

# Employer Training

## CASH PAYMENTS IN LIEU OF FRINGE BENEFITS

### INTRODUCTION

Colorado PERA-includable salary does not include any payment to an employee representing reimbursement of an expense incurred in the course of doing business (e.g., mileage reimbursement of work use of personal automobile, hotel stays for work-related purposes, meal reimbursement when traveling for work) or employee benefits, such as health coverage, when paid by the employer. Colorado law also provides that uniform and housing allowances are specifically excluded from PERA salary.

Effective with an employer's first fiscal year beginning on or after February 1, 2018, PERA Rule 1.20F(2) regarding cash in lieu payments changed to create a broader definition of PERA-includable salary. Payments representing benefits provided by the employer that are converted to cash payments (commonly referred to as cash payments in lieu of fringe benefits) will be considered PERA-includable salary. This can include, for example, amounts paid in cash instead of employer-paid health premiums and cash payments made by the employer toward personal automobile usage (that are not a reimbursement for actual expenses incurred).

*Note:* PERA Rule 1.20F(2) states that such changes are in effect for fiscal years starting on or after January 1, 2018, but due to the timing of the passage of this rule by the PERA Board of Trustees and subsequent review by the Attorney General's office, this rule became effective on February 1, 2018.

#### Fiscal Years Beginning Before February 1, 2018

PERA-includable salary does not include employer-provided fringe benefits converted to cash payments in lieu of employer payment for the fringe benefits.

#### Fiscal Years Beginning on or After February 1, 2018

Cash payments in lieu of fringe benefits paid by an employer will be treated as PERA-includable salary if the following criteria has been met:

- » The payment is available to all employees in a particular class without regard to length of service; *and*
- » The payment amount does not exceed market value of the fringe benefit; *and*
- » The payment is not designed to manipulate Highest Average Salary (HAS).

### EXAMPLE TIMELINE OF THE IMPLEMENTATION OF THE REVISED PERA RULE 1.20F(2)

In the example below, the employer's fiscal year begins after February 1, 2018, so contributions will be due on cash in lieu payments.



(Continued on next page)

## EXAMPLE SITUATIONS



### Cellphones

	BEFORE FEBRUARY 1, 2018		ON OR AFTER FEBRUARY 1, 2018	
	Includable	Not Includable	Includable	Not Includable
<p><b>EXAMPLE:</b> An employer provides employees with the option to have a company-provided cellphone OR receive a \$50 monthly allowance in lieu of the employer-provided cellphone.</p> <p>If an employee elects to use the employer-provided cellphone: This is a fringe benefit ONLY; there is no cash payment.</p>	N/A	N/A	N/A	N/A
<p>If an employee elects to take the monthly allowance: This is cash payment in lieu of an employer-provided fringe benefit.</p>		✓	✓	
<p><b>EXAMPLE:</b> An employer provides employees with a monthly cellphone allowance with no option for an employer-provided cellphone.</p> <p>This is cash payment in lieu of an employer-provided fringe benefit.</p>		✓	✓	
<p><b>EXAMPLE:</b> An employer provides employees with a company cellphone and directly pays the bill via the employer's cellular account.</p> <p>This is a fringe benefit ONLY; there is no cash payment.</p>	N/A	N/A	N/A	N/A
<p><b>EXAMPLE:</b> An employer provides employees with a \$500 per year cellphone allowance.</p> <p>This is cash payment in lieu of an employer-provided fringe benefit and should be spread over the period for which the benefit would otherwise be available.</p>		✓	✓ Spread over a 12-month period	
<p><b>EXAMPLE:</b> An employer provides employees with a \$500 per month cellphone allowance.</p> <p>This is cash payment in lieu of an employer-provided fringe benefit, but the payment exceeds the market value of the fringe benefit.</p>		✓		✓
<p><b>EXAMPLE:</b> An employer directly reimburses each employee for their monthly phone bill.</p> <p>This is a reimbursement of expenses, not cash payment in lieu of an employer-provided fringe benefit.</p>		✓		✓



