



CTPF Administrative Rules – Return to Work

Drafted by: Staff

Reviewed by: Joseph Burns, Board Counsel and Staff

Presented to Board: June 15, 2017

Approved by Board: June 15, 2017

Effective Date: June 15, 2017

Date of Initial Rule Adoption: June 15, 2017

Date of Prior Amendments: N/A

Proposed new Title, Chapter, and Section of Administrative Rule: **To be determined by Board Counsel**

CTPF Administrative Rules –

Return to Work

The CTPF Administrative Rules and Regulations shall be amended to include the following Rules:

Cancellation of Pension (40 ILCS 5/17-149). The service retirement pension shall not be cancelled in the case of a service retirement pensioner who is re-employed as a Teacher on a temporary and non-annual basis or on an hourly basis, so long as the person:

(1) Does not work as a Teacher for compensation on more than 100 days in a School Year; or

(2) Does not accept gross compensation for the re-employment in a School Year in excess of:

(i) \$30,000; or

(ii) In the case of a person who retires with at least 5 years of service as a principal, an amount that is equal to the daily rate normally paid to retired principals multiplied by 100.

(3) As of any School Year beginning on or after July 1, 2017, teaches **only** driver education courses after regular school hours and does not teach any other subject area, and so long as the person:

(i) Does not work as a Teacher for compensation for more than 900 hours in a school year; or

(ii) Does not accept gross compensation for the re-employment in a School Year in excess of the gross compensation limits set forth above in subsection (2)(i) and (ii).

(5) To be eligible for such re-employment without cancellation of pension, the pensioner must notify the Fund and the Board of Education of his or her intention to accept re-employment.

(6) An Employer must certify to the Fund the temporary and non-annual or hourly status and the compensation of each pensioner re-employed under this subsection at least quarterly, and when the pensioner is approaching the earnings limitation under this subsection.

(7) If the pensioner works more than 100 days or accepts excess gross compensation for such re-employment in any school year the service retirement pension shall thereupon be cancelled.

(8) The Board of the Fund shall adopt rules for the implementation and administration of this subsection.

Definition of a Day. For the 2018-2019 school year, going forward, a retiree will be considered to have worked a “day” for return to work purposes, if the employer reports the retiree as having worked for one hour or more during a calendar day. (Note: This definition of a “day” does not affect the accumulation and tracking of hours worked teaching only driver education courses—i.e. any portion of an hour worked counts toward the 900 hours limitation.) For all school years prior to 2018-2019, any amount of time reported by an employer as worked by a retiree during a calendar day, regardless of its duration (e.g. 15 minutes of reported work counts as a day), equals one “day” worked, for return to work purposes.

Determination of Limitation Exceeded. In accordance with Section 149 of the Code, CTPF will determine if a retiree exceeded the return to work limitations from the certified records received by the Employer.

Use of Third-Party Employment Agencies. All retirees are subject to the return to work limitations as set forth in Section 149 of the Code, regardless of being designated as an employee of a third-party contractor, of an employment agency, or of any other vendor (“Third Party Vendor”). An Employer that uses a Third Party Vendor to provide licensed/certified teachers or staff, including substitute teachers, is considered a joint employer with the Third Party Vendor and all such licensed/certified teachers, other staff, or substitute teachers are subject to the return to work limitations. An Employer has the obligation to secure, maintain, and provide to CTPF records of the retirees’ employment by a Third Party Vendor as required by Section 149 of the Code.

Consultants and Independent Contractors. A retiree who contracts with an Employer to provide services in a position for which a license or certificate is required is subject to the return to work limitations, even if the retiree’s contract or agreement with the Employer characterizes the retiree as an “independent contractor.” An Employer has the obligation to secure, maintain, and provide to CTPF records of the retirees’ employment, including as an independent contractor, as required by Section 149 of the Code. Paying a retiree through accounts payable rather than through payroll does not exempt the Employer from being required to report the retiree to CTPF as required by Section 149 of the Code.

Appointment of the Return to Work Committee. The Return to Work Committee will consist of three to five Trustees appointed by the Board.

Conduct of the Return to Work Hearing.

