



Interpretive Memorandum 2013-2

DATE: **REVISED July 20, 2022** (Originally issued May 30, 2013 and revised August 17, 2015)

TOPIC: **TERMINAL PAY FOR UNCLASSIFIED STATE EMPLOYEES**

PURPOSE:

The purpose of this memorandum is to discuss the proper treatment of terminal pay under RSA 94:9 for Members¹ who are State Employees and who leave an unclassified position.

SUMMARY:

Terminal pay under RSA 94:9 is a form of severance pay that is reportable only for Members who were vested prior to 1/1/2012. For Members who were not vested prior to January 1, 2012, terminal pay is not Earnable Compensation under RSA 100-A:1, XVII.

ANALYSIS:

RSA 94:9 provides that:

“Any full-time state official or employee other than those in the state classified system who retires, resigns, dies in office, or is terminated as a result of not being reappointed, shall receive upon such cessation of employment 3 days' salary for each year of employment in nonclassified or unclassified service. The governor is authorized to draw warrants for the sums necessary to make the payments hereunder which shall be a charge against the general fund or such special fund as may be appropriate.” [Emphasis added]

Terminal pay is a form of severance pay because it is additional compensation paid upon termination as a reward for past services rendered.

¹ Capitalized terms shall have the meanings as provided in the Interpretive Memoranda Glossary of Terms

RSA 100-A:1, XVII(b)(4) provides that, for Non-vested Members, Earnable Compensation shall not include severance pay. Therefore, terminal pay, which is severance pay, is not Earnable Compensation for non-vested Members.

For Vested Members, terminal pay is Earnable Compensation because severance pay is included in the definition of Earnable Compensation for vested Members. [See RSA 100-A:, XVII(a)]



July 20, 2022

**Approved by Mark F. Cavanaugh, Esq.
Associate Counsel and Compliance Officer**

Approval Date