

Wyoming Administrative Rules

Retirement System

Retirement Board

Chapter 12: Reemployment of a Retiree

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CHAPTER 12
REEMPLOYMENT OF A RETIREE

Section 1. **Authority.** This Chapter is promulgated under the authority of W.S. § 9-3-415(g).

Section 2. **Applicability.** This Chapter applies to any Retired Member of the Public Employee Plan, the Law Enforcement Plan and the Air Guard Firefighter Plan.

Section 3. **Definitions.**

(a) “Retired Member” means a member of the System who has terminated his working career for a salary as an employee of an Employer covered by this Chapter and fulfilled the requirements for eligibility to receive a retirement benefit. In order for a member to be eligible to receive a retirement benefit and be considered a “Retired Member,” the System shall have received applicable termination notification from each Employer in a particular plan and shall have received final contributions on behalf of the member from all Employers.

(b) “Rehired Retiree” means a Retired Member who becomes employed by an Employer into a Vacant Full-time position of a regularly contributing employee within the same pension plan in which the retirement benefit of the Retired Member is based.

(c) “Vacant Full-time” means a position for which a full month of service credit is earned.

(d) “Retirement Date” means the date identified on a member’s retirement application as the date upon which retirement benefits shall commence.

(e) “Break in Service” means the period of severance of employment that begins upon a member’s Retirement Date.

Section 4. **Bona Fide Break in Service.**

(a) In order to satisfy Internal Revenue Service requirements that a retirement is bona fide and results in a legitimate termination of employment, and to protect the actuarial integrity of the System, a bona fide Break in Service must occur before a Retired Member becomes eligible for reemployment as a Rehired Retiree. A bona fide Break in Service shall be deemed to have occurred when:

(i) The member has severed the employment relationship with all Employers within a particular plan and the System has received all applicable termination notifications;

(ii) The member has not resumed the employment relationship with an Employer;

(iii) The Employer and member did not have an agreement, whether formal or informal, prior to the member's Retirement Date indicating that the member would become reemployed by the Employer; and

(iv) The Employer and member reasonably did not anticipate that the member would perform any further services for the Employer subsequent to the member's Retirement Date.

(b) Upon a determination by the System that a bona fide Break in Service did not occur prior to the date of reemployment, the System shall cancel a Retired Member's benefit and reinstate the member as a contributing member of the System retroactive to the member's Retirement Date. Any benefit payments received by the member prior to reinstatement shall be deducted from future benefit payments.

Section 5. **Rehired Retiree Election.**

(a) A Retired Member reemployed by an Employer into a vacant full-time position of a regularly contributing employee following a bona fide Break in Service of not less than thirty (30) days shall make an irrevocable election to either:

(i) Continue receiving a retirement benefit and not be reinstated as a contributing member of the System. Any member who makes this election shall not accrue any service credit under the System during the period of reemployment; or

(ii) Discontinue retirement benefits and be reinstated as a contributing member of the System. Any member making this election shall accrue service credit from the date the election is made in accordance with applicable provisions of the Wyoming Retirement Act. The accrual of credit shall continue during the period of reemployment.

(b) Any Employer of a Rehired Retiree electing to continue receiving retirement benefits shall pay into the System an amount equal to both the member's and employer's contributions required by law based upon the Rehired Retiree's salary.

Section 6. **Subsequent Retirement.**

(a) For a Rehired Retiree who elected to discontinue retirement benefits and be reinstated as a contributing member of the System, the subsequent retirement benefit shall be calculated by combining both employment histories and applying an actuarial adjustment based upon the amount of benefits the member was paid during the first period of retirement.

(b) The retirement benefit option and beneficiary designated by a member upon initial retirement is irrevocable and shall not be changed for any reason, including reinstatement as a contributing member of the System or a subsequent retirement.

(c) For a Rehired Retiree who elected to discontinue retirement benefits and be reinstated as a contributing member of the System, the highest average salary factor applied as a matter of law to calculate the member's initial retirement benefit shall apply to the subsequent retirement unless the period of reemployment is long enough to supersede and replace the initial factor.

(d) If the monthly retirement benefit amount calculated upon a Rehired Retiree's subsequent retirement is less than the benefit amount calculated upon the member's initial Retirement Date, the System shall apply the higher benefit effective upon the subsequent Retirement Date. In no case shall retroactive retirement benefits be paid for the period of reemployment. No cost of living adjustments that may have been awarded prior to the member's subsequent Retirement Date shall be applied to the final benefit.

(e) No Rehired Retiree shall be entitled to a refund of any contributions and interest paid during the period of reemployment.

Section 7. Elected Officers; Status upon Expiration of Term; Reelection; Resignation; Retirement; Continuous Service.

(a) Any member who holds an elective office ceases to be an active member of the System by virtue of that office upon expiration of the term for which elected, if that member is not reelected to either the office then held or another covered office.

(b) If a member retires from elective office under the System and is subsequently reelected to a covered office, the elected officer is considered a Rehired Retiree and is required to provide the notification and designation specified in this Chapter.

(c) Reelection to the same office or another covered office without any intervening Break in Service is considered to be continuous service.

(d) If an elected officer resigns or retires from office subsequent to an election at which the officer is elected to another term for that office or another covered office and if the elected officer assumes the duties of office upon commencement of the term for which elected, the period of such resignation or retirement is not considered a bona fide Break in Service nor is the commencement of the new term following such resignation or retirement considered reemployment for the purpose of making a designation pursuant to this Chapter.