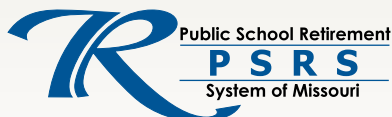




# Working After Retirement

- **New** Rules for Terminating Employment
- **New** Record-keeping Requirements
- How to Work and Avoid Interruptions in Benefits
- **New** Hourly and Earnings Limits During First School Year



*Partners in Your Retirement Security.*

## Does Working After Retirement Affect My Benefit?

If you want to work after you retire and avoid any interruptions in your monthly PSRS benefit payments, it is important that you abide by Missouri law and PSRS/ PEERS Board of Trustees' regulations.

The effect of post-retirement employment on your benefit payments depends on whether your employer is a PSRS-covered employer (an employer participating in PSRS), the number of hours you work, and the salary you earn.

*For those retiring July 1, 2010 and after, the rules for post-retirement work in the year you retire are different than for all subsequent years. See page 7 of this brochure for more information.*

## **New!** Rules for Terminating Employment

The IRS rules state that retirement systems must require a clear separation of service between the termination of employment and post-retirement work.

Those retiring July 1, 2010 and after must terminate all employment with PSRS-covered employers and file an ***Application for Service Retirement*** prior to their effective retirement date.

In order for your employment to be considered terminated, you must meet two requirements.

**Termination of employment means you must:**

1. End all employment with PSRS-covered employers, and
2. Not volunteer or return to work for a PSRS-covered employer, or be under contract for employment at a PSRS-covered employer in any capacity until at least **one month** has lapsed since your effective retirement date.

If you violate these rules, you must repay any benefit payments received while ineligible.

For example, if Jane retires July 1 she can begin working August 1 in a part-time or temporary-substitute position up to the 550-hour/50% of earnings limits, and can continue receiving monthly retirement benefits. **She cannot teach summer school, volunteer, work under the critical shortage provision or in any other capacity during the month of July in the calendar year she retires. She may not sign a contract for employment in any capacity until after she receives her July PSRS benefit.**

## **New!** Record-Keeping Requirements

Effective July 1, 2010, all retirees working for PSRS-covered employers are required to maintain a written record of dates and hours worked, wages earned and information on employing school district(s). Employers are also required to maintain such records. Record-keeping forms will be sent to you and your employer each school year when you return to work after retirement. These forms are also available on the PSRS Web site, [www.psr-peers.org](http://www.psr-peers.org). PSRS may request access to these record forms for review at any time.

## Definitions

**Full-time employment:** Employment in a position that normally requires the employee to work the full school day, or normally requires the employee to work at least the same number of hours per week as required for a position. For example, if you work four, 10-hour days instead of five, eight-hour days that is still considered full-time. A full-time position also normally requires you to be employed to work at least 600 hours during the school term.

**Part-time employment:** Employment that is less than the PSRS definition of full-time for that employer.

**Temporary-substitute employment:** Employment either in a position that is held by a regularly employed person who is temporarily absent or in a position that is temporarily vacant.



## Working for Employers Not Covered by PSRS

*If you choose to work for someone other than a PSRS-covered employer:*

- You do not need to inform PSRS.
- You continue to receive your PSRS benefit.
- The number of hours you work has no impact on your PSRS benefit.
- The amount of money you make has no impact on your PSRS benefit.

## Working Full-Time for PSRS-Covered Employers

*If you choose to work full-time for a PSRS-covered employer in any capacity:*

- You must notify PSRS immediately.
- Your benefit is put on hold.
- You are required to start a new PSRS membership.
- You will have PSRS contributions withheld from your salary.
- You earn service credit.

See the exception to these rules explained on pages 8 - 9.

*When you terminate your full-time employment for a PSRS-covered employer:*

- If you earn a minimum of one year of service credit under your new membership, you are “special vested” and are eligible for a second retirement benefit.
- You cannot elect a PLSO payment on your second membership, and your second benefit cannot be combined with your initial benefit.
- You can choose to take a refund of your contributions and any interest earned under the new membership after termination of your employment, and forfeit your right to a second retirement benefit.
- Your previous retirement benefit resumes after you inform PSRS your full-time employment ends.

