Board Early Separation Incentive (BESI) Program

Frequently Asked Questions (FAQ)

1. Where can I find information on the Board Early Separation Incentive (BESI) program?
Detailed information about BESI can be found in Board Policy 4.11
https://www.minnstate.edu/board/policy/411.html

2. Can individual employees apply for a BESI if they meet the age and service requirements?
No. Unlike other separation incentives that are available as an entitlement to broad-based groups of employees based on age and years of service requirements, the BESI program allows each president/chancellor to choose whether or not to use this incentive in focused areas as one of several tools that are available when re- organizing or downsizing occurs on campus.

3. What is the nature of the incentive? How will the amount be determined?
Each president (the Chancellor for employees in the system office) may establish the value of the incentive available to each identified group, provided the incentive does not exceed the employee's annual base salary. The amount of incentive may vary from one group to another within each campus. Incentives may take the form of flat dollar amounts; flat dollar amount per year of service; percent of annual base salary; or percent of annual base salary per year of service.

4. Why can't employees be offered a choice of whether their incentive goes into either a Health Care Savings Plan (HCSP), or paid in cash?
The IRS regulations under which the HCSP is operated don't permit individual employees to make decisions about whether they participate in the HCSP or how much is contributed. The Minnesota State Retirement System sponsors the HCSP based on IRS regulations.
More details on this issue can be found at their website: https://www.msrs.state.mn.us/about-hcsp

Generally speaking, employees in bargaining/employee units in which a high amount of severance pay typically goes into the HCSP at retirement want more cash as an incentive. Conversely, employees in bargaining/employee units with lower average contributions to the HCSP at severance want to use the tax advantages of the HCSP to a greater extent.

Representatives of MSRS indicated that we could have different "formulas" for different bargaining groups, as long as every employee in the group is treated the same. That is the basis for using age 65 for the IFO and MSCF bargaining units (age 70 for all of the other bargaining units/personnel plans) for calculating projected insurance premium costs.

We understand that these expressed needs are generalized and there are individuals within the groups who would prefer different treatment, but we can't do that without putting the tax status of the HCSP in jeopardy.

A very few employees may obtain a waiver from participation in the HCSP. The employee should contact MSRS directly if they 1) have the Federal Government's Tri-Care insurance coverage; 2) are a foreign national who will be returning to their home country where they will have life-time health coverage; or 3) can prove they have other life-time comprehensive employer-paid health care coverage and the employer pays at least 70 percent of the premium.

5. Will using age 70 for some employee groups mean that they will get a higher incentive than employees groups with a threshold of 65 years of age?
No. The age threshold only affects how the incentive is paid. The president/chancellor is still free to offer an incentive in any amount as long as it doesn't exceed the employee's base salary.

6. For participants who receive a cash incentive under this program, what withholding will be taken from the payment?
Cash payments will be subject to withholding for federal (25% lump-sum withholding) and state income tax (6.25% lump-sum withholding) and the employee's FICA/Medicare deductions (7.65% withholding). These payments will not be subject to retirement withholding, nor are they eligible for withholding under the tax-sheltered annuity program (403(b)) or the State's Deferred Compensation program (457). The employer's FICA/Medicare deductions (an additional 7.65%) will also be subtracted from the cash portion of the board early separation incentive prior to payment.

7. Can employees who receive a BESI return to work with Minnesota State after they terminate employment?
Individuals who receive incentives under BESI are precluded from re-employment at any Minnesota State institution (either as employees or contractors) for a one-year period, unless authorized by the chancellor or designee because of exigent circumstances.

Thereafter, re-employment is subject to Board Policy 4.6: https://www.minnstate.edu/board/policy/406.html

8. Can those who receive a BESI accept employment with other State agencies?
Yes. The prohibition on re-employment is in Minnesota State Board policy and not the law. Thus, Board policy would not prohibit employment with other State agencies after receipt of a BESI.

9. Are individuals who have already provided notice of intent to resign or retire eligible for this incentive?
No.

10. What about individuals who are currently serving under the Annuitant Employment Program (AEP) or the Phased Retirement program? Are they eligible for this program?
No. Individuals who are on the AEP program are not eligible for a BESI because a) they have already retired and do not hold a continuing position; and b) they have provided a date certain for final separation from employment.

Similarly, individuals on a Phased Retirement program are not eligible for a BESI because they have already provided a date certain for final separation from employment and therefore do not hold a continuing position.

11. What if an individual has requested phased retirement but it has not yet started? Does the request disqualify the employee from being able to accept a BESI? Put another way, can the individual go on a phased retirement after accepting the BESI?
Board Policy 4.11, Part 3, Subpart C prohibits moving to Phased Retirement after accepting a BESI offer. However, the college could permit an individual to opt out of the phased retirement program, provided it has not yet started, in order to become eligible for a BESI.

Employees cannot start a phased retirement program after seeking and being awarded a BESI.

