS policy to include the supplements provided to local school personnel in the salaries reported to the VRS.

A. Benefits:

The retirement benefit under VRS is based on the following:

- The member's average final compensation (average of the highest 36 consecutive months of salary);
- Years of service; and
- Age at retirement.

Attachment H illustrates the calculation of the monthly retirement benefit for a sixty-year-old teacher with thirty years of service. As noted on this attachment, the teacher receives an additional \$41 each month if the \$1,000 supplement received for serving as the sponsor for the school newspaper is included in the retirement calculation. The monthly retirement payment increases by approximately \$100 if the teacher's \$2,500 coaching supplement is included in the retirement calculation.

It should be noted, however, that there is no guarantee that any supplemental pay that is included in the annual contract salary and reported as creditable compensation to the Retirement System will be used in the final calculation of retirement benefits. If the salary used to calculate the retirement benefit does not include the period of time when the supplemental pay was reported, the supplemental pay provides no additional benefit. Therefore, the local school divisions (and employees) will have funded contributions toward retirement benefits that will not be realized.

This situation could occur if the member relinquishes the duties for which he or she received supplemental pay three or more years prior to retirement and the increases in annual contract salary which were received prior to retirement result in an amount exceeding the salary and supplement amount combined. For example, a teacher serves as a coach during the early years of his or her career but ceases the coaching duties eight years prior to retirement. The teacher continues to receive annual increases in contract salary during the eight years prior to retirement. These increases result in salary amounts used to calculate retirement benefits that do not include the years in which the teacher received supplemental pay for the coaching duties.

Therefore, inclusion of supplemental pay as part of the annual contract salary would benefit only those members/employees who:

- Work in supplemental pay activities until retirement and continue to receive the same level of supplemental pay or greater until their retirement, or
- Cease working in the activity for which supplemental pay was received prior to retirement with no salary increases subsequently received which would cause the annual salary for the later years to be greater than the years which included the supplement pay.

B. Costs:

1. Individuals:

Local school divisions are responsible for the employer share of the retirement contribution cost. In addition, many school divisions provide funds for the five percent member contribution. In 1992-93, however, nineteen school divisions still do not pay this five percent share for their employees. If the supplemental pay received by the teachers in these school divisions were reported to the VRS, the teachers would be responsible for the five percent contribution. The "take home pay" for these employees would be reduced, but as noted above, they may not realize any additional retirement benefits, although their contribution may increase.

2. Local School Divisions:

In 1990-91, local school divisions reported expenditures for supplemental pay in excess of \$20.6 million. The estimated additional retirement contribution cost to local school divisions for including the supplemental pay in the salary amounts reported to the VRS is \$2.3 million. In addition, the local school divisions may experience an increase in the employer retirement contribution rate over time because of increased retirement benefits resulting from inclusion of the supplemental payments in the calculation of average final salary at retirement.

C: Legislative and Administrative Considerations:

To broaden the administrative interpretation of the statutory definition of creditable compensation found in the Code of Virginia, Section 51.1-101, to include supplemental pay for certain activities or duties carried out by public school employees would necessitate the use of very specific language. Because the Retirement System covers a diverse group of governmental employers and members in addition to school divisions, general code language that allows supplemental pay could open the door for inclusion of many other types of extraordinary compensation, regardless of how temporary or incidental it is to the contract duties and

annual salary rate for the positions in question. Caution should be taken to limit any legislative change to only public school employees to avoid a potential unfavorable fiscal impact to other governmental employees and employers such as state employees, local governments and institutions of higher education. Even with specific reference to supplemental pay for teachers, however, such a code change would create a precedent for future inclusions of extraordinary pay for other groups of employees that heretofore have been excluded for creditable compensation.

The longstanding VRS administrative policy to allow for creditable compensation based on the annual contract salary rate provides for a more objective administration of the pension plan provisions because it limits the possibility of unfair inclusion of additional pay to inflate benefits for certain classes of employees prior to retirement. In addition, any definition of creditable compensation must be fair and treat all classes of employees and types of employers consistently.

Conclusions:

Local school divisions are required to have a separate contract with any employee who is receiving a monetary supplement for an athletic coaching assignment.

