

## Anti-Spiking Provision: (Applies to those who retire on or after July 1, 2019)

- Anti-spiking provision only applies to members whose average annual salary (also known as Final Average Salary or FAS) is greater than \$60,000.
- After July 1, 2019 salary increases from fiscal year-to-fiscal year cannot be greater than 30% for purposes of calculating Final Average Salary.
- If salary increase is greater than 30%, the portion of salary above 30% is ignored when calculating Final Average Salary.
- \$60,000 threshold will be adjusted annually in accordance with any annual increase in the consumer price index. Future threshold adjustment(s) will be posted to the NMERB website.
- **Anti-spiking provision applies only to portions of Final Average Salary earned AFTER July 1, 2019.**

### Scenario 1:

An employee is earning an annual salary of \$70,000.00 from year 1-5. On the 6<sup>th</sup> year of employment the employee receives a salary increase of 35% which increases the annual salary to \$94,500.00. However, the maximum increase allowed for calculation of Final Average Salary is \$91,000.00. The Final Average Salary is calculated using the maximum allowed amounts (adjusted salary for FAS).

#### Example:

Increase amount:											
35%	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Salary	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 94,500	\$ 94,500	\$ 94,500	\$ 94,500	\$ 94,500	
Max Allowed (Adjusted salary for FAS)	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 91,000	\$ 94,500	\$ 94,500	\$ 94,500	\$ 94,500	

### Scenario 2:

An employee is earning an annual salary of \$70,000.00 from year 1-5. On the 6<sup>th</sup> year of employment the employee receives a salary increase of 40% which increases the annual salary to \$98,000.00. However, the maximum allowed is \$91,000.00. The Final Average Salary is calculated using the maximum allowed amounts (adjusted salary for FAS).

#### Example:

Increase amount:											
40%	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	
Salary	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 98,000	\$ 98,000	\$ 98,000	\$ 98,000	\$ 98,000	
Max Allowed (Adjusted salary for FAS)	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 91,000	\$ 98,000	\$ 98,000	\$ 98,000	\$ 98,000	

### Scenario 3:

An employee is earning an annual salary of \$70,000.00 from year 1-5. On the 6<sup>th</sup> year of employment the employee receives a salary increase of 50% which increases the annual salary to \$105,000.00. However, the maximum allowed is \$91,000.00. The Final Average Salary is calculated using the maximum allowed amounts (adjusted salary for FAS).

#### Example:

Increase amount:											
	50%	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Salary		\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 105,000	\$ 105,000	\$ 105,000	\$ 105,000	\$ 105,000
(Max Allowed) Adjusted salary for FAS		\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 91,000	\$ 105,000	\$ 105,000	\$ 105,000	\$ 105,000

## Q & A

The questions and answers (Q&A) below address questions NMERB has been asked about Anti-spiking. Contact NMERB should you have any further questions regarding the Anti-spiking provision. We have a dedicated Member Help email monitored by Member Relations staff: [Member.Help@state.nm.us](mailto:Member.Help@state.nm.us).

### Q: What is a Final Average Salary?

**A:** Final Average Salary is either the average annual earnings of the last five years (20 calendar quarters) prior to retirement or the average of the highest five consecutive fiscal year earnings. A Final Average Salary is used to calculate your pension benefit. The basic formula is Final Average Salary X years of Service Credit X the pension factor (currently 2.35% for members hired before July 1, 2019). For those beginning employment on July 1, 2019 or after the pension is calculated using the formula of Final Average Salary X years of Service Credit X a **graduated pension multiplier (see Tiered Multipliers for more information)**.

### Q: Will exceeding the 30% in one year impact the incremental increases on the fiscal year amounts for the years following the 30% increase?

**A:** Yes, as shown in the examples above, effective July 1, 2019 any salary increase over 30% each fiscal year will not be included in a calculation for Final Average Salary. Any subsequent increases in salary will be based on the adjusted salary for FAS which excludes any increase over 30%.

### Q: What if some or all of the five years of my Final Average Salary are earned prior to July 1, 2019?

**A:** Those years of salary that make up your Final Average Salary will not be subject to the 30% limitation if they were earned prior to July 1, 2019. For example, if your Final Average Salary constitutes earnings for the fiscal years (July –June) 2017, 2018, 2019, 2020, and 2021, only the salaries earned in FY 2020 (starting July 1, 2019) and FY 2021 will be subject to the 30% cap for anti-spiking purposes.