Working After Retirement:
Protecting Your Pension and Your MEA/NEA Membership
(Updated August 2024)

MEA

Laws governing Michigan school employee pensions are complex and frequently changing. MEA is committed to providing you with quality information to help make decisions that protect both your retirement and your memberships in MEA and NEA.

- ***As a retiree, can I still remain a part of the union?***

Yes, you can join MEA-Retired! In fact, you may have already paid the lifetime membership fee through our "All-Inclusive Membership (AIM)" program, which charges you a small amount of your total MEA-Retired dues each year while you're working until you've paid the lifetime amount. If you've already paid that full amount (or pay off whatever balance remains) when you retire, you're a member of MEA-Retired as long as you remain retired. If you need to check on your MEA-Retired membership status, please call 800-292-1934.

- ***If I return to work, do I need to rejoin MEA as an active member?***

To enjoy the benefits and protections of MEA/NEA membership (including liability insurance, the right to vote for contracts and in active member elections, and access to legal services), a retiree who returns to work for more than 30 days in a position covered in the recognition clause of a local MEA bargaining agreement should rejoin MEA as an active member of that local.

The benefits of MEA-Retired are designed for those who are either fully retired or are working or volunteering occasionally in schools, such as daily substitute teaching. Generally speaking, a person is either working or retired from a job, so NEA has determined that a retiree is typically no longer eligible for "retired" membership if they return to active employment.

Your MEA-Retired membership will be reverted to a "pre-retired" status until you stop working again and return to eligibility for MEA-Retired membership, at which point your MEA-Retired membership will be reinstated.

- ***If I retire, am I allowed to go back to work without giving up my pension or insurance premium subsidy?***

NOTE: MEA's advice is always to talk with the Office of Retirement Services to ensure your MPSERS pension and health benefits are not negatively impacted by any employment decisions you make. Please see the detailed explainer that follows for more information.

There are a variety of rules you must follow to ensure you do not negatively impact your pension going forward, involving where you can work, when you can return, and how much you can earn. In general:

1) If you retired with a disability retirement, you must get permission from ORS before accepting any employment (within or outside of public education). Failure to do so may result in the loss of your pension and insurance.

2) All other MPSERS retirees may work in any position (including outside of education) without penalty as long as they do not work in, with, or for a Michigan K-12 public school, a charter school/public school academy, intermediate school district, tax-supported community college, or one of those few libraries or museums that provide employees pensions through MPSERS. This group of education-related employers is referred to as Michigan Public School Reporting Units (PSRUs). For the purposes of work after retirement, Universities are not considered PSRUs. The Michigan Department of Education (MDE) is also not a PSRU, although unlike other entities in this category, they require retirees to have a one-month separation from working or volunteering in a PSRU before beginning work at the MDE.

3) Retirees who wish to work in a PSRU have a number of rules and limitations surrounding their employment, and technically cannot even plan to return to work in a PSRU before they retire without breaking the law and jeopardizing their retirement. If you've been completely separated from all PSRUs for at least 6 months, you can return to work without any penalties. (See the following **Working After Retirement Explainer: Work in a Michigan Public School Reporting Unit (PSRU)** for additional details.)

Working After Retirement Explainer:
Work in a Michigan Public School Reporting Unit (PSRU)

By Paul Helder, MEA Retirement Consultant

This explainer details some of the rules regarding working after retirement for MPSERS members under PA 147 of 2023 (signed into law on October 19, 2023) – specifically, the rules surrounding work being done in a Michigan Public School Reporting Unit (PSRU) other than a University.[1] Because the Michigan legislature changes these rules so often – and the penalties for violation can be so severe – it is important to be 100% sure that you know the current laws before taking any work after retirement. While MEA is an excellent source for help in this regard, it is the Office of Retirement Services (ORS) that is charged with enforcing these laws, so it is generally a good idea to confirm any retirement advice with the ORS using your miAccount.

It is worth noting that the distinctions in the type of work (Core vs. Non-core; Critical Shortage; Direct Hire vs. Indirect Hire vs. Independent Contractor, etc.) that the old laws referenced do not exist under the current legislation. Anyone working in a PSRU works under the same rules, with two exceptions[2]: individuals who retire from employment as school superintendents and those who retired with a Duty or Non-duty Disability Retirement have different working after retirement rules than other MPSERS retirees. Members who retired under a Disability Retirement are required to receive permission from the ORS before taking any type of employment as a retiree (both within and outside of public education).

For everyone else, the rules are categorized based on where you are in your retirement journey. Different rules apply for each of four distinct time periods: Before Retirement, In the First Month of Retirement, In the Second through Sixth Months of Retirement, and After Six Months of Retirement.

BEFORE RETIREMENT:

- When it comes to working after retirement in a PSRU, members need only concern themselves with one part of the law: the so-called "bona fide retirement provision."
- Because this component is so widely misunderstood – and the penalties for violation can be so severe – it is important for members to read and fully understand this provision. MCL 38.1361 subsection 11(a) states:

  (11) As used in this section:

  > *(a) "Bona fide termination of employment" means, as determined by the retirement system under subsection (9), a retirant has completely severed the employer-employee relationship with his or her reporting unit employer. Completely severing the employer-employee relationship includes, but is not limited to, a retirant not working for his or her reporting unit employer during the month of the retirant's retirement allowance effective date and, before the severing of the employer-employee relationship, the retirant does not intend or expect or have an offer or contingency to become employed at any reporting unit.*

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[1] Individuals who were employed at Central Michigan, Eastern Michigan, Northern Michigan, Western Michigan, Ferris State, Lake Superior State, and Michigan Technological universities BEFORE January 1, 1996 – but have not yet been retired for 6 months – have a different set of rules when looking at work in a University after retirement. Contact your UniServ/Executive Director for a referral to MEA Field Service Consultant Paul Helder for additional assistance.

