WORKING *after* retirement

For School Employers
New Rules Starting July 1, 2016

Rules changing for employers and members

Recent legislation changes working-after-retirement rules for both employers and members if a retiree returns to a KPERS employer. Among the changes is an earnings limit increase to $25,000, and it will affect all retirees not under an exemption. Also, employers will now make contributions on all retiree compensation beginning with day one and dollar one. School employers will lose their current earnings-limit exemption in 2020, but will gain three new exemption categories July 1, 2016.

Fiscal Years 2017-20 are a bridge

Beginning July 1, 2016 (FY 2017), most employees will move to the new rules. Until then, employees can continue under the current rules, some for even longer.

- **Non-licensed, accepted position before May 1, 2015:** Grandfathered indefinitely until change job/employer or break in service.
- **Non-licensed, accepted position May 1, 2015, and after:** Old rules until June 30, 2016. New rules start July 1, 2016.
- **Licensed, retired before May 1, 2015:** Grandfathered until June 30, 2020. New rules start July 1, 2020.
- **Licensed, retired May 1, 2015, and after:** Old rules until June 30, 2016. New rules start July 1, 2016.

Whenever an employee is grandfathered, so are the employer contribution rules.

All returning retirees will have the earnings limit

With the old rules, retirees returning to work at their same employer and retirees going to work for a different KPERS employer are treated differently. The new rules, beginning July 1, 2016, remove this difference. Going forward, all KPERS retirees will have a $25,000 earnings limit for each calendar year, no matter which KPERS employer they return to. 2016 will be a transitional year. Employees with a $20,000 earnings limit can earn an additional $5,000 for the calendar year. Employees new to the earnings limit can earn $25,000 July through December 2016. Employees won't make KPERS contributions on their working-after-retirement wages or earn more KPERS service. But employers will make working-after-retirement contributions to KPERS.

What's the same:

- ✓ 60-day waiting period
- ✓ No prearrangements to return to work (added penalties)
- ✓ Some employees are grandfathered under old rules
- ✓ Daily call subsitute classroom teachers are still exempt

What you need to do:

- ✓ Do not make employment prearrangements with retiring KPERS members
- ✓ Enroll **all** hired retirees in the "working after retirement" plan at KPERS
- ✓ Pay employer contributions from day 1 and dollar 1
- ✓ Continue to recruit for positions and document your ongoing efforts

Questions?

Email: kpersFS@kpers.org

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No “prearranged agreements”

The law has always been that retirees can’t make prearrangements to return to work. But now the law requires retiring employees to certify they have not made arrangements to return to a KPERS employer, and employers must certify the same thing when hiring a KPERS retiree. While this is not new, the Legislature just added new penalties if it happens. That means employees and employers can’t communicate in any way about an intent to return to work before the member retires and during the 60-day waiting period after the member’s retirement date. This includes any kind of communication.

The penalty is suspended benefits starting the month a retiree returns to work and ending six months after he ends employment. Retirees will also repay any benefits paid while they were working after retirement. The employer will pay all IRS-associated costs, including costs for legal defense, and costs for collecting repayment from the employee.

Employers will contribute on all retiree compensation

Beginning July 1, 2016, employers will pay the normal KPERS statutory rate on all retiree compensation (unless an employee is in a special grandfathered group). This includes both retirees who have and have not reached the $25,000 earnings limit. It includes retirees in all positions, even those positions not normally covered by KPERS benefits and retirees working through a third-party or independent contractor. But it doesn’t include daily call substitute classroom teachers.

Daily call substitute teachers are exempt from the earnings limit, and you do not need to enroll them in working after retirement. Substitute teachers do not include other kinds of substitute positions like custodians, food service, bus drivers, coaches, etc. You will make contributions on compensation for those other kinds of substitutes. As always, **retirees do not make contributions.**

Employers hiring retirees for special education, hard-to-fill and hardship positions will pay a flat 30% employer contribution rate. The Legislature is scheduled to review this set rate periodically in the future.

If a retiree is in a grandfathered group, the grandfathering also includes employer contribution rules. The only time an employer will not make contributions on retiree compensation is if the retiree is part of certain grandfathered groups.

New licensed positions exemptions start July 1, 2016

Some retirees in licensed school positions (with their same employer) are now exempt from the earnings limit. New rules drop this exemption in 2020, but replace it now with something new—the “special ed” and the “hard-to-fill” exemptions. These new exemptions cover both retirees returning to their same employer or a different employer.

Retirees are capped at a total of four years in any combination of licensed grandfathered and exempt positions. *After four years, each retiree will have an earnings limit.*

Retirees hired by a third-party or independent contractor to provide services to a KPERS employer are not eligible for the exemptions and are under the $25,000 earnings limit. Employers pay the normal KPERS statutory rate.

Special ed positions

If employers can’t fill licensed special ed positions with active, permanent members, they can hire retirees. This includes special ed teachers and related services, like speech-language pathology and audiology services, interpreting services, physical and occupational therapy, social work, therapeutic recreation, transportation, etc. See K.S.A 72-962 (j) and (s) (1) for the full list. These retirees can have an exemption to the earnings limit for up to 36 months or three annual contracts, whichever is less, with the possibility of a one-year extension. This includes if they change employers. Retirees will continue to receive their benefit payments even after earning $25,000 in a calendar year until they reach the four-year exemption cap.

