



School Law FYI

Frequently Asked Questions Regarding Rehiring WRS Annuitants For The 2022-2023 School Year

BRIAN P. GOODMAN, MICHAEL J. JULKA | 08.03.22

School districts are looking to hire the best employees, notwithstanding a challenging market for hiring. One talent pool that school districts might consider for the 2022 – 2023 school year is retired former educators who are currently receiving an annuity from the Wisconsin Retirement System (WRS). Provided the hire complies with certain legal requirements, the employee's WRS annuity will not be suspended during employment. This article is designed to answer some of the frequently asked questions regarding rehiring WRS annuitants for the 2022 – 2023 school year. ^[1]

What test must a retiree meet to receive a WRS annuity benefit?

The retiree must have a valid termination from employment.

What is valid termination?

A valid termination must be in "good faith." In addition, if the retired annuitant is being rehired by the district from which the retiree retired, the retiree must serve a 75-day break-in-service period prior to working. If the retired annuitant is being hired by a district other than the one from which the retiree retired, so long as the employment is only for the 2022 – 2023 school year, the retiree is not required to serve a 75-day break-in-service period prior to working.

What is considered the termination date for employees?

The termination date for all employees is the last day of contracted work, or the last day the employee performed services for the district. The employee's termination

date is not automatically June 30 even though June 30 is the last date of the “school year.”

Why is the termination date important?

The termination date might affect when the employee can be rehired by a WRS participating employer, particularly if the 75-day break-in-service period applies.

If the 75-day break-in-service period does not apply, are there any other restrictions that need to be met in order for the rehired annuitant not to have his/her annuity suspended?

Only if the rehired annuitant works at least 880 hours **AND** is scheduled for employment for at least 365 days will the annuitant’s annuity be suspended. For example, an employee could work 364 consecutive days at full time/full pay, without ever triggering WRS participation standards and having his/her annuity suspended.

However, if at any point the district intends to hire the employee for 365 days or more, or if at any point the annuitant is employed by the district for more than 365 days, the district and the annuitant will have to analyze whether the annuitant’s annuity will be suspended in light of the number of hours anticipated to be worked, or actually worked, by the annuitant during that time period.

What if the retired annuitant is rehired by the same district from which he/she retired?

Then, the district must wait to rehire the retiree until after the 75-day break-in-service period expires. Following that break-in-service period, the district may rehire the retired annuitant without the suspension of the annuitant’s annuity so long as the rehire is for less than 365 days **OR** less than 880 hours. For example, for a teacher with a termination date of June 15, that break-in-service period would expire on August 30, which might be early enough for the retiree to start the district’s academic year (or shortly thereafter) without suspension of the retiree’s annuity so long as the employment (regardless of the number of hours) is limited to the 2022 – 2023 school year.

However, if at any point the district intends to hire the retiree for 365 days or more or if at any point the annuitant is employed by the district for more than 365 days, the district and the retiree will have to analyze whether the retiree’s annuity will be suspended in light of the number of hours anticipated to be worked, or actually worked, by the retiree during that time period.

Can another district hire an annuitant within the 75-day break-in-service period for the 2022 – 23 school year (for less than 365

consecutive days) regardless of the number of hours and regardless of wages/salary without affecting the annuitant's annuity?

Yes.

Can the same district from which the annuitant retired hire the annuitant after the 75-day break-in-service period for the 2022 – 23 school year (for less than 365 consecutive days) regardless of the number of hours and regardless of wages/salary without affecting the annuitant's annuity?

Yes.

Do these same rules apply to administrators?

Yes.

Is there risk to the annuitant of having their annuity suspended?

No, provided the standards regarding “valid termination” are met and the employment is for less than 365 days (such as only for the 2022 – 2023 school year).

Are there required employer or employee contributions to WRS in the above situations?

No, because the rehired annuitant's position does not meet WRS participation standards.

Is there a special form that a District must complete to rehire a WRS annuitant?

Yes, the District, as the employer, and the rehired WRS annuitant, as the employee, must complete and submit ETF Form ET-2319 “Rehired Annuitant Form,” [found here](#).

Are there other considerations if at some point the employment is going to extend beyond the 2022 – 23 school year?

Absolutely. Such employment raises additional legal and practical issues. There are several resources that can assist in answering these questions. The Department of Employee Trust Funds (the agency that administers the WRS) publishes ETF Brochure ET-4105 “Information for Rehired Annuitants” (September 1, 2021). Additionally, ETF publishes an extensive Employer Administration Manual ET-1127, and Sections 1501 and 1502 of that manual are particularly on-point.

Conclusion

Rehiring annuitants can be an effective way to address hiring shortages, particularly in the short term, including the 2022 – 2023 school year. More information about rehiring annuitants can also be found [here in a Legal Comment](#) on “Rehiring Annuitants” from the Wisconsin Association of School Board’s *Wisconsin School News* magazine from May of 2018.

Finally, school districts with questions about rehiring annuitants can contact the authors of this article or any member of the Boardman Clark School Law Practice Group.

[1] This article assumes that the individual retired on or after July 2, 2013 and is receiving a WRS annuity. Please note that some aspects of the analysis are different for employees who retired prior to July 2, 2013 and is receiving a WRS annuity.

DISCLAIMER: Boardman & Clark LLP provides this material as information about legal issues and not to give legal advice. In addition, this material may quickly become outdated. Anyone referencing this material must update the information presented to ensure accuracy. The use of the materials does not establish an attorney-client relationship, and Boardman & Clark LLP recommends the use of legal counsel on specific matters.

Primary Authors



Brian P. Goodman
(608) 283-1722



Michael J. Julka
(608) 286-7238

School Law Practice Group Members

Brian P. Goodman
(608) 283-1722

Douglas E. Witte
(608) 283-7529

Jennifer S. Mirus
(608) 283-1799

Christopher T. Schmidt
(608) 286-7157

Michael J. Julka
(608) 286-7238

Steve Zach
(608) 283-1736

Rhonda R. Hazen
(608) 283-1724

Daniel T. Fahey
(608) 286-7216

William L. Fahey
(608) 286-7234

Richard F. Verstegen
(608) 286-7233

Tess O'Brien-Heinzen
(608) 283-1798

Eric B. Hagen
(608) 286-7225

Eileen A. Brownlee
(608) 822-3251

David P. Weller
(608) 286-7235

Matthew W. Bell
(608) 286-7239

