

# TEACHERS' RETIREMENT SYSTEM



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## Memo

Date: December 20, 2013  
To: All Employers Reporting to Teachers' Retirement System (TRS)  
From: Shawn Graham, Executive Director  
Montana Teachers' Retirement System  
RE: **Employer Requirements** for Documenting Termination of Employment and Pre-arranged Agreements of Retiring TRS Members, and Post-retirement Work of TRS Retirees

The 2013 Legislature enacted a number of laws that modify the post-retirement limitations on TRS members and enhance the documentation and reporting obligations of both members and employers. In light of those changes, TRS is providing this outline of an employer's documentation and reporting obligations relevant to the retirement of a TRS member and the post-retirement work of a TRS retiree.

Please read this memo carefully and be sure to contact TRS at (406) 444-3134 or (866)-600-4045 if you have any questions about what you are required to do as an employer reporting to TRS.

- **Termination of Employment:** A TRS member is eligible to retire on the first day of the month following the member's termination of employment in all positions reportable to TRS. Put simply, and subject to only one very narrow exception, a TRS member has terminated employment with an employer only when the member is no longer performing any work or providing any service on the employer's behalf, in any capacity. The employer must certify a member's termination of employment on form 144 as described below.
- **New Normal Retirement Age Applicable to Pre-Arranged Agreements:** A TRS member is **not** eligible for TRS retirement benefits (has not terminated employment) if they have **not** reached normal retirement age *and* they have a pre-arranged agreement to return to work with their current employer. The 2013 Legislature changed the **normal retirement age** for TRS members to **age 60** (previously age 55). The new normal retirement age will apply to pre-arranged agreements for retiring members, based on a date of termination on or after January 1, 2014.

**NOTE:** a pre-arranged agreement to return to work is an oral or written agreement between the current employer and the member to provide services or perform work on behalf of the employer at any time in the future. This includes services in *any* capacity including as an employee, an independent contractor, a volunteer, a leased employee, or an employee of a third party.

- **150 Day Break in Service:** An unmistakable interval of time between a member's retirement and their return to work as a retired member is necessary in order to help ensure compliance with IRS public pension qualification standards.

If a TRS member retires or applies for reinstatement of benefits based on a termination date of January 1, 2014, or later, the member must wait 150 calendar days – commencing on the first day following the

member's date of termination – before they can return to work as a working retiree in a TRS reportable position.

**EXCEPTION:** a retired member may work in the classroom as a substitute for a certified teacher. The exception is limited to 45 days within the break in service period *and* the member must have attained retired member status prior to beginning the service as a substitute.

### **Summary of TRS Employer Reporting Forms:**

- ***Member and Employer Certification of Termination of Employment – FORM 144***
  - TRS Form 144 has been revised to provide for the required certification by the member and the employer. Form 144 provides detail regarding what does and **does not** constitute termination of employment as well as the requirement for attaining retired member status and the 150 day break in service. A pdf copy of the revised form 144 is attached and/or available for your reference and review on the TRS website at [www.trs.mt.gov](http://www.trs.mt.gov).
- ***Requirement to Determine Retirement Status of New Hires/Report Working Retirees – FORM 107 (New Hire Questionnaire)***
  - Employers are required to obtain information from each individual hired to fill a position reportable to TRS by having the individual complete TRS Form 107. This form is used to determine the individual's status with TRS. While Form 107 is not submitted to TRS by the employer (but must be kept on file by the employer), the information provided by the new hire on Form 107 is necessary to the employer to properly code the individual on the employer's monthly report to TRS, and will, consequently, be used to determine the employer and/or employee contributions due to TRS.
  - Because employer contributions must also be paid on independent contractors, an employer must also obtain the information required on Form 107 for all independent contractors providing service on behalf of the employer in a position reportable to TRS (including TRS retirees who are employees or subcontractors of an independent contractor under a contract with the employer).
- ***Requirement to Report Post-retirement Employment – FORM 146***
  - Upon employment of a TRS retiree in a position reportable to TRS, the member and the employer are required to complete TRS Form 146 and submit the form and all required supporting documentation to TRS. This includes an employee of the employer, an employee of a third party, an independent contractor, or a volunteer.
  - If the retiree does not initiate completion of Form 146, the employer has an independent reporting obligation to TRS and must initiate completion of the form and submission of supporting documentation.
- ***Requirement to Monthly Report Employment, Wages and Contributions of TRS Retirees***
  - An individual employed in a position reportable to TRS must be reported to TRS on the employer's monthly contribution report.
  - A TRS retiree must be reported to TRS on the employer's monthly contribution report even if working in a position not reportable to TRS.
  - Effective July 1, 2013, employers are required to remit employer contributions on the compensation paid to a TRS retiree working in a position reportable to TRS.

### **Use Current Forms and Contact TRS With Questions**

TRS is in the process of updating member and employer information and forms. TRS must return outdated forms, which causes delays in processing by the TRS staff. Please check the TRS website at [www.trs.mt.gov](http://www.trs.mt.gov) or call the TRS office at (406) 444-3134 to be sure that you have the most recent information and forms.