



## Montana Teachers' Retirement System FACT SHEET: Volunteer Service

Under current TRS law, a **“bona fide volunteer position” is not reportable to TRS.** The legal definition of a bona fide volunteer position is provided below.

§19-20-302(9), MCA, states:

- (a) A position is not reportable to the retirement system if the position is a *bona fide volunteer position*.
- (b) A position is a bona fide volunteer position if **all** of the following criteria are met:
  - (i) The individual in the position receives no salary, stipend, remuneration of any kind, reimbursement of expenses, or in-kind benefits or services for service in the position. Employer payments of premiums for required insurance coverage directly related to the volunteer service, such as workers' compensation coverage or personal or professional liability coverage, does not constitute remuneration.
  - (ii) The position was not a paid position with the employer within the 12 months prior to being designated as a volunteer position by the employer.
  - (iii) The position does not become a paid position for at least 12 months following the employer's designation of the position as a volunteer position.
  - (iv) The employer does not have any other individual working as a paid employee in the same position while the position is designated as a volunteer position.
  - (v) The individual in the position does not perform work in the volunteer position in excess of:
    - (A) 4 hours in a day, 12 hours in a week, and 312 hours in a fiscal year if the service is performed during regular business days of the employer; or
    - (B) 312 hours in a fiscal year if the service is performed primarily at times other than during regular business days of the employer.
- (c) The retirement system may require the employer to provide information and documentation to verify that a position designated as a volunteer position meets all requirements set forth in this subsection (9).

A position is reportable to TRS based on the duties and functions performed in the position, not on the person working in the position. In the case of a bona fide volunteer position, the duties and functions performed may be similar to those performed in a TRS reportable position, but the individual in the position may not receive any type of compensation, remuneration, benefits, or other “payment” for performing the duties and functions.

The job title of a bona fide volunteer position must clearly specify that it is a volunteer position. For example, an employer could create a position titled “Volunteer Limited-Duty Coaching Assistant – Football” to provide support services for its compensated football coaching staff. An employer *may not* reclassify a paid position as a volunteer position and may not have a volunteer provide service in the same position (same job title, same job description, same position number, etc.) in which a compensated individual is working.

### Volunteer Service by a TRS Retiree

As of July 1, 2017, a TRS retiree may provide service in a bona fide volunteer position without suspension or adjustment of the retiree's retirement benefits and without consideration of TRS's requirements for postretirement employment (i.e., that the member must first terminate employment, attain retired member status, and satisfy TRS's break-in-service requirement).<sup>1</sup> However, before the retiree may provide service in a bona fide volunteer position, the member and employer must notify TRS of the member's postretirement volunteer service and must certify that the position is a bona fide volunteer position.

### How do TRS Employers Certify the Status of a Retiree's Volunteer Position?

TRS retirees and their employers are required to submit Form 146 *Retired Member's and Employer's Notice of Postretirement Employment*, along with supporting documentation, when a retiree returns to work on either a paid or a volunteer basis. Once TRS has received Form 146 and all required documentation from the retired member and employer, TRS records the status of the retiree's volunteer service for tracking purposes.

- Remember, the retired member and employer are required to submit an updated Form 146 annually, or anytime there is a change to the duties and functions of the position or to the terms of the member's postretirement employment.

### What Are Some Examples of a Bona Fide Volunteer Position?

1. A school district had four paid para-educators on staff last year. This year, a TRS retiree will volunteer for one hour per day in that capacity. The district still has four paid para-educators. As long as the fifth position does not become paid within 12 months of its designation as a volunteer position and does not exceed the hourly restrictions specified in the legal definition, the retiree may provide service as a bona fide volunteer.
2. A TRS member who retired effective July 1 wants to serve as an assistant football coach starting in August. The retiree may fulfill that role without a break in service, as long as the position meets the legal definition of a bona fide volunteer position.
3. A TRS member retires from teaching but wants to stay involved in education, such as by reading to children a few hours per week or mentoring another teacher. The retiree may provide these services on a volunteer basis without a break in service, as long as the position meets the legal definition of a bona fide volunteer position.

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### Questions?

If you have any questions about the content of this Fact Sheet, please contact us.

**Montana Teachers' Retirement System ♦ 406-444-3134 ♦ 866-600-4045 ♦ [trs.mt.gov](http://trs.mt.gov)**

*Please Note: This Fact Sheet is intended to provide a concise, easy-to-understand summary of TRS law and policy. The actual application of TRS law will depend upon the specific circumstances and facts presented. In determining the rights and obligations of any person, TRS law will supersede any contradictory information provided in this Fact Sheet.*

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<sup>1</sup> For details, see other TRS Fact Sheets, *Terminating Employment and Retiring with TRS* and *Working After Retirement*.