

## Post Retirement Update 3/27/2023

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Under current law, RIGL§16-16-24, members who retired under the provisions of titles 36, 16 and 45 can substitute teach or fill a vacant position for no more than 90 days in a school year without impacting their pension benefit.

On March 22, 2023, Governor McKee signed into law Rhode Island General Law (RIGL)§16-16-24.2, which allows substitute teaching and post-retirement employment to exceed the ninety (90) day cap if certain conditions are met. This act **will sunset** on June 20, 2024. (See attached)

The purpose of this memo is to clarify the responsibilities of the Local Education Authorities (LEA) to be in compliance. Below are some FAQs on the law:

- Which retirees does the law apply to:
  - Teachers, administrators, or staff members who retired under the provisions of titles 36, 16 or 45.
- Which provision of the law **has been** suspended:
  - The 90-day limitation imposed by RIGL 16-16-24.
- What **has not been** suspended:
  - The IRS Code requirement that there be a break in service from date of retirement of 45 days remains in effect.
  - The provisions which state no contributions are paid, no service credit is earned.
  - Providing notice to ERSRI via the portal (reporting number of days worked) on a monthly basis.
  - 3 hours constitute a half day and over 3 hours is a full day.
  - Good Faith Letters shall continue to be sent.

Below are the specific requirements of the law:

- The retiree may exceed the 90 days upon:
  - 1) A determination by the local education authority that there exists a specialized need, within their authority, to fill positions on a temporary basis, that may exceed the ninety (90) day cap on post-retirement employment; and
  - 2) Retired teachers, administrators, and staff members being asked to exceed the ninety (90) day cap on post-retirement employment possess the skills, training, and knowledge necessary to help address teacher and administrative staffing shortages; and

- 3) The local education authority has notified the state retirement board that it has determined that exceeding the ninety (90) day cap on post-retirement employment is necessary to help address teacher and administrative staffing shortages.
  - a. Please be advised that ERSRI considers the posting of the number of days worked for each retiree as notification from the LEA.

The LEA **must provide a Good Faith Letter** to ERSRI's legal department, via mail or email, for each retiree they determine shall exceed the 90-day limit pursuant to §16-16-24.2(a)(3):

*Provided, however, that no employment may be offered to a retiree subject to this section unless the employer has made a good-faith effort each school year to fill the position with a nonretired employee without success, and certifies, in writing, that it has done so to the employees' retirement system and to the bargaining agents of all education unions with whom the employer has collective bargaining agreements.*

**The Law will be in effect beginning March 22, 2023 and unless extended by the general assembly, will sunset on June 20, 2024.**

- Please note that once the law is no longer in effect, if the teacher/admin or other staff continue to work and exceed 90 days, the pension benefit **will be suspended** accordingly.

## **Enacted Law 16-16-24.2:**

SECTION 1. Chapter 16-16 of the General Laws entitled "Teachers' Retirement [See Title 16 Chapter 97 — The Rhode Island Board of Education Act]" is hereby amended by adding thereto the following section:

### **RIGL 16-16-24.2. Substitute teaching and post-retirement employment related to statewide staffing.**

(a) Notwithstanding any public or general law, or rule or regulation to the contrary, any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45 may exceed the ninety (90) day cap on post-retirement employment upon:

(1) A determination by the local education authority that there exists a specialized need, within their authority, to fill positions on a temporary basis, that may exceed the ninety (90) day cap on post-retirement employment;

(2) Retired teachers, administrators, and staff members being asked to exceed the ninety (90) day cap on post-retirement employment possess the skills, training, and knowledge necessary to help address teacher and administrative staffing shortages; and

(3) The local education authority has notified the state retirement board that it has determined that exceeding the ninety (90) day cap on post-retirement employment is necessary to help address teacher and administrative staffing shortages.

Provided, however, that no employment may be offered to a retiree subject to this section unless the employer has made a good-faith effort each school year to fill the position with a nonretired employee without success, and certifies, in writing, that it has done so to the employees' retirement system and to the bargaining agents of all education unions with whom the employer has collective bargaining agreements.

(b) Any teacher, administrator, or staff member who has retired under the provisions of title 16, 36, or 45, and has been employed or re-employed under the provisions of this section, shall not be entitled to additional service credits for such employment.

(c) Unless extended by the general assembly, this section shall sunset on June 20, 2024.

SECTION 2. This act shall take effect upon passage and sunset on June 20, 2024.

### **For Reference from § 16-16-1. Definitions.**

(12) "Teacher" means a person required to hold a certificate of qualification issued by or under the authority of the board of regents for elementary and secondary education and who is engaged in teaching as his or her principal occupation and is regularly employed as a teacher in the public schools of any city or town in the state, or any formalized, commissioner approved, cooperative service arrangement. The term includes a person employed as a teacher, supervisor, principal, assistant principal, superintendent, or assistant superintendent of schools, director, assistant director, coordinator, consultant, dean, assistant dean, educational

administrator, nurse teacher, and attendance officer or any person who has worked in the field of education or is working in the field of education that holds a teaching or administrative certificate. In determining the number of days served by a teacher the total number of days served in any public school of any city or town in the state may be combined for any one school year. The term also includes a school business administrator whether or not the administrator holds a teaching or administrative certificate, and also includes occupational therapists and physical therapists licensed by the department of health and employed by a school committee in the state, or by any formalized, commissioner approved, cooperative service arrangement.