



Office of the Attorney General
State of Connecticut

June 17, 2015

Darlene Perez
Teachers' Retirement Board Administrator
Connecticut Teachers' Retirement Board
765 Asylum Avenue
Hartford, CT 06105-2822

Dear Ms. Perez:

You have requested this office's opinion regarding whether there are any statutory limits on the compensation provided to reemployed teachers (including superintendents)¹ pursuant to Connecticut General Statutes §10-183v(a). Specifically, you ask whether a reemployed teacher may be provided with "fringe benefits" "in addition to 45% of the maximum salary for the position." We conclude that a local board of education is statutorily authorized to "reemploy" a retired teacher currently receiving a retirement benefit from the Teachers' Retirement System ("System"), but the retired teacher may receive "no more than forty-five per cent of the maximum salary level for the assigned position." C.G.S. §10-183v(a). A teacher reemployed pursuant to Connecticut General Statutes §10-183v(a) is not entitled to compensation beyond the 45% the statute permits in any other form such as employer-paid health insurance, annuities, monetary contributions to deferred compensation retirement plans, car/housing allowances, or cell phones, etc.

To answer your inquiry, we first examine §10-183v of the Connecticut General Statutes to determine what compensation is permissible when a teacher is reemployed while receiving a retirement benefit from the System because "[t]he meaning of a statute shall . . . be ascertained from the text of the statute itself and its relationship to other statutes." Conn. Gen. Stat. §1-2z. If the "meaning" of the "text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered." Id.; see also Mattatuck Museum-Mattatuck Historical Society v. Administrator,

¹ Connecticut General Statutes §10-183b(26) provides in relevant part that a "[t]eacher" means any teacher, permanent substitute teacher, principal, assistant principal, supervisor, assistant superintendent or superintendent employed by the public schools in a professional capacity while possessing a certificate or permit issued by the State Board of Education"

Unemployment Compensation Act, 238 Conn. 273, 278 (1996) (finding that when statutory language is "plain and unambiguous," courts will look no further than the words themselves because it is assumed "that the language expresses the legislature's intent"). On the other hand, "[a] statute is ambiguous if, when read in context, it is susceptible to more than one reasonable interpretation." Hartford/Windsor Healthcare Properties, LLC v. City of Hartford, 298 Conn. 191, 197-98 (2010). Statutory silence, however, "does not necessarily equate to ambiguity." Id.

Connecticut General Statutes §10-183v(a) provides in relevant part that:

Except as provided in subsection (b) of this section, a teacher receiving retirement benefits from the system may not be employed in a teaching position receiving compensation paid out of public money appropriated for school purposes *except* that such teacher may be employed in such a position and *receive no more than forty-five per cent of the maximum salary level for the assigned position*. Any teacher who receives in excess of such amount shall reimburse the board for the amount of such excess.

(Emphasis added.)

The statute establishes a general rule prohibiting retired teachers from simultaneously receiving retirement benefits along with compensation for a current teaching position, both funded by taxpayers. Although the statute does not specifically recite what forms of remuneration comprise the "compensation" a retired teacher is prohibited from receiving, the general rule is followed by an exception that provides some guidance. Namely, a reemployed teacher may "receive no more than forty-five per cent of the maximum salary level for the assigned position." (Emphasis added.) C.G.S. §10-183v(a). This exception serves the policy of making available to local boards of education a pool of qualified professionals to fill short-term educational needs. However, "exceptions to statutes are to be strictly construed with doubts resolved in favor of the general rule rather than the exception." Falco v. Institute of Living, 254 Conn. 321, 330 (2000).

Because both *compensation* and *salary* are used in subsection (a), it is necessary to examine the plain meaning of the terms. "Compensation" is defined commonly as "[r]emuneration for services rendered *whether in salary, fees or commissions*." (Emphasis added.) BLACK'S LAW DICTIONARY 283 (6th ed. 1990). "Salary," on the other hand, is defined as "[a] reward or recompense for services

performed. *In a more limited sense, a fixed periodical compensation paid for services rendered.* A stated compensation paid periodically as by the year, month, or other fixed period" (Emphasis added.) Id., 1337.

