

**DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES**  
**Bureau of Human Resources**

December 8, 2017

**HUMAN RESOURCES MEMORANDUM 10-17 (Corrected Copy)**

TO: All Agency Heads, Agency Human Resource Representatives

SUBJECT: Reemployment of Retired State Employees  
*Supersedes Human Resources Memorandum 6-11*

=====  
This memorandum replaces Human Resources Memorandum 6-11.

Public Law 2011, Chapter 380, Part MMM (Title 5, §17859) provides restrictions and requirements when reemploying a State Employee who has reached normal retirement age and who retires after September 1, 2011. Since original passage, the statute has been amended to provide an exception for certain classroom-based employees who retire after September 1, 2011. The decision to hire a retired state employee is at the discretion of the appointing authority.

The following includes revised interpretations and administrative determinations regarding those restrictions and requirements:

- Employees who retire before normal retirement age (early retirees) are subject to different requirements, including, without limitation, the prohibition against any explicit or implicit arrangement or expectation of future employment with the state after retirement. This prohibition does not apply to employees who retire at or after normal retirement age. Accordingly, prior to any discussion between the employer and an employee about returning to work after retirement, it is imperative to establish that the employee is not an early retiree. Please consult with the [Maine Public Employees Retirement System \(MainePERS\)](#) for more information relating to the requirements applicable to early retirees.
- For a state employee to retire, they must actually terminate employment with the State and begin retirement with the Maine Public Employees Retirement System;
- The retired state employee may not return to employment with the state prior to the official retirement date<sup>1</sup>, or for at least 30 calendar days after termination, whichever is later;
- A returned retiree may be reemployed for no more than 5 years<sup>2</sup>;

---

<sup>1</sup> The official retirement date is always the first of the month following actual termination from employment.

<sup>2</sup> This restriction does not apply to a retired state employee who is subsequently hired as a substitute teacher, nor in some cases to a retired classroom-based employee who is restored to service as a classroom-based employee.

- Compensation for the returned retiree must be set at 75% of the compensation established for the position<sup>2</sup> (step is determined by the appointing authority);
- During the period of reemployment, the returned retiree may not accrue additional creditable service nor may earnable compensation change for benefit calculation purposes;
- Health insurance benefits for the returned retiree must be provided under Title 5, Section 285, sub-section 1-A for retired state employees, and life insurance benefits must be provided under Title 5, Section 18055;
- The portion of the employer contribution that goes to pay the retirement system for the unfunded liability and the state group health plan for retiree health care must be continued and based on the retired state employee's compensation during the reemployment period.

Employers are required to identify and report each returned retiree to the Maine Public Employees Retirement System and to the Bureau of the Budget.

Attachment 1 provides a quick reference table showing some standard “rules of the road” for retiring and returning to work with the same employer. For more detailed information, please contact the Maine Public Employees Retirement System.

Additional information regarding retired state employees returning to state service follows:

**Termination for purposes of retirement is considered a break in service.**

This means that, if a retired employee is rehired into a state position, the retiree:

- must apply and compete for positions pursuant to Civil Service Rules;
- may not be treated as an “Agency Promotional” or “Statewide Promotional” candidate for purposes of certification from registers;
- will begin with a new date of hire;
- will be placed on initial probation;
- will not carry seniority forward. (Seniority will begin with the new date of hire.)
- may have previously accumulated and unused sick leave credits restored upon reemployment, pursuant to Civil Service Rules. (Sick leave credits used toward the retirement benefit are not considered “unused.”); and
- may be reemployed at the same step if reemployed in a classification in which he or she was previously employed, pursuant to Civil Service Rules.

Additionally, for retired employees rehired into positions covered by a collective bargaining agreement, the retiree:

- will accrue vacation as though the employee were a new employee. Years of service prior to the new date of hire may be counted toward the accrual rate only

after a designated amount of continuous service, dependent on the applicable collective bargaining agreement.

- will not be eligible for longevity pay. (Longevity is based on continuous state service.)

For employees **not** covered by a collective bargaining agreement (commonly known as “Confidentials”), the vacation accrual rate and eligibility for longevity are based on total state service (whether continuous or not). Therefore, retired employees hired into “Confidential” positions:

- will accrue vacation at the appropriate rate based on their total years of state service; and
- will be eligible for longevity pay based on their total years of state service.

**S/ Joyce A. Oreskovich**

Joyce A. Oreskovich, Director  
Bureau of Human Resources

Attachment 1: MainePERS Publication: Retiring and Returning to Work for the Same Employer (Form# H0036, Revised 7/16)



P.O. Box 349  
 Augusta, ME 04332-0349  
 Telephone: (207) 512-3100  
 Toll-free: 1-800-451-9800  
 Fax: (207) 512-3101  
 TTY: (207) 512-3102

## Retiring and Returning to Work for the Same Employer

### ----- Rules of the Road -----

Standard	Early Retirees	Normal Retirement Age		
		State Employees (all branches) and Teacher Members		PLD Employees, Legislators and Judges
		Not Classroom-Based Employees	Classroom Based Employees <sup>1</sup>	All Employees
Required to Terminate Employment	Yes	Yes	Yes	Yes
May discuss return to work prior to retiring	No	Yes	Yes	Yes
Can go back to work	Later of 30 days after termination or Retirement Date	Later of 30 days after termination or Retirement Date	Later of 30 days after termination or Retirement Date	Retirement Date
Limit on time worked (school or calendar)	Yes 90 Days/Year	5 years*	10 years total <sup>2</sup>	No
Limit on earnings	No	75% of compensation for the position*	5 Years – No 5 Years – 75% of compensation for the position <sup>2</sup>	No
Restriction on type of Position	No	No	No	No
Contribute to MainePERS	No	No	No	No
Earn Service Credit	No	No	No	No
Repayment of any disallowed retirement benefits	Repaid through a deduction in the monthly benefit over the retiree's expected lifetime	N/A	N/A	N/A

<sup>1</sup> Whether a position is considered "classroom-based" is determined by the employer.

<sup>2</sup> 5 years under one-year contracts with compensation set at 100% and 5 years with compensation set at 75%.

\* Not applicable to those returning as a substitute teacher.

### ----- What Does Same Employer\* Mean? -----

Pre-Retirement Employer	Post-Retirement Employer	"Same Employer"?
State Employees (all branches) and Teacher Members	State/Teacher	Yes
	Consolidated PLD	No
	Non-Consolidated PLD	No
Consolidated PLD	Consolidated PLD	Yes
	Non-Consolidated PLD	No
	State/Teacher	No
Non-Consolidated PLD	<b>SAME</b> - Non Consolidated PLD	Yes
	<b>ANOTHER</b> - Non-Consolidated PLD	No
	Consolidated PLD	No
	State/Teacher	No

\* Disability Retirees: The above information applies to service retirees only. There are limitations on the amount you may earn without reducing or eliminating your disability benefit. For information on your earnings limitation, please contact the MainePERS Disability Unit.