

Changes to Reemployment Provisions

I. Current Guidelines to Reemploy Retirees

The Department of Public Instruction in collaboration with the Department of State Treasurer (Retirement Systems Division) recently completed a review and analysis of the changes for reemploying retirees.

The exception for Teachers' and State Employees' Retirement System (TSERS) retirees who wish to return to work as classroom teachers exempt from the earnings limitations expired October 1, 2009. The North Carolina General Assembly did not extend these provisions before officially adjourning on August 11, 2009, and the General Assembly is not scheduled to reconvene until May 12, 2010.

As a result of the expiration of these provisions, please remember that **any individual** retired from the TSERS who is reemployed with a public school on or after October 1, 2009 who wishes to continue to receive his/her monthly retirement benefit while reemployed will be subject to the provisions outlined for all TSERS retirees who return to work for any agency covered by TSERS in the "Return-to-Work Laws at a Glance" article located on the Retirement Systems Division's Web site at: www.nctreasurer.com/NR/ronlyres/0C706A30-0FB5-4FEB-8CFE-4821DD44D216/0/ReturntoWorkLawsataGlance.pdf .

Please note that reemployed retired teachers, except those in full-time positions who must become contributing members, will now be subject to an earnings cap. A retiree may request his/her earnable allowance limit by contacting the Retirement System at 1-877-733-4191 (outside Raleigh) or 733-4191 (local to Raleigh) or by logging on to his or her secure ORBIT account at <https://orbit.myncretirement.com/orbit/Common/Pages/BPASLogin.aspx> .

Earnings prior to October 1, 2009 that was exempt from the cap while working under the classroom teacher exemption will not count against the retiree's 2009 earnable allowance limit. Also, if the retiree is reemployed in a position that requires him/her to become a contributing member of the TSERS, the Retirement Systems Division (RSD) should be contacted immediately so that the RSD can suspend the member's retirement benefit, and prevent the member from having an overpayment. Please note that, by law [NC General Statutes § 143-64.80(b)], the Retirement System cannot forgive an overpayment. For further details please link to: [TSERS' Retirement Monitor for September 1, 2009](#)

Please keep in mind when re-hiring retirees, the circumstances doesn't change the definition and requirement of the employment status. To avoid violation of the definition of employee as outlined in NC Statutes § 135-1(10), a retiree may be reemployed part-time or full-time in the following ways:

NOTE: Department of Public Instruction define employment statuses, therefore, any questions in reference to the following employment statuses, please call Joan Crump at 919-807-3366 or email at jcrump@dpi.state.nc.us:

Part-time

1. Permanent status
 - less than 30 hrs a week
 - 20 – 29.9 hrs per week (prorata benefits)
 - less than 20 hrs (no benefits)
 - eligibility for benefits must be determined at the time of the initial assignment when the assignment status changes

2. Interim status
 - not more than six consecutive pay periods (after 6 months, the reemployed retiree should not still be working in the same position, same class nor with the same students)
 - individual must be filling in for an incumbent who is expected to return
 - no benefits
 - two individuals may share the assignment with the same LEA to satisfy and meet requirements of the assignment in six months increments
3. Temporary status
 - not more than six consecutive pay periods (after 6 months, the reemployed retiree should not still be working in the same position, same class nor with the same students)
 - no benefits
 - two individuals may share the assignments with the same LEA to satisfy and meet requirements of the assignment in six months increments.
4. Substitute
 - filling in for an individual on paid leave
 - no benefits
5. Fee for Service
 - no benefits
 - a classroom teacher can't be hired under a "Fee for Service" contract

Full Time

1. Interim status – not more than six consecutive pay periods
 - individual must be filling in for an incumbent who is expected to return (after 6 months, the reemployed retiree should not still be working in the same position, same class nor with the same students)
 - no benefits
 - two individuals may share the assignments with the same LEA to satisfy and meet requirements of the assignment in six months increments
2. Temporary status
 - not more than six consecutive pay periods (after 6 months, the reemployed retiree should not still be working in the same position, same class nor with the same students)
 - no benefits
 - two individuals may share the assignments with the same LEA to satisfy and meet requirements of the assignment in six months increments
3. Substitute
 - filling in for an individual on paid leave
 - no benefits
4. Fee for Service
 - no benefits
 - a classroom teacher can't be hired under a "Fee for Service" contract

NOTE: As stated in Statue G.S. 143-64.80(b), under no circumstance will a State Agency or a LEA of the Public School System be forgiven for an overpayment of State funds.

