



Employer *update*

Issue Number 32 || May 2, 2008

OPTrust membership termination for “grandfathered” employees who transfer to management or another bargaining unit

This *Employer Update* is intended for successor employers of staff who were divested from the Ontario Public Service or one of its agencies, boards or commissions and “grandfathered” in the OPSEU Pension Plan.

The purpose of this update is to provide successor employers with direction concerning a change in OPTrust’s practice regarding the termination of Plan membership for grandfathered employees who subsequently transfer to positions in management or another bargaining unit.

Grandfathering

For a divested member to be grandfathered under subsections 3.3(6) or 3.4(2) of the OPSEU Pension Plan, the successor employer must:

- agree to participate in the OPSEU Pension Plan
- enter into a collective agreement with OPSEU in respect of those employees that permits them to continue as members of the OPSEU Pension Plan.

When grandfathering occurs, the special protections of Section 80 of the *Pension Benefits Act* are not triggered by the transfer of the business and its employees to the successor employer. Instead, the employees continue as contributing members of the OPSEU Pension Plan.

Subsequent events

Subsequent changes in the grandfathered members’ employment with the successor employer can affect the individual’s eligibility for continued membership in the OPSEU Pension Plan. These changes can include:

- promotion to a management position
- transfer to a position in another bargaining unit.

Promotion to management. Grandfathered OPTrust members working at a successor employer may subsequently be promoted to management and, as a result, be required to participate in another registered pension plan of the successor employer.

When this happens, the circumstances that entitled the employee to remain a member of the OPSEU Pension Plan are terminated. As a result, the employee’s Plan membership must also be terminated in accordance with the provisions of subsection 3.4(1) of the OPSEU Pension Plan, even though there is no termination of employment.

Transfer to another bargaining unit. Similarly, grandfathered members may transfer to another operating unit or division of the successor employer without terminating employment and be required to join a non-OPSEU bargaining unit which participates in another registered pension plan. In such cases, unless the employer and the new bargaining unit collectively agree that the affected staff shall continue as members of the OPSEU Pension Plan, the employees’ Plan membership must be terminated in accordance with subsection 3.4(1) of the Plan text.

Termination of membership

In both of these scenarios – as in cases where the grandfathered member’s employment ends – the successor employer must advise OPTrust of the employee’s termination of Plan membership.

Affected employees will then be eligible for the regular termination options provided under the OPSEU Pension Plan.

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Depending on the former member's circumstances, these options may include:

- accepting a deferred OPTrust pension
- transferring the value of their OPTrust pension to the new pension plan
- transferring the commuted value of their OPTrust pension to a locked-in retirement account
- receiving a contribution refund, if the member's OPTrust pension is not vested.

Change of practice

The above direction is a change from prior OPTrust practice.

Under OPTrust's previous interpretation of the Plan's provisions, in cases where grandfathered members transferred to positions in management or another bargaining unit covered by a different pension plan, the employees would:

- be enrolled in and start contributing to their new pension plan
- stop contributing to the OPSEU Pension Plan
- stop accumulating credit in the OPSEU Pension Plan.

However, these employees would NOT be eligible for either:

- normal termination options under the OPSEU Pension Plan, or
- "grow-in" rights under Section 80 of the PBA.

Under OPTrust's new practice, affected employees are now eligible for the normal termination options provided under the Plan.

Impact of the change

This change applies both to future cases and to past cases in which grandfathered OPTrust members are or were transfer to positions in management or another bargaining unit that are covered by another pension plan.

In cases where grandfathered employees were previously promoted to management or transferred to other bargaining units, employers should provide OPTrust with notices of termination for these employees, including the original dates of transfer or promotion. OPTrust will then provide these former members with their full termination options under the Plan.

Affected employees will not be disadvantaged by this change.

OPSEU Pension Trust **Employer update**

This employer update is intended to provide participating employers with news and information about the OPSEU Pension Plan. It does not create any rights to benefits not provided for in the actual terms of the Plan. In the event of any conflict or omission, the legal documents of the OPSEU Pension Plan will govern in all cases. Members who have questions about their pension benefits should contact OPTrust directly.

For more information, please contact OPTrust.

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