## Health Care

		BEFORE FEBRUARY 1, 2018		ON OR AFTER FEBRUARY 1, 2018	
		Includable	Not Includable	Includable	Not Includable
<b>EXAMPLE:</b>	An employer provides health care insurance to all employees.				
	This is a fringe benefit ONLY; there is no cash payment.	N/A	N/A	N/A	N/A
<b>EXAMPLE:</b>	An employer allows employees to choose between coverage on the employer's health care insurance plan OR receive a \$200 per month allowance in lieu of participating in the employer's insurance plan.				
	If an employee elects coverage under the employer-provided health care insurance plan: This is a fringe benefit ONLY; there is no cash payment.	N/A	N/A	N/A	N/A
	If an employee elects to receive the \$200 per month health care insurance allowance: This is cash payment in lieu of an employer-provided fringe benefit.		✓	✓	
<b>EXAMPLE:</b>	An employer provides employees with a \$200 per month stipend to purchase health care insurance in lieu of offering an employer health care plan.				
	This is cash payment in lieu of an employer-provided fringe benefit.		✓	✓	
<b>EXAMPLE:</b>	An employer offers any employee who has medical coverage under an alternative health care insurance plan (e.g., a spouse's insurance plan) \$200 per month in lieu of participating in the employer's health care insurance plan.				
	This is cash payment in lieu of an employer-provided fringe benefit.		✓	✓	
<b>EXAMPLE:</b>	An employer provides employees age 60 and older a \$200 per month health stipend.				
	This would otherwise be cash payment in lieu of an employer-provided fringe benefit. However, this stipend is intended to manipulate HAS by only providing payments to those employees close to retirement age.		✓		✓



## Vehicle Expenses

		BEFORE FEBRUARY 1, 2018		ON OR AFTER FEBRUARY 1, 2018	
		Includable	Not Includable	Includable	Not Includable
<b>EXAMPLE:</b>	An employer provides a company car to all of its technicians for use on the job.				
	This is a fringe benefit ONLY; there is no cash payment.	N/A	N/A	N/A	N/A
<b>EXAMPLE:</b>	An employer provides management-level employees a \$6,000 per year vehicle allowance, paid every June.				
	This is cash payment in lieu of an otherwise non-monetary employer-provided fringe benefit. The payment does not exceed the market value of the fringe benefit and should be spread evenly over the time period for which the fringe benefit would have otherwise have been provided.		✓	✓ Spread over 12-month period	
<b>EXAMPLE:</b>	An employer reimburses employees for mileage incurred on personal vehicles used for business purposes.				
	This is not cash payment in lieu of an employer-provided fringe benefit. It is a reimbursement of expenses.		✓		✓
<b>EXAMPLE:</b>	An employer provides a \$50 per month gas allowance to all employees required to use their personal vehicle for business purposes.				
	This is cash payment in lieu of an employer-provided fringe benefit.		✓	✓	
<b>EXAMPLE:</b>	As an incentive to attract and retain new teachers, a rural school district offers a \$200 per month car allowance to all new teachers who sign a three-year contract with the district.				
	This would otherwise be cash payment in lieu of an employer-provided fringe benefit. However, this incentive payment is not available to all employees in a particular class without regard to length of service.		✓		✓



## Housing

	BEFORE FEBRUARY 1, 2018		ON OR AFTER FEBRUARY 1, 2018	
	Includable	Not Includable	Includable	Not Includable
<p><b>EXAMPLE:</b> A charter school offers a reimbursement of up to \$500 for relocation expenses while recruiting out-of-state teachers.</p> <p>This is a reimbursement of expenses not cash payment in lieu of an employer-provided fringe benefit. Relocation is not a service to the school, therefore the reimbursement is not payment for services rendered.</p>		✓		✓
<p><b>EXAMPLE:</b> A school district provides all teachers with a \$500 per month housing allowance.</p> <p>Housing allowances are specifically excluded from PERA-includable salary under Colorado law.</p>		✓		✓