12. What happens if an employee has been offered a BESI, but leaves employment prior to the agreed upon termination date?
The incentive will not be paid in these circumstances. The president/chancellor and the employee may, however, mutually agree to modify the previously agreed upon separation date.

13. If a tenured or permanent faculty/staff member is serving as an interim Minnesota State Administrator, can he/she be offered a BESI in the interim position?
The faculty/staff member serving in an interim position as an administrator could not be offered a BESI in the interim administrative position, but could be offered a BESI in his/her tenured or permanent faculty/staff position if otherwise qualified. Such an employee must terminate all employment with Minnesota State including the temporary administrative appointment, to be eligible to receive the BESI benefit.

14. Do paid or unpaid leaves of absence count toward eligibility for a BESI?
Yes. As is indicated in the policy, employees must have served at least five years of continuous service immediately prior to separation with a BESI. Both paid and unpaid leaves of absence count toward the five years of continuous service.

15. In order to qualify for a BESI, does an employee have to be actively employed at the time of separation?
No. The employee must be in qualifying employment status, but need not be actively employed at the time of separation. This means the employee might be on a leave of absence or on a seasonal layoff. Employees on permanent layoff are not eligible.

16. What if an employee has two different assignments, covered by different bargaining units?
An employee who has two different assignments covered by different bargaining units could qualify for a BESI, as long as he/she meets the eligibility criteria in at least one of the assignments. In those cases where there is a different age threshold (i.e., 65 vs. 70), when determining whether the incentive would be paid in cash or toward the HCSP, the payment would be made based on the unit assignment in which the BESI incentive was offered. If an employee is member of two or more units in which a BESI incentive is offered, the employee must designate which incentive the employee is accepting. The age threshold for that unit will apply. <u>Employees who accept a BESI incentive must separate from all employment with all Minnesota State institutions on the agreed upon separation date. See FAQ 7 for further information.</u>

17. What if an employee is employed at two different Minnesota State institutions and the incentive is offered at one of the institutions, but not at the other?
Individuals who are employed at two different Minnesota State institutions who are offered, and accept, an incentive at one institution must also agree to terminate employment at the other institution that is not offering an incentive.

18. Are all bargaining/pay plan units potentially eligible for BESI? What about those units where there are already Early Separation Incentives? Will those units also qualify for BESI?
Employees in all bargaining/pay plan units may qualify for the BESI. In those contracts/plans that already provide a separation incentive, employees can also be offered a BESI.

19. How will it be determined whether the BESI will be paid in cash or into a Health Care Savings Plan (HCSP) account?
Whether BESI is paid as a cash payment, into a HCSP, or a combination of these payments, is determined by the application of the following formula.

After the president/chancellor determines how much to offer an employee as an incentive, the HR office will calculate the hypothetical cost of health care premiums for the employee until he/she becomes age 70 (age 65 for IFO and MSCF).

After accounting for severance and other HCSP payments that will be paid in accordance with contract terms at the time of separation, the HR office will determine whether such contractual incentive pay will be sufficient to cover the employee's estimated health premiums until age 70 (age 65 for IFO and MSCF). If so, the incentive will be paid in cash. If not, sufficient incentive funds will be allocated from the BESI to the HCSP to cover the needed premiums and any remaining balance will be paid in cash. (Note: special rules may apply to certain employees. See question #20 below).

For anyone who is over age 70 (age 65 for IFO and MSCF), the incentive will always be paid in cash, except where the special rules apply as described below in Question #20.

20. Which separation payments will be taken into account in order to determine how the BESI will be paid?
The table below summarizes the payments that will be taken into account in order to determine how the BESI will be paid:

Type of payment to Health Care Savings Plan	***Used to determine method of BESI Payment?***
Severance payments made to HCSP	Yes
Vacation payments made to HCSP	Yes
Early Retirement Incentive payments made to HCSP (IFO only)	Yes
Payments to HCSP through payroll deductions while actively employed	No
$250 post-retirement death benefit made to HCSP	No

21. Are there limits on the amount of BESI that can be offered?
The Board Policy limits the total amount of the BESI to no more than the employee's final base salary.

BESI cash payments are generally limited to the employee's base salary. In addition, Minnesota Statutes, section 43A.17, Subdivision 11 limits the amount of severance pay that can be made to "highly compensated employees, "defined as an employee of the state whose estimated annual compensation is greater than 60% of the governor's annual salary (i.e., $76,583 in 2020 and foreseeable future), and who is not covered by a collective bargaining agreement.

Under this law, a cash payment under BESI for a "highly compensated employee" may not exceed an amount equivalent to six (6) months of pay. To the extent that the cash benefit available to the employee would exceed the statutory cap, the remaining amount will be paid into the HCSP.

22. Can sabbatical leave return requirements be waived if a faculty member is offered a BESI?
No. Faculty must fulfill their return requirement in accordance with the language in the applicable bargaining agreement prior to qualifying for a BESI.