Based on the Code of Virginia, the supplemental payments for the coaching assignments are not to be included in creditable compensation amounts reported to the VRS.

If the Code section is to be modified:

- The Code section needs to be modified to include supplemental pay as creditable compensation for public school employees. In addition, it needs to provide consistent treatment of supplemental pay for retirement benefits for all public school employees throughout the Commonwealth.
- There may be additional retirement benefits for the individual school employees.
- Local school divisions and some public school employees will incur additional retirement contribution cost.

GENERAL ASSEMBLY OF VIRGINIA--1992 SESSION
HOUSE JOINT RESOLUTION NO. 168

Requesting the Department of Education, in cooperation with the Virginia Retirement System, to study the application of retirement benefits by public school systems to their teachers who have multiple contracts with the board.

Agreed to by the House of Delegates, February 9, 1992
Agreed to by the Senate, March 4, 1992

WHEREAS, in 1990 the General Assembly passed legislation providing that a separate contract in a form prescribed by the Board of Education shall be executed by the school board with any employee who is receiving a monetary supplement for any athletic coaching assignment and that this contract shall be separate and apart from the contract for teaching; and

WHEREAS, a number of school boards have chosen to exclude the compensation received pursuant to the supplemental contract in the calculation of the average final compensation of the employee for retirement purposes; and

WHEREAS, such calculation deprives the employee of receiving his full retirement allowance, based on the full compensation during his three highest consecutive years of earnings; and

WHEREAS, this calculation was not intended by the General Assembly when it passed the 1990 legislation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Education, in cooperation with the Virginia Retirement System, be requested to study the application of retirement benefits by public school boards to their teachers who have multiple contracts with the board.

The Department shall complete its work in time to submit its findings and recommendations to the Governor and the 1993 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

1990 SESSION

VIRGINIA ACTS OF ASSEMBLY - CHAPTER 388

An Act to amend and reenact § 22.1-302 of the Code of Virginia, relating to written contracts for teachers.

[S 379]

Approved APR 2 1990

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-302 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-302. Written contracts required; execution of contracts; rules and regulations.—A written contract, in a form prescribed by the Board of Education, shall be made by the school board with each teacher employed by it, except those who are temporarily employed, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties. A temporarily employed teacher, as used in this section, shall mean (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence, or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than ninety teaching days in such vacancy during one school year. The Board of Education shall promulgate regulations regarding temporarily employed teachers, as defined in this section.

A separate contract in a form prescribed by the Board of Education shall be executed by the school board with such employee who is receiving a monetary supplement for any athletic coaching assignment. This contract shall be separate and apart from the contract for teaching.

Termination of a separate contract for any athletic coaching assignment by either party thereto shall not constitute cause for termination of the separate teaching contract of the coach.

All coaching contracts shall require the party intending to terminate the coaching contract to give reasonable notice to the other party before termination thereof shall become effective.

2. That this act shall become effective on July 1, 1991.

 President of the Senate

 Speaker of the House of Delegates

Approved:

 Governor

ATHLETIC COACHING CONTRACT WITH SCHOOL PERSONNEL

AGREEMENT, between the **SCHOOL BOARD OF** _____
(county, city, or town)

hereinafter referred to as the "School Board," and _____

hereinafter referred to as the "Coach":

WITNESSETH, that the School Board and the Coach agree that the Coach will perform the following athletic coaching assignment _____
(football, basketball,

_____ subject to the authority of
baseball, track, or other athletic coaching assignment)

the School Board, under the supervision and direction of the superintendent or designee, subject to the Code of Virginia and subject to the following conditions:

1. The Coach shall perform such duties during the period of this assignment as are deemed necessary by the School Board and the superintendent or designee for the successful and efficient operation of the school system.
2. The Coach shall comply with all applicable laws, Virginia Board of Education regulations, School Board policies, and regulations of the superintendent now or hereafter in effect.
3. This Agreement may be terminated by either party with or without cause by providing reasonable notice in writing to the other party. Such reasonable notice may be set forth in the Special Covenants below.
4. The School Board agrees to pay the Coach \$ _____ as a monetary compensation for the duration of this agreement, payable in accordance with established payroll procedures. The Coach agrees and acknowledges that this employment does not qualify as service toward continuing contract eligibility, does not constitute teaching experience, and does not create any rights of any type in favor of the Coach other than the compensation referred to herein.
5. This agreement is for an athletic coaching assignment from _____
_____ 19 _____ - _____ 19 _____,
(month) (month)
commencing _____, 19 _____,
(month)