The term *compensation* is more general than *salary* because it describes the act of providing something as payment versus a definite, finite amount *paid* as a *salary*.² It is well settled that "[w]here statutes contain specific and general references covering the same subject matter, the specific references prevail over the general." Miller's Pond Co., LLC v. City of New London, 273 Conn. 786, 809 (2005), quoting Galvin v. Freedom of Information Commission, 201 Conn. 448, 456 (1986).

The use of the more specific term "salary" in the exception is strong evidence that the legislature did not intend to permit a local board of education to compensate a reemployed teacher beyond 45% of the maximum salary level for the assigned position by providing benefits such as employer-paid health insurance, annuities, monetary contributions to deferred compensation retirement plans, car/housing allowances, cell phones, etc., in a reemployed teacher's compensation because the term is limited to a periodic, fixed amount. If the legislature intended to permit other forms of remuneration and fringe benefits for a reemployed teacher pursuant to Connecticut General Statutes §10-183v(a), it would have used more expansive language. Moreover, to read C.G.S. §10-183v(a) to permit compensation beyond 45% of the maximum salary for the assigned position would result in no limitation at all. This would undercut—and perhaps eviscerate—the general policy contained in the first part of the subsection, which prevents retired teachers who receive benefits out of public money (i.e., the State Teachers Retirement System) from receiving additional "compensation paid out of public money appropriated for school purposes."

In order to further reconcile the meaning of the statute with respect to permissible remuneration for reemployed teachers, we look to the rest of the text for guidance. Foley v. State Elections Enforcement Commission, 297 Conn. 764, 793 (2010) (statutes must be read as a whole "so as to reconcile all parts as far as possible"). Thus, § 10-183v(c) also provides in relevant part that:

² "Paid" is the past tense and past participle of "pay," which is defined as "[t]o give *money* in return for goods or services rendered. . . ." (Emphasis added.) AMERICAN HERITAGE DICTIONARY 911 (2d College Ed. 1982). Therefore, the use of the term "salary" may be interpreted to encompass only money, *i.e.*, cash, for services rendered as opposed to other forms of remuneration such as employer-paid health insurance, annuities, monetary contributions to deferred compensation retirement plans, car/housing allowances, cell phones, etc.

The employment of a teacher under subsections (a) and (b) of this section shall not be considered as service qualifying for continuing contract status under section 10-151 and ***the salary of such teacher shall be fixed at an amount at least equal to that paid other teachers in the same school system with similar training and experience for the same type of service.*** Upon approval by the board of such ***employment under subsection (b) of this section, such teacher shall be eligible for the same health insurance benefits provided to active teachers employed by such school system.*** . . .

(Emphasis added.) The language of subsection (c) further supports a narrow application of the permissible compensation for reemployed teachers. Namely, subsection (c) uses only the term "salary," which is a periodic, fixed amount paid for services rendered, when describing the remuneration of retired teachers reemployed pursuant to either subsection (a) or (b).³ Fringe benefits are not addressed in subsection (c), and the only additional benefit provided is that of health insurance, which is only permissible for teachers reemployed pursuant to subsection (b).

Reading the provisions together, there is no language suggesting that payment beyond 45% of "the maximum salary for the assigned position" in any other form (i.e., employer-paid health insurance, annuities, monetary contributions to deferred compensation retirement plans, car/housing allowances, cell phones, etc.) is permissible for reemployed teachers pursuant to C.G.S. §10-183v(a). In addition, there is no statutory provision in Chapter 167a that authorizes any payment beyond the 45% salary cap allowed by subsection (a). See Connecticut Light & Power Co. v. Dept. of Public Utility Control, 266 Conn.

