

# CONSIDERATIONS FOR HIRING A RETIREE

## Common questions when hiring teachers who are receiving pension payments from the Teachers Retirement Association (TRA)

	Age 62 or more	Age 61 or less
<b>TRA: Earnings Limitation</b>		
When does the \$46,000 earnings limitation apply? <i>*See note.</i>	The earnings limitation applies until the teacher reaches normal retirement age, as defined by the Social Security Administration.  Source: <a href="https://minnesotatra.org/retirees/post-retirement-work-elsa/">https://minnesotatra.org/retirees/post-retirement-work-elsa/</a>	
<p><b>Additional details from TRA’s website:</b> <i>*See note.</i></p> <p>TRA retirees may return to work in a TRA-covered position and earn up to the earnings limitation of \$46,000 (in a fiscal year) without reducing their TRA pension benefit.</p> <ul style="list-style-type: none"> <li>• Any non-TRA covered employment is not subject to an earnings limitation.</li> <li>• The earnings limitation is applied to salary earned on a fiscal year basis (July 1 to June 30).</li> <li>• If you are under normal retirement age for the entire fiscal year, as defined by the Social Security Administration, the earnings limitation is \$46,000.</li> <li>• If you are under normal retirement age and are retired for only a portion of the year, the earnings limitation amount will be prorated (<math>\\$46,000 \times \text{number of months retired during the fiscal year} \div 12</math>). The year you turn your Social Security normal retirement age, the limit is \$46,000 for the portion of the year you are under normal retirement age.</li> <li>• If you are a Minnesota State retiree on the Annuitant Employment Program (AEP), the earnings limitation is \$62,000 for the fiscal year. It is not prorated for the first year of retirement or for the year you reach your normal retirement age.</li> </ul> <p>Source: <a href="https://minnesotatra.org/retirees/post-retirement-work-elsa/">https://minnesotatra.org/retirees/post-retirement-work-elsa/</a></p>		
What happens if the annuitant exceeds the \$46,000 earnings limitation? <i>*See note.</i>	<p>If the earnings limit is exceeded on a fiscal year basis, 50% of the difference between the earnings and the limit will be withheld beginning in January of the following year.</p> <p>The money is deposited into an Earnings Limitation Savings Account (ELSA). One year after the last amount was withheld, the annuitant can request a refund from their ELSA. In summary, the earnings are deferred, not forfeited.</p>	
<p><i>* Note: Legislation passed in 2022 permits retired teachers who resume teaching at a public school, charter school, or the Perpich Center for Arts Education to teach without application of an earnings limitation through June 30, 2024.</i></p> <p><i>The earnings limit resumes for wages earned beginning on July 1, 2024.</i></p>		



	<b>Age 62 or more</b>	<b>Age 61 or less</b>
<b>TRA: Return to Work Agreement</b>		
Does the retiree need to submit a "Return to Work Agreement" to TRA?	<p>Yes; a "Return to Work Agreement" is required if you have a written or oral agreement in place before retiring.</p> <p>If no written or oral agreement is in place before retiring, no "Return to Work Agreement" is required.</p>	<p>No; a retiree must be 62 when retiring to have this agreement in place.</p> <p>Source: <a href="https://minnesotatra.org/retirees/post-retirement-work-elsa/">https://minnesotatra.org/retirees/post-retirement-work-elsa/</a></p>

	<b>Age 62 or more</b>	<b>Age 61 or less</b>
<b>Waiting Period / Break in Service</b>		
Can the School Board have a conversation with the retiree before their retirement date about the possibility of hiring them back?	Yes; if an agreement is made, a "Return to Work Agreement" is required.	<p>No; no written or oral agreement can be in place before the retirement effective date.</p> <p>Can you ask someone if they would be interested? Yes; however, you cannot discuss the details of an agreement.</p>
Can the School Board act on hiring the retiree before the effective date of their retirement?	Yes; if an agreement is made, a "Return to Work Agreement" is required.	No; no written or oral agreement can be in place before the retirement effective date.
Is there a waiting period (or break in service requirement) between the effective date of retirement and the date a School Board takes action to rehire the retiree?	No; the School Board may rehire a retiree before his/her retirement effective date.	<p>Not applicable; No written or oral agreement can be in place before the retirement effective date.</p> <p>The School Board may discuss the possibility of hiring back the annuitant after</p>



		their benefit effective date. No other break in service or waiting period is required.
Is there a waiting period (or break in service requirement) between the effective date of retirement and the rehire effective date?	<p>Yes; there must be a break in service of 1 day between the retirement effective date and the rehire effective date.</p> <p>An annuitant cannot work on their benefit effective date. For example, if the annuitant has a June 30 retirement date, their benefit effective date July 1. Their rehire effective date can be on or after July 2.</p> <p>These dates are submitted to TRA in the "Return to Work Agreement."</p>	<p>Not applicable; No written or oral agreement can be in place before the retirement effective date.</p> <p>The School Board may discuss the possibility of hiring back the annuitant after their benefit effective date. No other break in service or waiting period is required.</p>

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<b>Contract</b>		
Should the School Board approve an individual contract with the retiree?	<p>Yes.</p> <p>The modified individual teaching contract should include language which states:</p> <ol style="list-style-type: none"> <li>(1) the retired teacher has had the opportunity to talk with the teacher's attorney relative to waiving the teacher's statutory rights to tenure,</li> <li>(2) the retired teacher understands the teacher's statutory rights to tenure, and</li> <li>(3) the retired teacher willingly agrees to waive those statutory rights.</li> </ol> <p>It should also contain language which addresses the following:</p> <ol style="list-style-type: none"> <li>(4) the retired teacher's placement on the salary schedule,</li> <li>(5) which benefits the retired teacher will be eligible for (i.e., "X" number of sick leave days),</li> <li>(6) which, if any, provisions of the Master Agreement the retired teacher willingly waives rights to (i.e., severance or retirement pay), and</li> </ol>	



	(7) indemnification language for the school district that basically states issues regarding TRA which relate to or arise as a result of the retired teacher's re-employment are between the retired teacher and TRA.
Can the retired teacher waive his/her right to tenure?	Yes. The individual can; however, the exclusive representative cannot bargain this waiver into the Master Agreement.
Who sets the salary for a retiree who is rehired?	First, look to the Master Agreement (MA). If the MA is silent, salary is per the modified teacher's contract.
Are retirees subject to all provisions of the Master Agreement?	Yes; however, terms or conditions in the MA that do not apply should be outlined in the modified teacher's contract.

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<b>Other</b>		
Can any teacher be rehired?	No. Any teacher who retired and received an early retirement incentive per <a href="#">MS 122A.48</a> can only be rehired as a <i>substitute teacher, behind-the-wheel instructor, or coach</i> .	
Is the process the same for superintendents and principals?	Yes; the process is the same for any TRA annuitant, regardless of position.	
Is the process the same for annuitants whether they apply to work in the district from which they retired versus another district?	Yes; the process is the same for any TRA annuitant, regardless of the hiring district.	

## Legal Notice

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