(1) **Combined Hearing.** The Return to Work Committee, acting through a hearing officer, may conduct a single group hearing. Individual pensioners shall be permitted to present their own case.

- (2) **Hearing Officer.** The Hearing Officer shall be responsible for conducting the hearings as set forth in Section F, below.
- (3) **Notice of Hearing.** The hearing will be held at the Fund's offices. Staff, as directed by the Return to Work Committee, will issue written notice of the hearing which will be sent to the pensioners by certified mail, return receipt requested not less than thirty (30) calendar days before the scheduled hearing date. The Hearing Officer will have the authority to grant continuances for good cause.
- (4) **Pre-Hearing Exchange of Information.** All evidentiary documentation and/or stipulations shall be exchanged by the parties at least ten (10) calendar days before the date of the hearing. Copies of all documentation and stipulations so exchanged will be provided to the Committee and to the Hearing Officer at least ten (10) calendar days before the date of the hearing.
- (5) **Representation by Counsel.** The Fund will be represented at the hearing by staff counsel. Pensioners shall have the right to be represented by counsel or to represent themselves.
- (6) **Conduct of the Hearing.** The Hearing Officer will have full authority to control the procedure of the hearing, including, but not limited to:
- (i) To exclude witnesses;
 - (ii) To admit or exclude testimony or other evidence;
 - (iii) To change the order of the hearing; and
 - (iv) To make any other necessary decisions and orders required for the creation of a full and fair hearing conducted in an orderly manner.
- (7) **Burden of Proof.** The pensioner has the burden of proving by a preponderance of the evidence that the pensioner did not violate 40 ILCS 5/17-149 of the Illinois Pension Code.
- (8) **Order of the Hearing, Examination of Witnesses, and Introduction of Evidence.**

All hearings will be conducted in the following order, unless the Hearing Officer provides otherwise:

- (i) Opening statement by staff counsel;
- (ii) All documents properly exchanged pursuant to Section D shall be admitted as an exhibit;

- (iii) Staff counsel shall examine any CTPF witnesses;
- (iv) Each individual pensioner may examine the CTPF witnesses and make any objections to testimony or evidence offered;
- (v) Return to Work Committee may examine any CTPF witnesses;
- (vi) Opening statement by the first pensioner, which is determined by the Hearing Officer;
- (vii) Pensioner presents case, including introduction of any witnesses or evidence; cross-examination of witnesses by staff counsel; and objection by staff counsel to any testimony or evidence.
- (viii) Staff counsel may cross-examine pensioner.
- (ix) Return to Work Committee may examine any witness;
- (x) Steps (vi) through (ix) repeated for each pensioner; and
- (xi) Hearing Officer closes the proceedings.

(9) **Hearing Record.** All testimony at the administrative hearing shall be under oath and shall be recorded or transcribed by a court reporter provided by the Fund. The Fund shall order the original transcript. Copies will be available from the court reporter at the pensioner's expense.

(10) **Post-Hearing.**

- (i) The CTPF Staff and any pensioner may file Proposed Findings of Fact and Conclusions of Law with the Hearing Officer, within thirty (30) calendar days of receipt of the transcript.
- (ii) The Hearing Officer shall prepare Findings of Fact and Conclusions of Law and a Recommended Decision, which shall be submitted to the Return to Work Committee within thirty (30) calendar days of receipt of the Proposed Findings of Fact and Conclusions of Law.
- (iii) The Return to Work Committee by majority assent shall recommend to the Board adoption or rejection of the Recommended Decision. The Board shall vote on the Committee's recommendation. The Fund will issue a written Final Administrative Decision to the pensioner within thirty (30) calendar days of the Board's adoption or rejection of the Recommended Decision.

The notification shall be sent to the pensioner by first class and certified mail, return receipt. The notification will include:

- a) The Board decision;
- b) The Hearing Officer's Findings of Fact and Conclusions of Law and Recommended Decision;
- c) Notification that the Board will not require or permit the filing of motions for reconsideration;
- d) Notification that the decision is final and appealable; and
- e) Notification of appeal rights pursuant to the Administrative Review Act.