



❖ CERTIFIED INSTRUCTIONAL STAFF OR PUPIL SERVICE STAFF: RETURN TO WORK

IRS Statutes and Regulations, (see 26 USC § 401 et seq. and § 1.409A(1)(h)), along with **Idaho Statutes 59-1356(4)** and **33-1004H**, are very specific about the requirements for a school teacher or administrator wanting to return to work after retirement and continue receiving a retirement benefit. **Idaho Statute 59-1356(4)** does not apply to colleges or universities.

REQUIREMENTS FOR REHIRING A RETIRED EDUCATOR OR ADMINISTRATOR

To be eligible, **IRS Statutes and Regulations,** and **Idaho Statute** require each of the following requirements be fulfilled:

- Retired at age 60 or older with an original retirement date after 7/1/2017 **OR** retired at age 62 or older with an original retirement date between 7/1/2005 and 6/30/2017.
- Working as a “administrator or teacher” defined by the Idaho State Board of Education at the time of retirement, per the Idaho State Board of Education’s definition:
“Teacher” is defined as anyone holding an Instructional Staff Certificate or Pupil Service Staff Certificate. Individuals who do not have the Pupil Service Certificate and corresponding area endorsement would not be considered a “teacher” under this definition.
- Never received an early retirement incentive (ERIP).
- Bona fide termination from employment (I.C. 59-1302(35A)). There must be a true termination of service between the employer and the employee where the employer/employee commitment has completely ended.
- Is receiving an unreduced PERSI retirement benefit.
- Must return to employment as an at-will employee with a school district in positions requiring Instructional Staff Certification or Pupil Service Staff Certification.
- ABSOLUTELY NO** promise, agreement, or prearrangement of future employment.

IMPORTANT – ALSO KNOW THAT

In addition to the above requirements, the following are the explicit responsibility of the employer:

- Only the employer is permitted to make the determination to rehire a school teacher or administrator.
- The employer is responsible for following and fulfilling the requirements set by the **IRS** and **Idaho Statutes 59-1356(4)** and **33-1004H**.

NOTE: Failure to comply with IRS Statutes and Regulations, and Idaho Statutes may result in costly consequences to the employer such as owing PERSI delinquent contributions and the requirement to refund the retirement payments paid to the teacher and administrator as well as any interest on the contributions and benefit.

continued on back...

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Please reference **IRS Statutes and Regulations** and **Idaho Statutes** concerning return to work requirements. If you have further questions, please speak with your school district and HR department.

WHEN REQUIREMENTS FOR THE IRS AND IDAHO STATUTES ARE FULFILLED

If the requirements for the IRS and Idaho Statutes are met, form **RS132A, Certification of Employment of a Retired School Teacher or Administrator** must be completed by both the employee and employer.

The returning retired school teacher or administrator will continue receiving their PERSI retirement benefit while working. They **will not** make contributions to PERSI and **will not** accumulate additional service credit.

School districts are required to pay employer contributions for retired members who are rehired per **Idaho Statute 59-1356(4)**.

WHEN REQUIREMENTS FOR THE IRS AND IDAHO STATUTES ARE NOT FULFILLED

If the requirements for the IRS and the Idaho Statutes are **NOT** met, the retirement is deemed “invalid”.

An invalid retirement requires the repayment of all benefits received, plus interest, and submittal of all delinquent contributions.

The member will be credited for additional months of service, but will not be able to retire until there is a valid termination.

WORKING AFTER RETIREMENT IN AN ELIGIBLE POSITION

Retired school teachers and administrators who choose **not** to return to work under **Idaho Statute 59-1356(4)**, but return to work and suspend their retirement benefits are required to make regular

contributions. They will accrue months of service and earn sick leave as an active member. A **RS132, Certification of Employment of a Retired Member** form must be completed by employee and employer.

PART-TIME OR TEMPORARY POSITIONS

Part-time and temporary positions, including substitute teachers, **do not** qualify for re-employment under **Idaho Statute 59-1356(4)**.

QUESTIONS & ANSWERS

If you have questions about PERSI Membership, call the PERSI Answer Center toll-free at 1-800-451-8228 or at 208-334-3365 from the Treasure Valley area.

OTHER CONCERNS

If you have money in the PERSI Choice 401(k) Plan, a different 401(k) plan, a 457 plan, or an IRA, returning to work for a PERSI employer may affect your ability to access those funds.

You are strongly urged to contact your plan provider to discuss possible ramifications of returning to work.

If you have questions about your Choice 401(k) Plan, you may contact Empower Retirement at 1-866-437-3774.

THIS RELATES TO PERSI BENEFITS ONLY AND DOES NOT PROVIDE GUIDANCE ON ANY OTHER EMPLOYEE BENEFITS.

If there is any discrepancy between this publication and the law, the provisions of the law will prevail.