



Return to Work Policy

Drafted by: CTPF Legal Department

Reviewed by: Carlton Lenoir, Executive Director
Carolyn Clifford, Board Counsel

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(by approval of committee restructuring)

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Return to Work Policy

I. Cancellation of Pensions (40 ILCS 5/17-149)

- A. If any person receiving a disability retirement pension from the Fund is re-employed as a Teacher, their pension shall be cancelled on the date their reemployment begins, or on the first day of a payroll period for which service credit was validated, whichever is earlier, regardless of whether they are employed on a full-time, part-time, or temporary basis.
- B. If any person receiving a service retirement pension from the Fund is re-employed as a Teacher on a permanent or annual basis by an Employer, as defined in Section 17-105.1 of the Illinois Pension Code (40 ILCS 5/17-105.1), their pension shall be cancelled on the date the re-employment begins, or on the first day of a payroll period for which service credit was validated, whichever is earlier. However, subject to the limitations and requirements of Section II below, the pension shall not be cancelled in the case of a service retirement pensioner who is re-employed on a temporary and non-annual basis or on an hourly basis.
- C. These rules also apply to any person receiving a service retirement pension from the Fund who becomes re-employed by a CPS contract school on or after August 27, 2021, provided, however, that in the event a retiree becomes re-employed by a contract school on a permanent or annual basis on or after August 27, 2021, but before January 1, 2022, cancellation of the retiree's pension shall not be effective until January 1, 2022, and, in the event a retiree becomes re-employed by a contract school on a temporary, non-annual basis on or after August 27, 2021, but before January 1, 2022, the limitation on days worked or on compensation earned shall be calculated from January 1, 2022 forward on a fiscal year (July 1 – June 30) basis.
- D. Under Section 17-149 (c-10) of the Pension Code (40 ILCS 5/17-149(c-10)), from July 1, 2022 through June 30, 2024, the pension of a service retirement pensioner shall not be cancelled, if the pensioner is re-employed on a permanent or annual basis in a certified "subject shortage area," and certain other requirements are met, as outlined in Section 17-149 (c-10) of the Pension Code. Re-employment under Section 17-149 (c-10) shall not require contributions, result in service credit, or constitute active membership in the Fund.

II. Temporary and Non-Annual Re-Employment

For school years beginning on or after July 1, 2019 and before July 1, 2022, a Member's service retirement pension shall not be cancelled in the case of a service retirement pensioner who is re-employed as a Teacher, other than a driver education instructor, on a temporary and non-annual basis or on an hourly basis, provided the person does not

- 1. work as a Teacher for compensation on more than 120 days in a School Year; or
- 2. accept gross compensation for the re-employment in a School Year in excess of:

- i. \$30,000; or
- ii. In the case of a person who retired with at least 5 years of service as a principal, an amount that is equal to the daily rate normally paid to retired principals multiplied by 100.

For the purpose of subsection 2(ii) of this Rule, all certified administrators shall be considered “principals.” Fund staff shall, on an annual basis, determine the rate normally paid to retired principals based on certified payroll data submitted by Employers during each School Year.

If a retiree works on more than 120 days or accepts excess gross compensation for such reemployment in any school year beginning on or after July 1, 2019 and before July 1, 2022, the service retirement pension shall be cancelled effective as of the first date on which the retiree exceeds either limitation.

For school years beginning on or after July 1, 2022 and ending before July 1, 2024, the 120 day maximum referenced in this subsection shall be increased to 140 days and no compensation limit shall apply. For school years beginning on or after July 1, 2024, the 120 day maximum shall again take effect but no compensation limit shall apply.

Re-employment on a temporary and non-annual or hourly basis shall not require contributions, result in service credit, or constitute active membership in the Fund.

III. Driver Education Instructors

As of July 1, 2017, a retiree’s service retirement pension shall not be cancelled in the case of a service retirement pensioner who teaches **only** driver education courses after regular school hours and does not teach any other subject area, and so long as the person does not:

1. work as a driver education instructor for compensation for more than 900 hours in a school year; or
2. accept gross compensation for the re-employment in a School Year in excess of the gross compensation limits set forth above in subsection 102 (2)(i) or (ii) as applicable.

If the retiree works more than 900 hours or accepts excess gross compensation for such reemployment in any school year the service retirement pension shall be cancelled effective as of the first date on which the retiree exceeds either limitation.

IV. Notice of Re-Employment Required

To be eligible for re-employment without cancellation of pension, a retiree must notify the Fund in writing of his or her intention to accept re-employment.

V. Employer Responsibilities

An Employer must certify to the Fund the temporary and non-annual or hourly status and the compensation of each retiree in its employ at least quarterly, and when the pensioner is approaching the earnings limitation under Section 102 of this Article.

