

Post-Retirement Employment Guidelines for Teachers and School Districts

Prepared for the Committee to Study New Hampshire Teacher Shortages and Recruitment Incentives

NHRS retirees may work part-time for one or more NHRS participating employers. If retirees return to work in full-time, NHRS-covered positions with a participating employer, they must be restored to NHRS active service and their pension benefit payment will stop.

Relevant statutes: RSA 100-A:1, XXXIV.; RSA 100-A:7; RSA 100-A:7-a; RSA 100-A:7-b; RSA 100-A:16, VII(a)

What is part-time?

RSA 100-A limits NHRS retirees who begin working part-time for retirement system participating employers after January 1, 2019, to a maximum of 1,352 hours worked per calendar year. (A calendar year is January 1-December 31). Hours worked for multiple participating employers are combined when determining if a retiree has worked more than the permitted hours. The hourly limits are per retiree, not per employer. The limits on hours worked are a ceiling.

The law also includes the following elements:

- Members who retire on/after January 1, 2019, must wait at least 28 days from their effective date of retirement before commencing part-time employment with a participating employer.
Note: The effective date of retirement is always the first of the month.
- A retiree who exceeds the maximum permitted hours will forfeit the state annuity portion of his or her retirement allowance, and any allocable cost of living adjustments, with the forfeiture commencing as soon as administratively feasible in the next calendar year and continuing for 12 months.

Note: This description does not describe all the provisions contained in the statute. For more information, see FAQ on part-time employment of NHRS retirees: [https://www.nhrs.org/faqs/faq-part-time-employment-of-nhrs-retirees-\(effective-1-1-19\)](https://www.nhrs.org/faqs/faq-part-time-employment-of-nhrs-retirees-(effective-1-1-19))

What is full-time?

NHRS Administrative Rule Ret 302.05 establishes standards for determining which Group I state and political subdivision must be enrolled in NHRS, which employees cannot be enrolled, and which employees for whom enrollment is optional.

The minimum participation standards for enrollment as an active teacher member (Ret 302.05(b)(2)) state that a teacher shall be employed:

- a. On a regularly scheduled basis or, if not regularly scheduled, for a cumulative minimum of 18 weeks during a school year;



- b. Thirty hours or more per week with the same participating employer; and
- c. In a position within the teacher job classification.

Notes:

- In general, when a retiree becomes employed in a full-time, permanent position with an NHRS-participating employer for which membership is mandatory, the law (RSA 100-A:7) requires that the retiree's pension payments cease and the retiree is re-enrolled as an active, contributing member. This is called a "restoration to service". In this situation, the retiree is restored to service notwithstanding the fact that he or she may work less than the annual number of hours permitted for "part-time" employees. For substitute teachers, the analysis is different.
 - For example, even if not regularly scheduled to work full-time, if an individual actually works in a teacher position for at least 30 hours a week for 18 cumulative weeks in a school year, he or she should be enrolled prospectively beginning in the 19th week, even if the contract did not call for an assignment beyond 18 weeks.
 - However, an individual hired for a temporary full-time substitute position, must be enrolled at the time of initial hiring if they sign a contract for more than 18 weeks. If the contract provides for less than 18 weeks, the retiree must be enrolled if the assignment extends beyond 18 weeks.

What do these definitions mean for retired educators and NH school districts?

Retired teachers receiving a benefit from NHRS currently are allowed to work a significant number of hours for New Hampshire school districts, provided that they do not:

- Work 30 or more hours per week on a regularly scheduled basis; and
- Do not exceed the statutory maximum number of hours worked allowed in a calendar year.

Both criteria above must be met. For example, if a retiree contracts to work for 36 hours for an entire 36-week school year as a teacher, he or she must be restored to service at the start of the school year because he or she is not a "part-time" employee but, rather, has contracted to be regularly employed on a full-time basis for the entire school year.

Notes:

- All NHRS retirees working as salaried employees are subject to the annual limits on hours worked. Employers are responsible for maintaining a record of hours worked by all NHRS retirees employed on a salaried, per diem, stipend, or other non-hourly basis. In the absence of records, NHRS will consider that a retiree worked the same number of hours as a full-time employee of the employer for every day worked.
- Per statute, any teacher who is equally sharing a full-time position with another teacher is automatically enrolled as an active contributing member per RSA 100-A:4, III-b. The "part-time" statute does not supersede this existing law.

Policy and funding considerations

Allowing retired teachers to work on a limited basis under existing laws and rules may alleviate some staffing issues. However, increasing the number or hours retired teachers may work – whether in

“critical need” areas or across the board – does not address recruitment or retention issues. Any changes to current law that make it financially advantageous for retirement-eligible teachers to retire earlier, collect a pension benefit, and continue to earn close to a full-time salary would also exacerbate retention issues.

In addition, the extent to which retired teachers are used to replace full-time teachers could impact pension funding and employer contributions. Part-time positions do not generate contributions to the retirement system from either the employer or retiree. Because NHRS employer contributions are assessed as a percentage of the active member payroll, slower than expected (or negative) payroll growth will lead to higher employer contribution rates to pay down the unfunded pension liability.

Finally, loosening the working-after retirement laws – which are already among the most lenient in New England – for teachers would almost certainly result in retired employee, police and fire members and municipal employers seeking statutory parity, which would expand the potential funding issues outlined above.