6. The said School Board shall deduct from the monetary compensation all deductions required by law.
7. Termination of this agreement by either party shall not, in itself, constitute cause for termination of any separate teaching contract between the Coach and the School Board.
8. SPECIAL COVENANTS:

IN WITNESS WHEREOF, the parties hereunto have set their hands and seal, this _____ day of _____, 19_____.

Chairman of the School Board

Coach

Clerk of the School Board

§ 51.1-101. Definitions. — As used in this chapter, unless the context requires a different meaning:

"*Abolished system*" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"*Accumulated contributions*" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.1-1 et seq.) or if a member dies in service prior to retirement, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"*Actuarial equivalent*" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"*Average final compensation*" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"*Beneficiary*" means any person entitled to receive benefits under this chapter.

"*Board*" means the Board of Trustees of the Virginia Retirement System.

"*Creditable compensation*" means the full compensation payable annually to an employee working the full working-time for his covered position. In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money. Remuneration received by members of the General Assembly pursuant to §§ 14.1-17.1 and 14.1-18 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"*Creditable service*" means prior service plus membership service for which credit is allowable.

"*Employee*" means any teacher, state employee, officer, or employee of a locality participating in the retirement system.

"*Employer*" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the retirement system.

"*Local officer*" means the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

"*Medical Board*" means the board of physicians as provided by this chapter.

"*Member*" means any person included in the membership of the retirement system.



COMMONWEALTH of VIRGINIA

*Virginia Supplemental Retirement System
Eleven North Sixth Street
Richmond, Virginia*

GLEN D. POND
DIRECTOR

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MAILING ADDRESS:
POST OFFICE BOX 3-X
RICHMOND, VIRGINIA 23207
TELEPHONE (804) 786-3831

May 14, 1980

VIRGINIA SUPPLEMENTAL RETIREMENT SYSTEM DIRECTIVE 80-3

TO: *Division Superintendents of Public School Boards
Administrative Heads of State Agencies and Political Subdivisions
Personnel and Finance Officers*

From time to time members of the VSRS receive certain supplements to pay which are not included in their annual salary rate, or in the case of teachers, their annual teaching contract. These pay supplements may be for such items as coaching, directing a band or musical program, etc. It is also possible that an employee might receive some type of bonus which is over and above his salary.

Whenever such a bonus or supplemental pay is made, it should not be reported for VSRS purposes, unless it is included as part of the contract salary or in the agreed upon annual salary rate. In those exceptions, it should be reported for VSRS purposes.

If you have questions relative to this directive, please contact the VSRS Field Services Department.

Sincerely,

A handwritten signature in cursive script that reads "Glen D. Pond".

Glen D. Pond
Director

GDP:WGH/dsc



COMMONWEALTH of VIRGINIA

GLEN O. POND
DIRECTOR

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Virginia Supplemental Retirement System

1200 East Main Street
RICHMOND, VIRGINIA

MAILING ADDRESS:
POST OFFICE BOX 3-X
RICHMOND, VIRGINIA 23207
TELEPHONE (804) 786-3831

June 3, 1987

Virginia Supplemental Retirement System Directive 87-3

TO: Division Superintendents and Finance Officers of Public
School Boards

SUBJECT: Supplemental Pay for Special Activities

THIS DIRECTIVE SUPERCEDES VSRS DIRECTIVE 80-3 DATED MAY 14, 1980.

From time to time, VSRS members employed by public school boards receive supplements to pay for extra duties such as coaching and advising special activities.

The amount reported to the VSRS for any teacher regardless of their additional duties should be the established salary rate for the teacher for his or her teaching position and should not include any supplemental pay for additional activities.

