

145-1-75

**Re-employment of a retirant.****(A) Definitions**

For the purpose of this rule and section 145.362, 145.37, 145.38, 145.382, 145.384, or 145.385 of the Revised Code:

- (1) "PERS retirant" means any former member of the public employees retirement system who retires as provided in section 145.32, 145.331, or 145.37 of the Revised Code and is receiving a retirement allowance as provided in section 145.33, 145.331, 145.34 or 145.46 of the Revised Code.
- (2) "Combined retirement" means retirement based upon section 145.37 of the Revised Code.
- (3) "A contract to provide services, or for services, as an independent contractor" means an agreement that establishes a relationship in which the individual is an independent contractor and not a public employee.
- (4) "Disability benefit recipient" means an individual defined in division (N) of section 145.01 of the Revised Code.
- (5) "Employed" means the relationship between a public employer and an individual who is a public employee rather than an independent contractor.
- (6) "Other system retirant" means an individual defined in division (A)(2) of section 145.38 of the Revised Code.

**(B) Elective positions**

- (1) The provisions of section 145.38 of the Revised Code, and this rule shall apply to an age and service or other system retirant who is elected to an office, or is appointed to an elective office, of the state or its political subdivisions covered by this retirement system.
- (2) The provisions of section 145.362 of the Revised Code, and these rules shall apply to a disability retirant who is elected to an office of the state or its political subdivisions covered by this retirement system.

**(C) Employed positions**

A PERS retirant who has received a retirement allowance for less than two months and who becomes employed by a public employer shall forfeit the retirement

allowance for any month in which such retirant is employed during the two month period immediately following such retirant's effective retirement benefit date.

(D) Employment by legislative authority

(1) A PERS retirant may be employed irrespective of the length of time such retirant has received a retirement benefit:

(a) In a position authorized by section 101.31, 121.03 or 121.04 of the Revised Code; or

(b) In a position to which appointment is made by the governor with the advice and consent of the senate; or

(c) As the head of a division of a state department.

(2) A retirant described in paragraph (D)(1) of this rule, upon employment, shall elect in writing to the retirement system to have such employment covered either by:

(a) Section 145.38 of the Revised Code; or

(b) Section 145.382 of the Revised Code and paragraph (D)(3) of this rule.

(3)

(a) A retirant described in paragraph (D)(1) of this rule who elects to have such employment covered by section 145.382 of the Revised Code, upon employment, shall become a member of the retirement system based upon such employment with all obligations and rights except those pursuant to section 145.45 of the Revised Code, and shall forfeit such retirant's retirement allowance.

(b) Upon termination of employment, the retirant shall have a retirement allowance recalculated based on an allowance described in division (A) of section 145.33 or section 145.46 of the Revised Code utilizing the retirant's original service and service after retirement covered by section 145.382 of the Revised Code.

(E) Health care coverage

- (1) The public employer for which a PERS retirant is employed on February 9, 1994, or after, shall provide health care coverage for such retirant if such coverage is provided to its employees doing comparable work or in a comparable position.
- (2) The employer shall notify the retirement system of the status of health care coverage for a PERS retirant who is re-employed.
- (3) If the retirant is ~~be~~ covered under the employer's health care plan, health care claims paid by the retirement system shall be reduced by the benefits provided ~~or available~~ under the employer's health care plan. If the retirant should be covered under the employer's health care plan as required by section 145.38 of the Revised Code but fails to enroll in the employer's health care plan, the retirement system shall not pay any reduced or primary coverage claims for any period that the retirant failed to enroll in the employer's health care plan.

(F) Re-employment of a disability benefit recipient

- (1) The retirement board shall terminate the benefit of a disability benefit recipient who is employed by, or who provides services under a contract as an independent contractor for, a public employer.
- (2) The retirement board shall review the employment of a disability benefit recipient who is employed or compensated by an employer other than a public employer in a position similar to the position the recipient held as a public employee to determine if the recipient must undergo a medical examination to determine if the disability is ongoing or whether the benefit should be terminated.

(G) Determinations

A retirant or benefit recipient may request a determination from the retirement system as to the effect on the benefit of the retirant or recipient of a return to employment covered by Chapter 145. of the Revised Code or other employment.

Effective: 07/11/2009

R.C. 119.032 review dates: 09/29/2010

CERTIFIED ELECTRONICALLY

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Certification

07/01/2009

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09, 145.38.  
Rule Amplifies: 145.362, 145.37, 145.38, 145.382.  
Prior Effective Dates: 1/1/09; 1/1/07; 1/1/06; 1/1/03; 2/14/02; 4/5/01; 8/1/98;  
1/31/98; 3/17/94; 2/1/93; 8/1/92; 9/6/88; 2/19/60.