

DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
Bureau of Human Resources
September 13, 2019

HUMAN RESOURCES MEMORANDUM 8-19

TO: All Agency Heads, Agency Human Resource/EEO Representatives

SUBJECT: Reemployment of Retired State Employees
Supersedes Human Resources Memorandum 10-17

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This memorandum replaces Human Resources Memorandum 10-17.

Public Law 2019, Chapter 436, eliminates certain restrictions and requirements when reemploying a State Employee who has reached normal retirement age and retires. 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 certain 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 date¹, or for at least 30 calendar days after termination, whichever is later;

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

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- The compensation rate of the retired state employee returning to service is the same as is required for the position as if the position were filled by an employee who is not a retired state employee. The compensation rate is determined on the basis of the position under any applicable collective bargaining agreement or determined through normal salary negotiations when the position is not part of a collective bargaining unit.
- 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 must be continued at the same contribution rate of the employer as is required for the position as if the position were filled by an employee who is not a retired state employee.
- The portion of the employer and employee contribution that goes to pay the state group health plan for health care must be continued at the same contribution rate of the employer and employee as is required for the position as if the position were filled by an employee who is not a retired state employee.

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

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

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- 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/ Breena D. Bissell

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