Employers must make ongoing, documented efforts to recruit a permanent replacement for each school year.

Hard-to-fill positions

Annually, the State Board of Education will certify the five licensed position types that are hardest to fill. School districts can hire retirees to fill those types of positions without an earnings limit. Once in a hard-to-fill position, retirees may continue working without an earnings limit, even if the position is no longer on the hard-to-fill list. Retirees are limited to 36 months or three annual contracts (whichever is less), with the possibilty of a one-year extension. After reaching the four-year cap, retirees will have an earnings limit.

Employers must make ongoing, documented efforts to recruit a permanent replacement for each school year.

New "hardship" exemption

All employers may use a "hardship" exemption. This is available for non-licensed and licensed school positions. An employer may certify a position as a "hardship" position when it becomes vacant due to an unexpected emergency or when the employer has been unsuccessful in efforts to recruit and fill the position. A retiree may be hired into a "hardship" position without an earnings limit for up to one school year with the possibility of three (3) one-year extensions. Employers must continue to make ongoing documented efforts to recruit a permanent replacement. Retirees are capped at a total of four years in any combination of licensed grandfathered and exempt positions.

Extensions and the assurance protocol

For all positions with exemptions, employers must continue to make documented efforts to recruit a permanent replacement. To extend an exemption, employers must certify they are complying with a new list of criteria.

1. Advertise the position at least 30 days in multiple platforms
2. And one of the following:
   - No applications received
   - No applicants met the reference criteria
   - No applicants had the right licensure, certification or credentials

Some retirees will be grandfathered

Employees will be grandfathered, depending on when they retired and when they returned to work. This includes KPERS covered and non-covered positions. Also, licensed and non-licensed school positions will be treated differently.

Licensed professionals →

1. Retire before 5/1/15
2. Employee grandfathered until 6/30/20
3. Employer contribution rules grandfathered

Other retirees →

1. Accepted position before 5/1/15
2. Employee grandfathered indefinitely if same job/employer and no break in service
3. Employer contribution rules grandfathered

What about "great-grandfathers"?

Working-after-retirement legislation in 2006 created an original grandfathered group of members. While it isn't likely there are many still working, if they are, they'll be great-grandfathered into the original 2006 rules they have been working under since then. This covers both licensed and non-licensed positions.

Returned to different employer

- Returned to work before July 1, 2006, and working May 1, 2015
- No earnings limit (if same job/employer and no break in service)
- No employer contributions

Returned to same employer

- Returned to work before July 1, 2006, and working May 1, 2015
- $25,000 earnings limit
- No employer contributions (if same job/employer and no break in service)

Employer Manual available online

kpers.org

KPERS Employer Manual is available on our website. It has the most up-to-date info on working after retirement and other topics to help designated agents and additional signers administer KPERS benefits for your employer.

You'll also find How-to documents for help doing business on KPERS' employer web portal.

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School Contribution Rates & Earnings Limits by Category

Category	EWP Code	CY Earnings Limit	Rate FY17 School Year 2016-17	Rate FY18 School Year 2017-18
Non-licensed and *same or different* employer Accepted position 5/1/15 or after	AC	$25,000	10.81% (reg statutory)	12.01%
Non-covered position, *different* employer Accepted position before 5/1/15 (grandfathered)	ANC	none	0%	0%
Non-licensed and *same* employer Accepted position before 5/1/15 (grandfathered)	AWNR	$25,000	0%	0%
Non-licensed and *different* employer Accepted position after 7/1/06 but before 5/1/15 (grandfathered)	ASNL	none	22.03% (ARC+6)	22.38% (ARC+6)
Licensed and *same* employer Retired before 5/1/15 (grandfathered)	AWL	none	24.03% (ARC+8)	24.38% (ARC+8)
Licensed and *same or different* employer Retired on or after 5/1/15 (not in exception group)	AC	$25,000	10.81% (reg statutory)	12.01%
Licensed and *different* employer Returned to work 7/1/06 and after with retirement date before 5/1/15 (grandfathered)	AS	none	24.03% (ARC+8)	24.38% (ARC+8)
Same employer Returned to work before 7/1/06 and working on 5/1/15 (great-grandfathered)	AB	$25,000	0%	0%
Different employer Returned to work before 7/1/06 and working on 5/1/15 (great-grandfathered)	ABD	none	0%	0%
Special ed (new exception begins 7/1/16)	ASE	none	30%	30%
Hard-to-fill (new exception begins 7/1/16)	AHF	none	30%	30%
Hardship (new exception begins 7/1/16)	AD	none	30%	30%
Daily call substitute teachers *(do not enroll)* Definition: Classroom teacher paid daily for services rendered. Has control over own hours. Has an option to say no. Does not include any other non-licensed positions like custodians, food service, bus drivers, coaches, or any other licensed positions like nurses, speech therapists, principals, social workers, counselors, etc.		none	0%	0%