

PHILADELPHIA BOARD OF PENSIONS AND RETIREMENT

REGULATION NO. 8

PAYMENT OF CONTRIBUTIONS FOR TRANSCRIPT
FEES FOR COURT REPORTERS

WHEREAS, The Board of Pensions and Retirement is empowered by Section 8-407 of the Home Rule Charter and Section 22-107 of the City of Philadelphia Public Employees Retirement Code ("Retirement Code") to make all necessary regulations to carry into effect the provisions of the Retirement Code; and

WHEREAS, The Retirement Code as enacted January 13, 1999 was amended by repealing a previous ordinance under Section 22-105(9)(b) relating to the definition of "compensation". Bill #051066 amended Section 22-105(9)(b) which previously stated, "In cases where the City is ordered to pay a fee by state legislation, a court, or a court's delegate, the fee is not included in the compensation calculation. For example, transcript fees are not included in the compensation of a court stenographer. The amended section read "In cases where the City is ordered to pay a fee by state legislation, a court, or a court's delegate, the fee may be included in the compensation calculation,"

WHEREAS, Inclusion of transcript fees may be included as compensation for pension purposes for Court Reporters; (Bill #051066)

WHEREAS, The Board has determined it appropriate to adopt a regulation in order to allow Court Reporters (current Court Reporters who are employees and retired members who retired since the legislative change, including DROP Participants) who have transcript fees in the past which they were not previously eligible to include as part of their average final compensation and for which employee contributions were not deducted to pay the appropriate pension contribution;

NOW THEREFORE, with the enactment of Bill #051066, the Board needs to adopt a regulation to establish a policy and procedure to administer the inclusion of transcript fees as pensionable compensation. The Board of Pensions and Retirement hereby adopts this Regulation No. 8, relating to transcript fees, as follows:

8.1 Transcript fees for Court Reporters.

8.1.0 Background and Eligibility. Bill #051066 repealed Title 22-109(5) as noted above. Court reporters who earned transcript fees could not count such fees toward average final compensation. The Board had a past practice of permitting court reporters to pay the appropriate pension contributions toward their mandamus fees on a voluntary basis. This enabled those court reporters that enrolled in the voluntary program to have their transcript fees included as pensionable compensation. Also, the voluntary program did not provide any administrative authority by staff to ensure contributions were paid in a timely basis. As a result, the Board recommended that the definition of compensation be amended to include transcript fees as pensionable compensation. This was accomplished under Bill #051066.

8.1.1 Deadline for Filing. All Court reporters who are active employees and were enrolled in the voluntary program or not will receive a letter advising them of the enactment of Bill #051066. Such Court reporters will have 180 days from the date of the letter to return a notice to the Board's staff indicating their desire to continue enrollment or elect to become enrolled. All Court Reporters hired or rehired after the effective date of this regulation after receiving notice from the Board's staff of their right to have transcript fees included as pensionable compensation will have one year from their date of hire or rehire to elect in writing to have their transcript fees included as pensionable compensation. The election will be made on a form adopted by the Board.

8.1.2 Document Accepted as Proof of Transcript Fees Paid. Internal Revenue Service (IRS) Form 1099M shall be the document acceptable as proof of transcript fees received by a Court Reporter for purposes of inclusion of such fees as "compensation." In lieu of Form 1099M, a Court Reporter may use as proof Schedule C from their Federal Tax Return showing gross receipts on sales, provided: that upon appeal to the Board from an adverse decision by staff, the Board may, upon good cause shown why no Form 1099M or Schedule C is available, accept other convincing proof of transcript fees paid to the member, provided that such proof is specific as to date, amount, and purpose of the payment. Form 1099M or Schedule C must be received by the Board's office no later than May 31 of the next calendar year for the previous year's transcript fees. For example Form 1099M or Schedule C for calendar year 2006 must be received by May 31, 2007. If a Court Reporter fails to remit Form 1099M or Schedule C by the due date of May 31, the Board's staff will send one reminder notice that the form must be received no later than August 31 of the current calendar year. If a Court Reporter remits Form 1099M or Schedule C after August 31 of the current calendar year in addition to the required pension contributions due the Court Reporter will be charged interest at the assumed actuarial rate in effect for each day from September 1 through the date of receipt of Form 1099M or Schedule C by the Board.

8.1.3 Calculation of pension contributions required. The contributions required will be in accordance with Title 22-902(2) of the City of Philadelphia Public Employees Retirement Code except that Transcript Fees shall be treated as earnings not covered under the Federal Social Security Act.

8.1.4 Payment of Required Contributions All accrued contributions due through the end of the calendar year following the expiration of the 180 day filing deadline after this regulation becomes effective may be paid in a lump sum or via Installment Payments in accordance with Title 22-806 of the City of Philadelphia Public Employees Retirement Code. All contributions due on transcript fees documented in future calendar years are due in a lump sum by August 31 of the following calendar year. For example, for calendar year 2007, contributions are due in a lump sum by August 31, 2008. Any Court Reporter who fails to make a lump sum payment by the due date will automatically have an installment account established over a period not to exceed 26 payroll deductions.

8.1.5 Computation of Transcript Fee for average final compensation purposes. Transcript fees for each calendar year shall be divided equally on a bi-weekly pay basis for determining a Court Reporter's average final compensation. For example, calendar year transcript fees of \$13,000.00 will be applied at the rate of \$500.00 per pay (\$13,000.00 divided by 26 pay periods).

Approved by the Board, October 18, 2006, effective December 28, 2006

Amended by revising ¶ 8.1.2 by vote of the Board on August 16, 2007, effective November 29, 2007.