By submitting the reports required by this section, the Employer certifies that the information contained in the reports is true and correct to the best of its knowledge.

VI. Determination of Limitation Exceeded

In accordance with Section 149 of the Code, Fund staff will determine if a retiree exceeded the return to work limitations from the certified records received by the Employer.

Upon determining that Employer records indicate that a retiree has exceeded the return to work limitations, Fund staff shall request from the retiree's Employer(s) a detailed report of the retiree's compensation and days of work. The Employer(s) shall submit the detailed report with a certification form, which shall be provided by Fund staff, certifying that the compensation and days of work are complete and accurate based on the school's business records.

VII. Definition of a Day

For purposes of this Policy, a retiree shall be deemed to have worked a "day" when an Employer reports the retiree worked for compensation as a Teacher for at least one hour in any calendar day. However, a "day" shall not include an "in service" day that the retiree must attend in order to qualify as a substitute.

VIII. Use of Third-Party Employment Agencies

A CTPF retiree who provides services to an Employer shall not be subject to the return to work limitations as set forth in Section 149 of the Code if they are an employee of a third-party contractor, employment agency, or other vendor (collectively, "Third Party Vendor") that provides staff to Employer schools, unless it is determined by the CTPF Board of Trustees that the retiree or the Employer are using the Third Party Vendor to circumvent the limitations of Section 149 of the Code.

IX. Consultants and Independent Contractors

A CTPF retiree who contracts with an Employer to provide services in a position for which a license or certificate is required is subject to the return to work limitations, unless it can be shown that the retiree is a bona fide independent contractor. Paying a retiree through accounts payable rather than through payroll does not exempt the retiree or the Employer from the limitations under Section 149 of the Pension Code.

X. Violations/Appeals

If the Fund determines that any retiree is in violation of the return to work restrictions contained in Section 149 of the Pension Code, the Fund shall notify the Member by mail of the specifics of the violation, the estimated amount of any overpayment, their right to appeal the determination and request a hearing, and their right to request hardship consideration.

XI. Options for Repayment

A Member who has been identified as having violated Section 149 of the Pension Code and as owing an overpayment may make repayment by: (a) making direct payment of the amount owed to the Fund; (b) assigning all or a portion of a death benefit to the Fund, with any remainder being repaid in accordance with either subsection (a) above or subsection (c) below; or (c) by having 15% of future pension payments deducted from the monthly pension payment until the overpayment, including any health benefits, if applicable, is repaid. A Member may also request a financial hardship reduction, which, if granted, will result in 10% of future pension payments being deducted from the monthly pension payment until the overpayment, including any health benefits, if applicable, is repaid.

XII. Request for a hearing

Any Member who is identified as having violated the return to work restrictions contained in Section 149 of the Pension Code may request an administrative hearing to dispute the determination or the amount of the overpayment by sending a written request for a hearing to the CTPF Legal Department within 30 days of the date of the notice of violation from the Fund.

If CTPF does not receive payment or a written request for a hearing within 30 days of the date of the notice of violation, CTPF will automatically reduce the Member's monthly pension benefit by up to 15% until the overpayment, including any health insurance subsidy, if applicable, is repaid.

XIII. Conduct of the Return to Work Hearing.

If a Member requests an administrative hearing, the following procedures will be followed:

- (1) Hearing Officer.** The Fund's Chief Legal Officer or other person designated by the Claims and Service Credit Committee will serve as the Hearing Officer and will be responsible for conducting the hearings as set forth in this Policy.
- (2) Notice of Hearing.** The hearing will be held at the Fund's offices or via Zoom or similar virtual means. No later than 45 calendar days before the scheduled hearing date, Fund Staff will issue written notice of the hearing, which will be sent to the retiree by certified mail, return receipt requested. The Hearing Officer will have the authority to grant continuances for good cause. Good cause is to be determined by the Hearing Officer, and may include, but is not limited to, the retiree's illness, a significant prior commitment, or a death in the family.

