

TEACHERS' RETIREMENT SYSTEM



STEVE BULLOCK, GOVERNOR

www.trs.mt.gov

STATE OF MONTANA

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County Superintendents of Schools

Dear Superintendents:

The Montana Teachers' Retirement System (TRS) is providing this Notice as an important reminder that County Superintendents of Schools and related positions are reportable to TRS. Please contact TRS if you have any questions regarding the content of this Notice or the proper reporting of any individual. Over the next few months, TRS will review the reporting of County Superintendent of Schools for each county and will follow-up directly with counties where it appears incorrect reporting may be occurring. The responsibility to ensure correct reporting lies with the county.

Pursuant to 19-20-302(d), MCA, an individual employed in an educational services capacity by the office of a County Superintendent must participate in TRS. This would include, but may not be limited to:

- the elected or appointed County Superintendent (unless subject to the exception described in the following section), whether or not the individual possesses the qualifications/certification to perform the educational duties and functions of the office, and
- a certified educator engaged to perform the duties and functions of the office if the elected/appointed County Superintendent does not possess the requisite teaching qualifications or certification.

These individuals must be reported monthly to TRS as either an active member or a working retiree, as appropriate. Employer and employee contributions must be remitted on active members; employer contributions must be remitted on working retirees. A TRS retiree, unless excepted as described in the following section, is subject to all TRS requirements applicable to working retirees, including but not necessarily limited to:

- the 150 day break in service requirement, and
- the postretirement earnings limitations.

Exception

A TRS retiree who is elected to the office of County Superintendent or appointed to complete the term of an elected County Superintendent may elect to remain a retired member of TRS and continue to receive retirement benefits while serving as the County Superintendent of Schools. Note, this exception applies:

- only to a TRS retiree,
- only to the officially elected or appointed County Superintendent position, and
- only if the retiree completes and files with TRS, within 30 days of taking office, an irrevocable

election to remain a retired member of TRS (TRS Form 134).

Important! A retiree who elects to remain a retired member of TRS is not eligible to participate in any other public retirement system for her/his service as County Superintendent of Schools.

Caution Regarding Independent Contractor Status

An individual working as an independent contractor is not eligible to participate as an active member of TRS. As such, it is important to understand the distinction between *employee* and *independent contractor* worker status. For any TRS reportable position, worker status is determined solely by application of the IRS worker classification control factors. It is the employer's responsibility to accurately determine an individual's worker status by reviewing and applying the IRS control factors. Note, the issuance of an independent contractor exemption certificate by the Montana Department of Labor and Industry does not ensure that the IRS control factors are met. If there is any question regarding an individual's worker status, the individual must be reported to TRS. For more information about worker classification, please visit www.irs.gov.

Important! A TRS retiree employed in a position reportable to TRS who does not qualify for exception as described in the previous section must be monthly reported to TRS, and employer contributions must be remitted, regardless of whether the retiree's worker status is listed as an employee or as an independent contractor.

If you have further questions or concerns, please contact TRS via telephone at (406) 444-3134 or (866) 600-4045.

Regards,

Shawn Graham
Executive Director

c.c.: Harrold Blattie, MACO