

Reminder of Employers' Requirement to Provide Pension Information

Section 80 of the Teachers' Pension Plan Rules states that there is a requirement on employers to provide members with information supplied by the plan administrative agent.

Section 80(1)(c) states:

An employer must do all of the following:

(c) provide each member with the information supplied by the plan administrative agent as required by the *Pension Benefits Standards Act*, and provide any other information and records in the manner, and within the time limits, established by the plan administrative agent;

On June 24, 2008, the Pension Corporation issued a pension bulletin to employers providing direction to inform employees of purchase of service opportunities. The bulletin suggested "discussing" purchase opportunities with employees going on leave, returning from leave, or at the termination of their employment. Following an inquiry from a school district, we followed up with the Pension Corporation and confirmed that it isn't necessary to "discuss" in person the purchase of service opportunities, so long as information is otherwise communicated. An email from the Pension Corporation on the subject stated the following:

...Employers can make the employee aware of the opportunity to purchase periods of leave by directing them to the Teachers' Pension Plan website, or by including a copy of the "*Purchasing Service Pensionfact*" publication/memorandum with the letter granting leave of absence. The Employer could also advise the teacher to contact the Teachers' Pension Plan by telephone, fax, email, or in writing.

The employer (e.g. school district Payroll/Human Resources office) would have a chance to refer this information to the teacher when the teacher receives their letter approving a request for a period of leave of absence. Likewise, when the teacher notifies the employer of his/her intention to terminate their position, the employer could remind the teacher at that time about purchasing service, or include a *Pensionfact* with their last pay cheque...

While communication does not have to be verbal, there is an obligation on employers to provide employees with the information supplied by the plan administrative agent. It is also in the best interest of the district to ensure that its employees are advised of their entitlements and, therefore, the information should be communicated.

Districts should be careful not to include "advice" when providing information from the Pension Corporation. A district should be very clear with employees that the information is from the Pension Corporation and not from the district. The district wants to ensure that it is not assuming liability for the advice given by the Pension Corporation; the district is just passing the information on to its employees.

The district could approach the issue in the following ways:

1. In the letters to employees with respect to leave commencement, return to work term, the district could include the information from the bulletin by saying that “the Pension Corporation has asked the district to communicate the following information to you” — then include the information in quotes. The letter should also refer employees to the Pension Corporation website for the further information.
2. In the letters to employees, the district could include the information from the bulletin by saying that it is obligated to provide the following information from the Pension Corporation —then include the information in quotes. The letter should also refer employees to the Pension Corporation website for further information.
3. The district can preface the appropriate paragraph in the letter with an introduction such as, “The Pension Corporation has requested the following information be included in your letter.” The letter should also refer employees to the Pension Corporation website for further information.
4. The district could include the bulletin with each letter to employees indicating that it contains very important information from the Pension Corporation regarding pension opportunities while on leave (or on the termination of employment) and encouraging employees to contact the Pension Corporation prior to their leave or the termination of their employment. The letter should also refer employees to the Pension Corporation website for further information.

While the advice in this bulletin focuses on the June 24 communication from the Pension Corporation, the obligation to provide information extends to any other direction provided by the Pension Corporation. Districts should be mindful of their obligation to pass on the information to employees, but should also be careful not to cross into providing “advice” to employees on pension matters. Those types of questions should be referred to the Pension Corporation.

Please contact your BCPSEA labour relations liaison if you have any questions.