- (3) Pre-Hearing Conference.** No later than 30 days before the scheduled hearing date, Fund staff shall meet with the Member, in-person, virtually, or by telephone, to discuss the hearing process and how the Member can be prepared for it.
- (4) Pre-Hearing Exchange of Information.** All documents that the Member or the Fund intends to present to Hearing at the hearing shall be exchanged by the parties at least ten (10) calendar days before the date of the hearing. At the same time, Fund staff will provide copies of documentation so exchanged to the Claims and Service Credit Committee and to the Hearing Officer.
- (5) Subpoenas.** No later than 21 days from the date of the Notice of Hearing, a retiree may request that the Fund issue a subpoena to compel the attendance of witnesses and/or the production of documents by submitting a request in writing to the Hearing Officer and identifying the witness and/or the documents sought to be produced. If the Hearing Officer deems the request reasonable, the Hearing Officer shall direct the Fund to issue the subpoena on behalf of the retiree. If requested, the Fund will serve the subpoena on appropriate person or entity, but will not be responsible for compelling compliance. .
- (6) Representation by Counsel.** The Fund will be represented at the hearing by Staff counsel or other counsel designated by the Chief Legal Officer. Members shall have the right to be represented by their own counsel or to represent themselves.
- (7) Conduct of the Hearing.** The Hearing Officer will have full authority to control the procedure of the hearing, including, but not limited to:
- a. excluding witnesses;
 - b. admitting or excluding testimony or other evidence;
 - c. changing the order of the hearing; and
 - d. making any other necessary decisions and orders required for the creation of a full and fair hearing conducted in an orderly manner. However, the hearing will not be bound by the formal rules of evidence or procedure that apply in state court. The retiree will be given maximum opportunity to present their case and to receive a fair hearing.
- (8) Burden of Proof.** The Fund shall have the initial burden of proof to establish, by a preponderance of the evidence (meaning that it is more likely than not), that the relevant Employer's certified payroll data establishes that the Member exceeded the limitations under Section 149 of the Pension Code.

If the Fund makes such a showing, the burden shifts to the retiree to establish, by a preponderance of the evidence, that the retiree did not exceed the limitations under Section 149 of the Pension Code.

- (9) Order of the Hearing, Examination of Witnesses, and Introduction of Evidence.** All hearings will be conducted in the following order, unless the Hearing Officer provides otherwise:

- a. Opening statement by counsel for the Fund;
- b. Opening statement by the retiree or the retiree's counsel;
- c. All documents properly exchanged pursuant to Section 4__ above are admitted as exhibits;
- d. Counsel for the Fund presents the Fund's case, including the presentment of any CTPF witnesses;
- e. The retiree may cross-examine (ask questions of) any CTPF witnesses;
- f. The Hearing Officer and any Trustees who are present may examine (ask questions of) any CTPF witnesses;
- g. The retiree presents their case, including presentment of their own testimony and the testimony of any witnesses on the retiree's behalf;
- h. Counsel for the Fund may cross-examine (ask questions of) any of retiree's witnesses including the retiree;
- i. The Hearing Officer and any Trustees who are present may examine (ask questions of) any retiree witnesses;
- j. Counsel for the Fund and the retiree may make closing statements, at the discretion of the Hearing Officer;
- k. Hearing Officer closes the proceedings.

(10) Hearing Record. All testimony at the administrative hearing shall be under oath and shall be recorded or transcribed by a court reporter provided by the Fund. The Fund shall order the original transcript and the Fund shall provide a copy of the transcript to the retiree at the Fund's expense.

(11) Post-Hearing.

a. Within fourteen (14) calendar days of receipt of the transcript, counsel for the Fund and the retiree may make written submissions to the Hearing Officer summarizing what they believe was shown at the hearing and what they believe the Hearing Officer's decision should be. Each party shall also send a copy of the written submission to the other party. The Hearing Officer may grant a reasonable extension of time within which to make the written submissions.

b. The Hearing Officer shall prepare Findings of Fact and Conclusions of Law and a Recommended Decision, which shall be submitted to the Board of Trustees. The Hearing Officer shall:

- i. Summarize the evidence presented by each party;
- ii. State the Hearing Officer's finding regarding whether the retiree exceeded the return to work limitation of Section 17-149 of the Pension Code; and
- iii. State any other findings of fact or conclusions of law that are significant to the Hearing Officer's Recommended Decision.

c. The administrative record, including all hearing exhibits, the transcript of proceedings, any written submissions by the parties, and the Hearing Officer's Findings of Fact, Conclusions of Law and Recommended Decision shall be made available on Board Docs to the Board of Trustees for consideration. The Board of Trustees shall, by majority vote, adopt or reject the Recommended Decision.

d. The Fund will issue a written Notification of Final Administrative Decision to the retiree within seven (7) calendar days of the Board's adoption or rejection of the Recommended Decision. The Notification shall be sent to the retiree by first class and certified mail. The Notification will include:

- i. The Board decision;
- ii. The Hearing Officer's Findings of Fact and Conclusions of Law and Recommended Decision;
- iii. Notification that the Board will not require or permit the filing of motions for reconsideration;
- iv. Notification that the decision is final and appealable; and
- v. Notification of appeal rights pursuant to the Administrative Review Act.

e. If the Board's Final Administrative Decision requires the retiree to repay any benefits to the Fund, the Fund shall notify the retiree of the amount of such repayment, repayment options