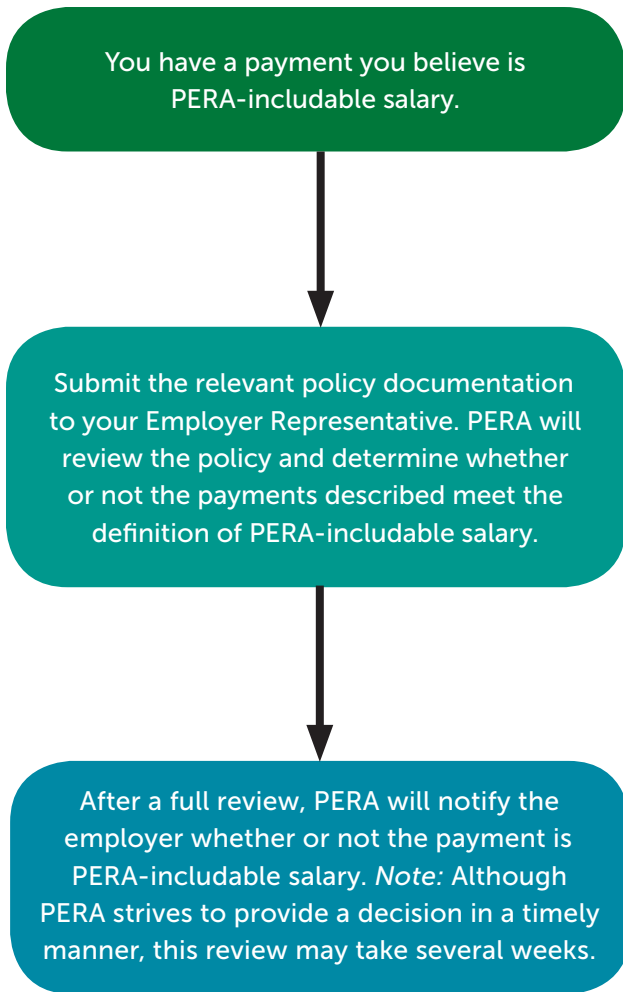


## Education

	BEFORE FEBRUARY 1, 2018		ON OR AFTER FEBRUARY 1, 2018	
	Includable	Not Includable	Includable	Not Includable
<p><b>EXAMPLE:</b> An employer offers tuition reimbursement as an employee benefit. The employee pays for the expenses directly and will be reimbursed for tuition by the employer for earning grades of “B” or higher.</p> <p>This is not cash payment in lieu of an employer-provided fringe benefit. It is a reimbursement of expenses.</p>		✓		✓
<p><b>EXAMPLE:</b> A school district pays the tuition for teachers to attend graduate classes at a local university. If a teacher chooses to take graduate classes at a different university, the employer provides them with up to \$5,000 annually as a tuition allowance in lieu of paying for their tuition directly.</p> <p>Payment of tuition is specifically excluded from PERA-includable salary under Colorado law.</p>		✓		✓
<p><b>EXAMPLE:</b> An employer pays a \$100 stipend for an employee to attend a training seminar required by the employer.</p> <p>This seminar is required by the employer and the employee is being paid for an additional duty outside of the scope of their normal job.</p>	✓		✓	

## SUBMITTING A POLICY FOR REVIEW

If you have questions about whether a payment meets the definition of PERA-includable salary, please submit the relevant policy documentation to PERA for review. Requests for review should be submitted well in advance of the anticipated pay date. Contact your Employer Representative to help you initiate this process as explained below:



## INCORRECTLY REPORTING SALARY AS INCLUDABLE

If you report a payment as PERA-includable salary and it is later determined the payment did not meet the definition of PERA-includable salary, you will be required to make corrections to member records. This may include crediting the non-includable salary and contribution amounts out of member accounts and returning the withheld contributions to employees and former employees—including PERA retirees. You may also be required by the IRS to correct tax records such as W-2s for the year(s) in question.

## FOR MORE INFORMATION

- » Call PERA's Employer Relations team at 1-800-759-7372 ext. 3724.
- » Email the Employer Relations team at [ercontributions@copera.org](mailto:ercontributions@copera.org).
- » Review the "Employer" page on PERA's website at [www.copera.org](http://www.copera.org).
- » Visit PERA's main office at 1301 Pennsylvania Street in Denver.