Beginning October 1, 2009, the Retirement System will be very watchful of all activities involving all retirees who were employed "exempt from the cap" and transitioned over to "subject to the cap". The Retirement System is technically prepared to run reports to identify this population of individuals through ORBIT. The Retirement System will be conducting audits to make sure the

LEAs are conducting business according to what is required. Please carefully review the attached information and contact the Retirement System when in doubt regarding a specific "return to work" situation.

All LEAs need to be mindful in what employment status is being used to re-employ retirees. The employment status requirement must be complied. The circumstances will not change the definition or the requirement of the various employment statuses. We strongly recommend that LEA become familiar with the employment statuses and refer to the above information when re-employing retirees.

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The following are areas of concern:

1. The primary focus of all of the employment statuses is to meet the requirement of the employment status, the earning cap and the beginning date of employment.
2. If there is a change in the employment status during the school year, this will raise awareness for the Retirement System.

Example: If John Doe is hired at the beginning of the school year in an interim status and John Doe's employment status changes to part-time permanent status in the same school year, this will raise awareness and will be questionable by the Retirement System.

3. Try to start the individual out in the same status they will end up in at the end of the school year. If it is necessary to make a change in employment status during the same school year, thoroughly document the reason for the change.
4. When re-employing retirees, have a contract to reflect how the retiree is being rehired such as the employment status, responsibilities, hours, duration of the contract and have retirees to sign the contract. If there is an audit by the Retirement System, contracts may be asked to be reviewed.
5. In those cases where a retiree is rehired in a part-time permanent status, working up to 29.9 hours per week, the LEA needs to make sure that this individual is not working more than the number of hours reflected in the contract. This is an example of where the written contract plays a crucial part. If the retiree is found to be working more than 29.9 hours, the Retirement System can suspend the member's retirement benefit and require a payback.

II. ORBIT Reporting Change for Reemployed Retired Teachers Effective October 1, 2009

Compensation paid to a rehired retiree teacher for services performed on and after October 1, 2009 should no longer be reported in your monthly ORBIT payroll report as STRE, but should be reported under STRS (subject to earnings restrictions) or STG (if the member meets eligibility as a contributing employee), and you will no longer remit an employer contribution of 11.7% on any compensation paid for services performed on or after October 1, 2009. For further questions, contact the Retirement System.

III. New ORBIT Reporting Requirement for all Rehired Retirees Effective July 1, 2009

Under the provisions of House Bill 642, which was recently enacted by the General Assembly, effective July 1, 2009, employers must report all rehired retirees to the Retirement System each month. These rehired retirees should be reported in ORBIT with the appropriate pay period, pay

type, plan code, salary and all other applicable fields as defined by the ORBIT file format, www.nctreasurer.com/NR/rdonlyres/613E0FAA-C8F4-4273-8526-E18A5D637793/0/NCEmployerReport.pdf, via the monthly ORBIT payroll report. If the report is not received by the Retirement System within 90 days of the end of each month in which a beneficiary is reemployed, the Retirement System is required to assess a penalty of 10% of the compensation of the unreported reemployed retirees during the months the employer did not report the reemployed retirees, with a minimum penalty of \$25.00. These provisions apply to all TSERS employers. For further questions, contact the Retirement System.

Retirement Systems Contact Information

- Employers with questions or in need of information should contact the NC Retirement Systems Division's Employer Education and Services Unit at EESU@nctreasurer.com or call toll-free at 1-877-807-3131 Option 2 (for outside Raleigh area) and 807-3131 Option 2 (Raleigh area only).

If you have questions regarding a specific return to work situation, please put your questions in writing with all relevant information and mail them to:

Department of State Treasurer
Retirement Systems Division
Member Services – Return To Work
325 N Salisbury Street
Raleigh, NC 27603-1385

Or, you can send an e-mail to the Retirement System at ncretirement@nctreasurer.com with the subject line marked as "Return To Work." (Attachment)