You are not eligible to receive a retirement benefit for any month in which you earn service credit. If you earn a full year of credit, it is necessary for PSRS to recover any benefits paid during that school year. For example, if you begin working full-time in September and receive a full year of credit for the school year (July 1 through June 30), PSRS must recover your July and August benefit payments that were paid prior to the start date of your full-time employment because they were paid in the same school year a full year of credit was earned.

It is important for you to notify PSRS of the dates your PSRS-covered employment begins and ends. PSRS will verify the dates with your employer, determine the months you are entitled to benefits, and whether you need to reimburse any benefits paid to you.

Your post-retirement earnings at PSRS-covered employers may be subject to Social Security taxes. Contact your employer for more information.

## Working for PSRS-Covered Employers Part-Time or as a Temporary-Substitute

*If you choose to work part-time or as temporary-substitute for a PSRS-covered employer in any capacity and continue to receive monthly benefits:*

- You can work up to **550 hours** or earn up to **50% of the annual compensation payable** for the position (given your level of experience and education and based on the employer's salary schedule) each full school year (July 1 - June 30).
- If you retire in any month other than July, your first school year of post-retirement work eligibility will consist of fewer than 12 months. The 550-hours/50% of earnings limits on your work during that **first school year** are pro-rated accordingly. See page 7 for more information.

*If you exceed either the hourly or earnings limit:*

- You must notify PSRS immediately.
- Your retirement benefit is put on hold effective the month in which either the hourly or earnings limit is exceeded, whichever is first.
- Your benefits resume the month after your employment again ends or a new school year begins.
- You are required to start a new membership and make contributions to PSRS if you meet membership eligibility requirements.

*As long as you do not exceed the hourly or earnings limit, and do not become a full-time, regular employee, you will continue to receive your PSRS benefit.*

Your post-retirement earnings at PSRS-covered employers may be subject to Social Security taxes. Contact your employer for more information.

## **New!** Rules for Post-Retirement Work in the Year You Retire

For those retiring July 1, 2010 and after, hourly and earnings limits on part-time or temporary-substitute work under the 550-hour and 50% earnings limits are different during the school year you retire.

If you retire in any month *other than* July, the 550-hour/50% of earnings limits are applied on a pro-rated basis for the rest of that school year.

For example, if Jane retires January 1, she can begin working February 1, but is limited to 275 hours or 25% of earnings through June 30, the end of the school year. Refer to the chart below.

The pro-rated limits apply only during the school year in which you retire. When the new school year begins July 1, the limits are increased to the full, 550-hours/50% of earnings limits and remain at those levels for future school years.

Pro-Rated Hours and Earnings Limits During First School Year after Retirement		
Effective date of retirement:	Hours allowed after retirement for school year:	Percent of base salary allowed after retirement for school year:
July 1	550	50%
August 1	504	46%
September 1	458	42%
October 1	413	38%
November 1	367	33%
December 1	321	29%
January 1	275	25%
February 1	229	21%
March 1	183	17%
April 1	138	13%
May 1	92	8%
June 1	0	0%

## “Critical Shortage” Full-Time Employment Exception

*If you work for a PSRS-covered employer who has declared a critical shortage of certificated employees, you may “teach” for up to two years full-time without losing your PSRS benefits.*

An employer can hire up to 10% of the certificated staff, not to exceed five individual PSRS retirees, to **teach full-time up to two years** without a loss of retirement benefits. The “Critical Shortage” Full-Time Employment Exception may not be used by districts to fill the position of superintendent.

The employer must certify that the following requirements have been met in order to employ retirees full-time under this provision.

### *The employer must:*

- Certify with PSRS that they currently have a shortage of certificated employees,
- Make a good faith effort to fill positions with non-retired, certificated employees,
- Post the vacancy or vacancies for at least one month,
- Not have offered early retirement incentives for either of the previous two school years,
- Solicit applications through the local newspaper, other media, or teacher education programs, and
- Determine that there is an insufficient number of eligible applicants for the advertised position(s).



*If you work under this provision, during the two years allowed:*

- Your employment must be full-time,
- Your benefits continue,
- Employer contributions are made to PSRS,
- Member contributions are not required, and
- You do not earn additional service credit.

