



Montana Teachers' Retirement System FACT SHEET: 150-Day Break in Service Requirement

Montana law requires TRS to be a tax-qualified pension plan, which means TRS must comply with all qualification standards set forth in the Internal Revenue Code (IRC). One such standard prohibits TRS from paying retirement benefits to a member who has not terminated employment¹ in all positions covered by the retirement system. TRS must verify the member has had a *bona fide separation from service* – i.e., has actually terminated employment and retired – before paying any benefits.

Why is this important? If you retire at the end of the school year and receive your first TRS retirement benefit in late June but you return to work in a position reportable to TRS when the school year begins in late August, have you really had a bona fide separation from service? To avoid ambiguity, many public retirement systems across the U.S., including TRS, enforce a *break in service requirement*. If you recently retired – or if you plan to retire soon – and you plan to return to work in any position reportable to TRS,² please be sure you understand all requirements explained in this Fact Sheet.

150-day break in service requirement

To ensure you have a bona fide separation from service and are eligible to receive retirement benefits, you must wait at least **150 calendar days**³ before you return to work in any position reportable to TRS.

- The 150-day period begins on the day following your last certified date of termination of employment and ends on the 151st calendar day.

Example: Your pre-retirement employer certifies that your last day of employment was June 15. You would be allowed to return to work in a TRS-reportable position on or after November 13.

- When you retire, TRS will notify you of the exact date on which your 150-day period will end.
 - **TIP:** You can view this date by logging into **My TRS**, the online member account system.
- The break in service requirement applies whether you provide services as an independent contractor, an employee of the TRS employer, or an employee of a third party. It may also apply to unpaid volunteer duties, except as noted under *Exceptions to the 150-Day Break in Service Requirement*, below.
- Working retirees are subject to an annual earnings limitation.⁴

Note about TRS retirees working in PERS positions. The TRS 150-day break in service requirement applies only to TRS-reportable positions. However, other restrictions can affect your ability to retire with TRS and return to work in a position covered by the Public Employees' Retirement System (PERS). These restrictions are described in a separate TRS Fact Sheet, *Working After Retirement*.

¹ For details, see TRS Fact Sheet, *Terminating Employment and Retiring with TRS*.

² See TRS Fact Sheet, *Which Positions Are Reportable to TRS?*

³ This requirement took effect for all TRS members who retire (or who apply for recalculation or reinstatement of retirement benefits) based on a certified termination date of January 1, 2014 or later.

⁴ TRS Fact Sheet, *Working After Retirement*, describes all requirements and limitations applicable to working retirees.

Exceptions to the 150-Day Break in Service Requirement

1. The 2017 Montana Legislature established that *bona fide volunteer positions*⁵ are not reportable to TRS, and therefore are not subject to the 150-day break in service requirement.
 - If the employer is unable to provide certification to TRS that a volunteer position meets *all* criteria specified in state law, the break in service requirement still applies.
2. TRS law allows a limited *substitute teaching exception* for recent TRS retirees. If you have *received* at least one monthly TRS benefit payment and if you meet certain other requirements,⁶ you may substitute teach up to 45 days during the 150-day break in service period for a regular K-12 classroom teacher who is temporarily absent.
3. In very limited circumstances, an exception applies to reemployment of certain teachers, specialists and administrators who retired with at least 27 years of service and who meet all additional requirements specified in §19-20-732, MCA.

If you and your employer violate the 150-day break in service requirement:

- You will be returned to active member status, retroactive to your date of retirement;
- You will be required to repay all the retirement benefits you received, plus interest; and
- You and your employer will be required to pay the full amount of member and employer contributions that should have been paid during the time you were working in violation of the requirement.

Questions?

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

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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.

⁵ Criteria for bona fide volunteer positions are outlined in a separate TRS Fact Sheet, *Volunteer Service*.

⁶ See the TRS Fact Sheet, *Substitute Teaching*, for a list of requirements that must be met to qualify for the substitute teaching exception. The Fact Sheet explains the types of teaching service you may and may not provide under this exception.