23. On what basis will estimated health insurance premium costs be estimated in order to determine how the BESI will be paid?
Health insurance are estimated by using the insurance premium rates established by SEGIP during the calendar year in which the employee will separate. The estimate will use the premium for the level of coverage (single or family) elected by the employee in that year. For calendar year 2021, the monthly premiums are: Single = $732.94, Family = $2155.38.

24. Does the five (5) years of continuous service requirement mean full-time years of service within Minnesota State?
The five (5) years of continuous service requirement need not be full-time service. It does, however, have to be five (5) full years of service within Minnesota State institutions prior to retirement, except that approved leaves of absence will count as service for purposes of this incentive. (See No. 31, below.)

25. Does the BESI include unit 218 (insufficient work time) employees, or faculty who are Temporary Part-Time (TPT), teach sporadically in customized training, adjunct faculty, intermittent employees, etc.?
The BESI does not cover employees who are in temporary employment conditions.

26. Can the BESI be offered to one group on the campus and not to another group?
Yes. This decision is left up to each president.

27. Can a BESI be offered to an individual employee, or must the BESI be offered to groups of employees?
Appointing authorities should identify groups of positions by common characteristics, such as by bargaining unit, job classification, employment condition, work unit, or location. The president/Chancellor should articulate a business reason for reducing the number of positions in each group (e.g., reduced enrollment in an academic program, reorganization of student affairs functions, etc.).

28. Can limits be established for the numbers of individuals within a group who can receive a BESI?
Yes. Appointing authorities can limit the number of BESI's that will be provided to employees in various groups. If there are more eligible and interested employees than the number of BESI's available, the recipients must be chosen by some method of random selection, such as a coin toss, cutting a deck of cards, or a lottery.

29. Must each campus either hold the position vacant or show that cost savings will occur if a BESI is offered and accepted?
There is no such requirement at the individual position level. However, the expectation is that the offering of a BESI will reduce overall salary and benefit obligations, facilitate the reallocation of resources in response to changing needs, or achieve other cost savings or efficiencies. Colleges and universities should document the savings or other benefits due to the offering of a BESI. The Chancellor will establish annual reporting requirements concerning BESI and will submit a summary report annually to the Board of Trustees and legislature.

30. Are employees who are serving a probationary period due to promotion eligible for a BESI?
Yes, as long as they otherwise have the five years of continuous service.

31. What about employees who currently have probationary or permanent status, but did not have a total of five (5) years with that status (i.e., they served some of those full-years in a temporary position)? Would they qualify for a BESI?
In order to qualify for a BESI, employees need to have served a total of five (5) continuous years of service with the Minnesota State Colleges and Universities system. For faculty and non-faculty employees with academic seasonal appointments five years means the employee must have completed ten consecutive semesters of employment and remain continuously employed at the time of separation from employment. Academic breaks do not constitute a break in continuous service for employees with academic year or seasonal equivalent seasonal appointments. These five (5) years could include work in temporary employment conditions. However, employees must be in a probationary or permanent employment status at the time they terminate employment.

32. What is meant by five (5) "full year appointments" needed to qualify for a BESI for non-faculty? Does it mean full fiscal year?

Full-year for non-faculty (i.e., units other than MSCF, IFO, or MSUAASF) means 12 months of employment as opposed to academic years or fiscal years. Thus, an employee who is not in a faculty position would need a total of 60 continuous months of employment in order to qualify for a BESI.

33. How would the overall amount of a BESI be determined for someone who is part-time?

Under the BESI policy, the incentive is limited to the employee's annual base salary rate in effect at the time of separation. While a part-time employee could be offered a BESI up to his/her full base salary rate, the president may, of course, decide to offer less by using the employee's FTE as a factor.

34. Since employees in the Academic Professional and Academic Supervisor class series and the Customized Training Representatives (CTR) classification are "at will" employees, would they be eligible for the BESI program?

Yes. Individuals in unclassified positions on an "at-will" status will qualify as long as they are not employed on a temporary, interim, acting, or contract basis.

35. If an administrator is offered a BESI, can he/she also get the 5% incentive pay by providing the nine (9) months of notice prior to separation of employment?

Yes, as long as the administrator gave notice at least nine months prior to the date of separation and after being offered a BESI.

36. Is there a limitation per college/university on how many incentives can be offered?

No. However, each college/university will need to show how offering these incentives will reduce overall on-going salary and benefit obligations.

37. Some of the "former UTCE" faculty members now in MSCF are eligible to choose either the Enhanced Sick Leave Liquidation (Article 16, Section 3) or the early retirement and severance provisions of the 1993-1995 district contract they were covered by prior to merger (Article 16, Section 4). Some of the 1993-1995 district contracts required that the employer retain a portion of the early retirement or severance benefits and use the money to pay post- retirement insurance premiums on behalf of the retiree. How do we treat this money for purposes of calculating the distribution of the BESI?

Treat any money retained by the college for the payment of post-retirement health insurance benefits as if it were deposited to the Health Care Savings Plan upon separation. DO NOT actually deposit the money in the HCSP. Simply enter the dollar amount on the appropriate line of the BESI calculator.

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