³ Section 10-183v(b) provides in relevant part that:

A teacher receiving retirement benefits from the system may be reemployed for up to one full school year . . . in a position (1) designated by the Commissioner of Education as a subject shortage area, or (2) at a school located in a school district identified as a priority school district . . . for the school year in which the teacher is being employed. . . . Such reemployment may be extended for an additional school year, provided the local board of education (A) submits a written request for approval to the Teachers' Retirement Board, (B) certifies that no qualified candidates are available prior to the reemployment of such teacher, and (C) indicates the type of assignment to be performed, the anticipated date of rehire and the expected duration of the assignment.

Unlike reemployment of a retired teacher pursuant to subsection (a), reemployment pursuant to §10-183v(b) is permissible under very narrow circumstances, and for a finite period of time.

108, 119 (2003) (courts "are not permitted to supply statutory language that the legislature may have chosen to omit"); Windels v. Environmental Protection Commissioner, 284 Conn. 268, 299 (2007) (the legislature is presumed to know how to convey expressly its intent); see also Busko v. DeFilippo, 162 Conn. 462, 471 (1972) (it is inconsistent with the established rules of statutory construction for courts to "infer from the statute an exception to its provisions which the legislature has not prescribed either by word or implication").

The statute's legislative history provides further support for an interpretation of the statute limiting remuneration for reemployed teachers strictly to 45% of the "maximum salary level for the assigned position." In 2003, the legislature amended the statute to increase the cap that Boards of Education choose to pay their retired, reemployed teachers. See 2003 Conn. Pub. Acts No. 03-232. Specifically, the legislature increased the earnings limitation from 45% of the entry salary level to 45% of the maximum salary level for the assigned position. Testimony before the Appropriations Committee from Mr. William Sudol, Administrator, Teachers' Retirement Board, demonstrates that the change to the cap in 2003 was to provide Boards of Education with more flexibility in hiring retired teachers to fill vacancies.⁴ Specifically, Mr. Sudol responded to a question from Representative Adinolfi concerning the change in the cap as follows:

BILL SUDOL: This legislation does not mandate what the Board of Education chooses to pay their retired teachers. Okay? What it is doing is it's changing the cap.

Right now, with the 45 percent of entry-level salary, you take a district that typically has an entry level salary of say \$30,000. In many cases they want to bring back a retired teacher to work for an extended period of time.

So, under the current methodology, that retired teacher can earn 45 percent of the \$30,000 and then has to exit or forfeit his or her pension for going beyond that 45 percent.

So, it still allows some discretion. It allows the school boards to dictate in terms of what they want for a salary structure.

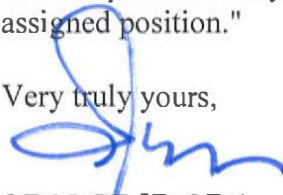
⁴ Retirees reemployed in critical shortage areas, however, are permitted to exceed the earnings limitation. See C.G.S. §10-183v(b).

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Hearing Before the Appropriations Committee, P.A. 03-232, 3591 (April 8, 2003) (statement of William Sudol, Administrator, Teacher's Retirement Board). Mr. Sudol's testimony clearly does not support a broader interpretation to include additional compensation beyond 45% of the maximum salary level for the assigned position because the discussion only concerned the *salary* of the reemployed teacher, and not fringe benefits. Moreover, if a local board of education had the flexibility under the existing statute to compensate a reemployed teacher beyond "45% of the entry salary level" by making retirement fund contributions or providing other benefits not mentioned in the statute, there likely would not have been the same need to raise the cap to attract qualified teachers to fill existing needs.

Thus, we conclude that a teacher may be reemployed pursuant to Connecticut General Statutes §10-183v(a) while receiving a retirement benefit from the System, but he or she may not receive compensation beyond "forty-five per cent of the maximum salary level for the assigned position."

Very truly yours,



GEORGE JEPSEN
ATTORNEY GENERAL