



## Research Advisory

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### Working after Retirement

The New Jersey Division of Pensions and Benefits released a Certifying Officers letter on August 22, 2014, with updated information on bona fide retirements and post-retirement employment restrictions for service and early retirees. This advisory does not apply to members that have retired under a disability retirement.

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.

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 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 1<sup>st</sup> retirement date must begin counting the 180 days on September 1<sup>st</sup> 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 1<sup>st</sup> retirement date must begin counting the 30 days on September 1<sup>st</sup> of that same year.

### ***SPECIAL PROVISIONS FOR COACHES***

The CO Letter provides special conditions for members who wish to return to work with their former employer as a coach. 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.

### ***EMPLOYER RESPONSIBILITY TO REPORT HIRING A RETIREE***

There are new requirements for employers who employ the services of an individual that is retired from any of the NJ State-administered pension systems. Employers are required to complete and submit the Notification of Employment after Retirement form to the Division 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. A copy of the Notification of Employment after Retirement is attached for your reference.

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

# Working after Retirement for Service and Early Retirees (Non-Disability Retirees)

You are retired and wish to return to work for your previous employer

- You must wait 180 days before returning to work to establish a "bona fide" separation of employment\* with no form of pre-arrangement to return in any capacity prior to the 180 days
- 10-month employees with a retirement date of July 1: 180-day count begins September 1
- This includes, but is not limited to: subbing, volunteering, employment through an independent contractor, re-employment in a new position, etc.

You are retired and wish to return to work for the public sector in New Jersey, but not for your former employer

- You must wait 30 days before your pension becomes due and payable before returning to work.\*\*
- 10-month employees with a retirement date of July 1: 30-day count begins September 1

You are retired and wish to work for the private sector, the federal government, or in a government agency in a state other than New Jersey

- You may work immediately in the private sector, federal sector or in another State

You are retired and wish to return to your previous employer as a coach

- May return to their previous employer as long as certain conditions are met:
  - 1. The re-employment commences after the retirement allowance becomes due and payable;
  - 2. The former member had attained normal retirement age, pursuant to his/her pension tier, as of the date of retirement; and
  - 3. The compensation for the employment is less than \$10,000 year

## \*Definition of "bona fide retirement":

*Bona fide severance from employment means a complete termination of the employee's employment relationship with the employer for a period of at least 180 days. 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.*

## \*\*Definition of "due and payable":

Either more than 30 days after the date of retirement, or more than 30 days after the retirement has been approved by the Board of Trustees, whichever date is the later of the two.

## Employee Responsibility:

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.

## Employer Responsibility:

Confirm with the employer that they have submitted the Notification of Employment after Retirement to the Division!

*Disclaimer: This is to be used for information purposes only. Rules and regulations are subject to change. Should you or your employer have specific questions related to your re-employment in retirement, the employer should call the employer hotline at the Division of Pensions and Benefits.*