Any questions concerning this should be directed to the VSRS Member Contribution Reporting Section at 786-8785 ext. 107, 109 or 112.

Thank you for your attention to this most important matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glen D. Pond".

Glen D. Pond
Director

GDP:rlp

cc: State Dept. of Education

Virginia Retirement System

BENEFITS MANUAL

Section: 2

Subject: PRE-EMPLOYMENT COUNSELING AND ORIENTATION

2-100 VRS PRE-EMPLOYMENT COUNSELING

Prospective employees should know...

- MANDATORY VRS MEMBERSHIP** Membership in VRS is mandatory as a condition of employment if the position held is a permanent, full-time, salaried position.
- MEMBER CONTRIBUTION** 5% of annual salary will be deducted pro-rata each payday except when the employer pays the member contribution. (See Sections 5-100 and 5-110.) Contributions are not made on extra pay such as:
1. Overtime pay;
 2. Accumulated leave pay;
 3. Payments of a temporary nature; or
 4. Payments for extra duties not included in the annual salary rate, such as supplemental pay to teachers for coaching and advising special activities.
- INTEREST** Contributions made by the member and those paid by the employer for members are placed in an account in the member's name and accrue interest at a rate of 4% per year, compounded annually. Interest throughout the fiscal year (July-June) is earned on whatever sum is in a member's account on June 30 of the immediately preceding fiscal year.
- AGE 65** Members may elect to discontinue contributions should they be employed beyond age 65. In doing so, however, they earn no further service credit and the "average final compensation" is based on the salaries in effect when contributions were made.
- NO BORROWING** The member may not borrow from the member contribution account. The only access that the member has to these monies is through either termination of employment or retirement.

CALCULATIONS OF TEACHERS RETIREMENT BENEFIT WITH Appendix H AND WITHOUT SUPPLEMENTAL PAY FOR COACHES

The following calculations are based on a member being age 60 with 30 years service credit. The three salaries used to calculate the Average Final Salary are \$32,000.00; \$34,000.00 and \$36,000.00.

AVERAGE FINAL SALARY:	\$34,000.00	(not using a supplement)
Basic Benefit:	\$ 1,353.00	
AVERAGE FINAL SALARY:	\$34,333.33	(using a supplement of \$1,000 for one year)
Basic Benefit:	\$ 1,366.75	
AVERAGE FINAL SALARY:	\$34,666.67	(using a supplement of \$1,000 for two years)
Basic Benefit:	\$ 1,380.50	
AVERAGE FINAL SALARY:	\$35,000.00	(using a supplement of \$1,000 for three years)
Basic Benefit:	\$ 1,394.25	

The following calculations are based on a member being age 60 with 30 years service credit. The three salaries used to calculate the Average Final Salary are \$32,000.00; \$34,000.00 and \$36,000.00.

AVERAGE FINAL SALARY:	\$34,000.00	(not using a supplement)
Basic Benefit:	\$ 1,353.00	
AVERAGE FINAL SALARY:	\$34,500.00	(using a supplement of \$1,500 for one year)
Basic Benefit:	\$ 1,373.63	
AVERAGE FINAL SALARY:	\$35,000.00	(using a supplement of \$1,500 for two years)
Basic Benefit:	\$ 1,394.25	
AVERAGE FINAL SALARY:	\$35,500.00	(using a supplement of \$1,500 for three years)
Basic Benefit:	\$ 1,414.88	

The following calculations are based on a member being age 60 with 30 years service credit. The three salaries used to calculate the Average Final Salary are \$32,000.00; \$34,000.00 and \$36,000.00.

AVERAGE FINAL SALARY:	\$34,000.00	(not using a supplement)
Basic Benefit:	\$ 1,353.00	
AVERAGE FINAL SALARY:	\$34,833.33	(using a supplement of \$2,500 for one year)
Basic Benefit:	\$ 1,387.38	
AVERAGE FINAL SALARY:	\$35,666.67	(using a supplement of \$2,500 for two years)
Basic Benefit:	\$ 1,421.75	
AVERAGE FINAL SALARY:	\$36,500.00	(using a supplement of \$2,500 for three years)
Basic Benefit:	\$ 1,456.13	