



Transportation Division MEMORANDUM

TO: All Transportation Division (TD) Locals
FROM: Jeremy R. Ferguson, President - Transportation Division
DATE: August 25, 2020
RE: Dues and Vacation or Personal Leave Pay, "E-49" Status, and Retirement

The following is in reference to the SMART Constitution's Article 21B, Section 49 (Payment of Dues and Assessments), and how it should be applied when collecting dues from members who are not engaged in transportation service, and when vacation or personal leave pay is the only compensation received by a member in a calendar month. The following Q&A's have been compiled to provide clarification on these matters. Be advised this document supersedes all prior guidance issued from this office relating to the payment of dues and assessments.

Q: What creates a dues obligation?

A: Generally, any day in a month worked, or compensated for being available for work (such as a guarantee payment), or receipt of compensation from SMART-TD, creates a dues obligation.

Q: Does receipt of vacation or personal leave pay alter or end the exemption from paying dues enjoyed by a member who is not engaged in transportation service for any reason, including sickness, disability, furlough or military duty (E-49 status)?

A: No. Dues are not collected when vacation or personal leave pay is received by a member in E-49 status.

Q: Does receipt of compensation resulting from awards, grievances, mediation, or agreements alter or end E-49 status?

A: Dues are not collected when a member in E-49 status receives pay claims or receives retroactive payments as a result of mediation or their collective bargaining agreement. This also applies to retired members who receive such compensation in any month following the month of their retirement. However, when a favorable discipline

arbitration award retroactively restores a member to full active service, they may incur a retroactive dues obligation when certain criteria are met.

Q: Is there any scenario where a member who is not engaged in transportation service would be required to pay dues?

A: Yes. Any member (including a full-time or part-time elected officer) in the service of SMART-TD who receives compensation from the Organization is required to pay dues. In doing so, the member is ineligible for E-49 status.

Q: Should dues be deducted from vacation or personal leave compensation received by a retired or E-49 member in the months following the month the member enters retirement or E-49 status?

A: No. However, if a member is cashing out or utilizing their unused vacation or personal leave days in the weeks or months leading up to their retirement date, then the payment of dues is required.

Q: Is there an obligation for a member to pay dues in the calendar month in which the member enters retirement?

A: Yes, but only if the member received compensation, vacation pay, or personal leave pay in the same calendar month the member enters retirement. This is because when membership begins and dues are first paid, those dues are applied to the following month. Full membership rights are conferred during the new member's first month of compensated service following probation, even though no dues have yet been paid by the new member for that month. This difference is reconciled by collecting dues for the final calendar month in which the SMART Constitution's Article 21B, Section 49, requires the member to pay dues.

Q: Is there an obligation for a member to pay dues in the calendar month in which they cease to engage in transportation service for any reason, including sickness, disability, furlough or military duty?

A: Yes, but only if the member received compensation, vacation pay, or personal leave pay in the same calendar month that they ceased to engage in transportation service. As a result, the dues collected shall be applied to the calendar month in which the member returns to service and loses eligibility for E-49 status (reinstatement of full membership rights are immediate upon returning from E-49 status).

Q: If a member does not qualify for E-49 status, and receives only vacation or personal leave compensation in a calendar month, does the member have an obligation to pay dues in that month?

A: Yes.

Further questions regarding these matters should be directed to the office of the SMART Transportation Division President by calling (216) 228-9400, or by emailing President_TD@smart-union.org.