## Summary of Working After Retirement Guidelines

Note: If you retire in any month other than July, your first school year of post-retirement work will consist of fewer than 12 months. The hourly and earnings limits on your post-retirement work during that first year are pro-rated. See page 7 for more information.

If Your Employer Is:	And Your Work Schedule Is:	Impact on Your Benefit:	Impact on Your Membership:
<b>Not PSRS-Covered</b>	Part-time or full-time	None	None
<b>PSRS-Covered</b>	Part-time or temporary-substitute (Work <b>550 or fewer</b> hours per full school year* and earn <b>less than</b> 50% of the annual compensation payable for the position)	None	None
<b>PSRS-Covered</b>	Part-time or temporary-substitute (Work <b>more than</b> 550 hours per full school year* or earn <b>more than</b> 50% of the annual compensation payable for the position)	If you exceed either of these limits, your benefit is put on hold until employment ends or a new school year* begins.	A new membership is started for employment that meets the criteria for PSRS membership. Once employment terminates, you can withdraw your contributions, or after accruing 1.0 year of credit, you can choose to receive a subsequent benefit under Special Vesting.
<b>PSRS-Covered</b>	Full-time	Benefit is put on hold until employment ends or a new school year* begins.	A new membership is started. Once employment terminates, you can withdraw your contributions, or after accruing 1.0 year of credit, you can choose to receive a subsequent benefit under Special Vesting.
<b>PSRS-Covered and Qualifies Under Critical Shortage Provision</b>	Full-time for up to two years for an employer that declares a critical shortage of certificated teachers as defined by state law. Employers cannot fill the position of superintendent using this provision.	None	None. You do not earn additional service credit or remit contributions to PSRS.

\*July 1 through June 30.

# Employee or Independent Contractor?

What is the difference between employees and independent contractors? Employees can be covered by PSRS and independent contractors are not.

In Missouri, as is the case around the country, the courts have applied a “control test” to determine whether an individual is an employee. Basically, this common law standard is a review of who has the right to control the manner and means of accomplishing the work to be performed. In general, if your employer has the right to control the manner and means of accomplishing the work you are responsible for performing, then you are an employee, not an independent contractor.

This test is also used by the Internal Revenue Service (IRS) to determine whether employment taxes must be paid and income tax must be withheld. Application of other workplace laws, such as workers’ compensation and the Family and Medical Leave Act (FMLA) may also depend on this standard.

## Working as a Consultant

Whether a position is referred to as “consulting” does not determine whether the Retirement System covers that person. The critical distinction is between being an employee and being an independent contractor. Employees can be covered by PSRS and independent contractors are not.

## Corporations Working as Independent Contractors

While important, whether or not an individual is incorporated does not, by itself, ensure that an individual is

considered an independent contractor with respect to post-retirement employment. Depending on the circumstances, a corporation could be considered as only a shell or alter ego of the individual. If the individual is merely performing a role that ordinarily would be considered an employee, the corporation probably will be considered an alter ego of the person. The central question remains who has the right to control the activities of the individual – the corporation or the employer.

## IRS Guidelines

The IRS provides a process for determining whether a person is an employee for purposes of federal employment taxes and income tax withholding. Employers should complete an IRS Form SS-8 and return the form to the IRS.

The IRS has also developed a list of 20 factors that can be used in reviewing work relationships to determine whether an individual is an employee. None of these factors is always more important than others, and the total relationship must be reviewed.

The factors set forth by the IRS and used by the courts fall into three main categories:

- Behavioral control
- Financial control
- Relationship of the parties

If you have questions about how to tell if your post-retirement work status is one of an employee or an independent contractor, you can get more information from the IRS Web site [www.irs.gov/faqs/](http://www.irs.gov/faqs/), or by calling your local IRS office, or calling toll free **(800) 829-1040**. You may also refer to IRS Publication 15-A, *Employer’s Supplemental Tax Guide*.

## Contact Us

This brochure is not intended to serve as a legal document or a substitute for the law or regulations governing PSRS.

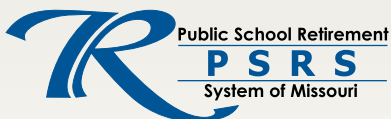
For further information, please refer to the

*PSRS Member Handbook*,

contact us at our office in Jefferson City

or visit our Web site

[www.psr-speers.org](http://www.psr-speers.org)



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