
Working After Retirement

The New Jersey Division of Pensions and Benefits has released Fact Sheet #86: Post-Retirement Employment Restrictions. This Fact Sheet is relevant for all retirees in any pension system.

WORKING FOR A FORMER EMPLOYER

The New Jersey Division of Pensions and Benefits requires that a retiree must have a complete severance from employment in retirement in order to return to public sector employment in New Jersey. *Complete severance from employment means a total termination of the employee's employment relationship with the employer.* The following does not constitute a complete termination of the employee's relationship with the employer:

- i. Employment or re-employment in a part-time position;
- ii. Employment or re-employment in a position that is not covered by the Defined Benefit Plan;
- iii. A change in title;
- iv. Employment or re-employment as a contract employee, a leased employee, or an independent contractor; or
- v. Termination of employment with a pre-arranged agreement for re-employment.

Any pre-arranged return to public employment will invalidate a bona fide severance from employment no matter how long the break in service. **If any arrangement to return to the former employer in any capacity, including as a volunteer, is made between the employer and the employee prior to establishing a bona fide break in service, the employer/employee relationship is not completely severed and the retirement is invalid.**

Public sector retirees in the State of New Jersey must establish a bona fide separation of employment. In order for a retirement to be bona fide, a retiree must wait **at least 180 days** from either the date of retirement or the date the pension board approves the retirement, whichever is later, before returning to work for their former employer. Ten month employees with a July 1 retirement date cannot begin counting the 180-days until the start of the school year the September following the date that their retirement becomes due and payable. It is important to note that "*former employer*" is the Board of Education, or School District, in which the retiree was employed—not the individual school(s) or building(s) in which the retiree worked.

It is important to note that the *bona fide separation of employment* and the 180-day rule applied to **anyone returning to their former employer in a position of any kind and in any pension system**. Therefore, members in TPAF must wait 180-days before returning to their employer in either a TPAF or a PERS position, and vice versa.

WORKING FOR A PUBLIC EMPLOYER IN NEW JERSEY

If members seek employment in retirement with a *different employer* in the New Jersey public sector, he/she must wait until their pension becomes due and payable to them. In order for retirement benefits to become due and payable, a retiree must wait **at least 30 days** from either the date of retirement or the date the pension board approves the retirement, whichever is later, in order to establish total severance of employment. The same conditions as above apply.

Failure to establish a complete severance from employment prior to returning to work in the New Jersey public sector has severe consequences. The individuals who fail to establish a total severance of employment will be required to repay all retirement benefits from the date of retirement and may be required to re-enroll in the same or a different pension system. If re-enrollment is required, all pension contributions must be made retroactively to the date of re-employment in the new position. Employees are not permitted to collect from and contribute to the pension system simultaneously, except for certain individuals who are grandfathered into the pension system as dual enrollees.

SUBSTITUTE TEACHING

Members wishing to substitute in their current district must comply with the 180-day rule for their retirement to become *bona fide*. There can be no pre-arrangement of re-employment between the employer and the member prior to the completion of the 180-day period. Ten-month employees with a July 1st retirement date must begin counting the 180 days on September 1st of that same year.

Members wishing to substitute in a different school district must wait 30 days before returning to work. Ten-month employees with a July 1st retirement date must begin counting the 30 days on September 1st of that same year.

SPECIAL PROVISIONS FOR COACHES

Should a member wish to work for their former employer as a coach following retirement before the retirement has become *bona fide*, there are a number of criteria the member must meet to receive an exception. Individuals are allowed to return to work for their former employer as long as three provisions are met: (1) the re-employment begins after the retirement becomes due and payable – i.e. 30 days from either the date of retirement or the date the pension board approves the retirement, whichever is later; (2) the individual had reached normal retirement age, as outlined in his/her pension tier, as of the date of retirement; and (3) the individual is not compensated more than \$10,000 per year.

To be clear, members who are seeking the exception for coaching must still wait to begin work until their pension has become *due and payable*. Retirees must still wait at least 30-days from the retirement date, or the date their retirement has been approved by the TPAF/PERS Board of Trustees, whichever is later. This means, that for 10-month employees that retire July 1, they cannot begin coaching until October 1st, at the earliest, of that same year. In order to start coaching in the summer/fall months for their former district, members must have their retirement be *due and payable* by June 1st or earlier to establish the 30-day separation. Assuming all other conditions are met (service retirement and earning no more than \$10,000 per year), members are fine to work as a coach in their district prior to the 180-day break in service.¹

MANDATORY RE-ENROLLMENT

Mandatory re-enrollment in PERS occurs when a member works at least 32 hours per week **AND** makes more than \$15,000/year. While it is highly unlikely that a member who is working a full-time schedule would make less than \$15,000, both conditions must be met in order for a member to be re-enrolled in PERS.

Mandatory re-enrollment in TPAF occurs when a members at least 32 hours per week. There is no income requirement for enrollment in TPAF.

Members who are required to re-enroll in the pension system because of their post-retirement employment status, must cancel all current retirement benefits from the Division of Pensions and Benefits. This includes both the pension benefit and health insurance. Further, re-enrollment occurs at Tier 5, regardless of the retiree's membership tier in their former employment.

EMPLOYER RESPONSIBILITY TO REPORT HIRING A RETIREE

Employers are required to complete and submit the Notification of Employment after Retirement form to the Division of Pensions and Benefits within 15 calendar days of hire for review. The Division will then determine if the re-employed retiree can continue to receive retirement benefits while working, or if the retirement must be canceled and the retiree be re-enrolled. Members should be aware that this form exists and make sure that their employers have done their due diligence.

All future questions regarding working after retirement should go to the Pensions and Benefits staff member assigned to your regional office.

¹ Because this is a permitted in-service distribution of the retirement benefit, and returning to work in this capacity is statutorily permitted, the Division of Pensions and Benefits cannot cite a member of the issue of pre-arrangement to return to work in this capacity.