[2] If you are "dually employed" (i.e., currently employed at both a PSRU and working in a PSRU through a third party or as an independent contractor) as of Oct. 10, 2023, you can retire without ending your third party/independent contractor gig AND collect your pension and insurance premium subsidy benefits without penalty. This specific third party/independent contractor job is not considered "working after retirement" for YOU.

- Most members are to some degree aware of the first part of the provision, which we will cover in the next section, but very few understand the second part: that "the retirant does not intend or expect or have an offer or contingency to become employed at any reporting unit." This technically means not only that you cannot have a PROMISE of any future employment at a PSRU, it means you cannot even have an INTENT to return to work in a PSRU – and the ORS gets to make the determination as to whether or not you had this intent.
- Violation of this provision essentially makes your entire retirement invalid. This means that you are not retired, you're unemployed. Your pension checks and insurance premium subsidy (if applicable) immediately come to an end, and you have to pay back all pension checks you've ever received AND all of the costs ever incurred by the state for your insurance coverage through ORS. There is NO statute of limitations on this type of violation.
- Because the penalty is so serious, and MEA would hate for a member's simple curiosity to be misinterpreted as an "intent" to work in a PSRU, we strongly recommend that you direct ANY questions about the bona fide retirement provision to your MEA UniServ or Executive Director BEFORE speaking to ORS, your workplace, or any potential PSRU employer.

THE FIRST MONTH OF RETIREMENT:

- This is where the better understood part of the bona fide retirement provision – the need for a month of separation – comes in.
- The ORS (backed in many cases by administrative rules and court rulings) takes a very restrictive view of what "completely severing the employer-employee relationship" includes. Basically, you cannot work in/with/for – or volunteer in/with/for – any PSRU. You cannot substitute teach, help with curriculum issues, go running with some of the kids from the football team, or even remain on your local Association's bargaining team. So you have some idea just how seriously they take this, MEA had to get permission from a manager at ORS in order to ensure that a member who took a retirement date of July 1st was allowed to return classroom keys to the school in the month of July. Had that same member returned the keys in June, it would have been no problem as the Retirement Date was July 1st, but missing that window potentially opened the member up to real trouble.
- Given the aforementioned penalties associated with violation of this provision, MEA strongly advises that you simply let everyone at work know that you will not be taking any calls or responding to any emails in the first month of your retirement.

THE SECOND THROUGH THE SIXTH MONTHS OF RETIREMENT

- You can now return to work (or volunteer) in a PSRU. This can be your old employer or a new one. There are some limitations, however.
  - Assuming you had no problems with the bona fide retirement provision, and you are not a retired superintendent returning as a superintendent, you can work without any penalty (you keep collecting your pension checks and can stay on ORS insurance) so long as you don't earn more than $15,100 in a calendar year as a retiree from your public school employment. This means that:
    - A retiree with a Retirement Date of July 1 would not be allowed to work/volunteer in July (the first month of retirement) but could then earn up to (but not over) $15,100 between August 1st and December 31st without penalty.
    - A retiree with a Retirement Date of October 1 would not be allowed to work/volunteer in October (the first month of retirement) but could then earn up to (but not over) $15,100 between November 1st and December 31st without penalty AND THEN earn up to (but not over) $15,100 between January 1st and March 31st without penalty.

        - A retiree with a Retirement Date of January 1 would not be allowed to work/volunteer in January (the first month of retirement) but could earn up to (but not over) $15,100 between February 1st and June 30th without penalty.
    - Please note that the aforementioned $15,100 in earnings refer to gross earnings (the amount before taxes and other deductions are applied), not net earnings (the amount you actually see in your bank account). Please also note that because you are not likely paid each day you work on the day that you work – and because this is a new law that has not yet had any test cases in front of an Administrative Law Judge (ALJ) – we do not really know exactly how the delay in payments (or a payroll department's reporting to ORS) might move the needle when it comes to tracking the limit within a calendar year. The smart move is to keep your earnings a paycheck or two under the $15,100 limit in each calendar year during this short (5 month) window.
    - Members who had a bona fide retirement but are found to have gone over the $15,100 limit temporarily forfeit their pension and insurance premium subsidy benefits from the month the member went over the limit until the member terminates the employment in question. The member will have to repay any pension payments or insurance premium subsidy costs that occurred in the time of the forfeiture. Once the ORS is notified that this (post-retirement) employment is terminated, the member's pension and insurance premium subsidy will be reinstated, but a new six-month earnings limitation will be put in place for any future work after retirement. This new six-month earnings limitation period will start the day after the date of the aforementioned post-retirement employment termination.
    - It is also worth noting that while working for your old employer in your old job (or one very much like it) is not, strictly speaking, prohibited under the law, it's a REALLY bad idea as it calls into question whether or not you have a bona fide retirement. Subbing once in a while in your old classroom is fine. Retiring and then coming back to work as a long-term sub in your old classroom is playing with fire.
    - If you are a retired superintendent, the above rules apply as long as you do not return to work as a superintendent. If you do, your pension and insurance premium subsidy will be forfeited.

AFTER SIX MONTHS OF RETIREMENT

- Assuming that you have a bona fide retirement and haven't violated the rules regarding earnings limitations in months 2 through 6, you can make as much money as you want without jeopardizing your pension or insurance premium subsidy benefits – at least until they change law again (or until the current law expires on October 10, 2028). This includes a retired superintendent returning to work as a superintendent.