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Kevin F. Murray, Deputy Comptroller

June 15, 2009

Ms. Cheryl Felice  
President  
Suffolk County Association of Municipal Employees  
30 Orville Drive  
Bohemia, NY 11716

Re: Pension Treatment of Lag Payroll

Dear Ms. Felice:

Thank you for your email dated May 21 to Kathy McCormack requesting clarification of my earlier letter.

The essential clarification is that the New York State and Local Retirement System (NYSLRS) will treat the lag payroll monies paid at separation as if they had actually been paid during the periods earned. In all cases where the affected employee eventually applies for a retirement benefit from NYSLRS, we will apply these lagged monies (reflecting the rate of pay in effect when they are paid) as salary earned during the lag periods – July 16-29, 2009 and December 14-27, 2009.

Whether these monies are included in the final average salary (FAS) for any of the affected employees won't be determined until they apply for retirement and we look at their entire public employment history to find the interval where their salary was the highest. For most NYSLRS members, we look for the 36 consecutive month interval where salary was highest and use that interval to calculate the final average salary. In most cases, that is the last 36 months of employment. Some of these affected employees may work for many more years and earn much higher salaries, so that when they eventually retire, these lagged periods (and the slightly higher salaries for those periods resulting from the higher pay rates in effect at separation) will not be in the highest 36 month interval. Others may retire within a year or two of these lag periods and their salary for the 36 months immediately prior to retirement (including these lag periods) will likely be the highest of their career. For those employees, the lag periods and the lag monies will be included in their FAS.

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Two illustrative scenarios:

1) An employee for whom the lag periods DO fall into the FAS interval:

- Date of retirement 12/31/10 / date of separation 12/30/10:
- Annual Salaries earned during 36 highest consecutive months:

01/01/08 – 12/31/08	\$25,000
01/01/09 – 12/31/09	\$25,000 (salary rate was \$26,000, but 2 weeks @ \$500 = \$1,000 was lagged)
01/01/10 – 12/30/10	\$27,000 (without the lag, the FAS Calculation would have been $(\$25,000 + 26,000 + 27,000) / 3 = \$26,000$ )

At separation (12/30/10), this employee will receive their lagged salary for the two lag periods at the rate in effect at separation of  $\$27,000 / 52 = \$519$  per week.

NYSLRS will apply the lagged monies (\$519) to the two periods in 2009, raising the salary for that year to \$26,038.

FAS Calculation –  $(\$25,000 + 26,038 + 27,000) / 3 = \$26,013$  (approx.)

2) The same employee but the lag periods DON'T fall into the FAS interval:

- Date of retirement 12/31/15 / date of separation 12/30/15:
- Annual Salaries earned during 36 highest consecutive months:

01/01/13 – 12/31/13	\$38,000
01/01/14 – 12/31/14	\$39,000
01/01/15 – 12/30/15	\$40,000

FAS Calculation –  $(\$38,000 + 39,000 + 40,000) / 3 = \$39,000$

This employee will receive their lagged salary for the two periods at the rate in effect at separation (12/30/15) of  $\$40,000 / 52 = \$769$  per period. NYSLRS will apply the lagged monies (\$769) to each of the two lag periods in 2009, raising the salary for that year to \$26,538, but having no effect on the FAS calculation.

I hope these admittedly simplistic scenarios provide adequate clarification for you and your members.

Please let me know if I can provide you with any other information.

Sincerely,



Kevin F. Murray

KFM/MD

cc: Ms. Elaine Lee-Fasset, Executive Assistant, SCAME  
Ms. Debra Alloncius, Legislative Director, SCAME  
Mr. Robert Coughlin, Counsel, NYSLRS