



STATE OF DELAWARE
STATE BOARD OF PENSION TRUSTEES
AND
OFFICE OF PENSIONS
MCARDLE BUILDING
860 SILVER LAKE BLVD., SUITE 1
DOVER, DE 19904-2402

State of Delaware Re-employment after Retirement from the State Employees' Pension Plan

You may be years away from retirement or you may be considering retiring in the very near future. Either way, please be aware that there are very specific State and IRS guidelines regarding returning to work for the State of Delaware after retirement from the State.

Under Delaware State law, a retiree is not allowed to receive a State paycheck from active employment while also receiving a pension check from the State regardless of the source of funding. There are several consequences to the violation of these rules including the retiree owing back all pension benefits that were received while employed by the State after retirement. There are a few exceptions as outlined below.

A retiree who returns to work must be in one of the following types of positions that are non-pension creditable:

- Temporary Employee – An employee who is hired for a specific project or task and for a finite period of time that will not exceed 12 months duration.
- Casual/Seasonal – An employee employed by an agency under 29 Del C. §5903(17) and works less than 30 hours per week.
- Substitute – An employee employed by a school, is compensated on a daily basis, and works less than 30 hours per week.

The employer may not modify an existing pension covered position to one of the above positions to accommodate the retiree and create a transaction to circumvent the return to work provisions.

In addition to the above, the IRS indicates that a State retiree cannot receive compensation from any State of Delaware employment, even as a contractor, unless the following have been met:

If under age 65 –

- Must have a bona fide separation after retirement (six months or greater).
- Must not have had a pre-arranged agreement to return to work with the State.
- Must not be a contractor, working for a contractor or working for a temporary agency unless there has been a bona fide separation.

If over 65 and working in a non-pension creditable position that meets the above definitions, the employee may receive both a pension payment and a paycheck from the State of Delaware.

To reiterate, you must have a six month bona fide break in service if you are under age 65 before coming back to work with the State of Delaware as a casual/seasonal, temporary, substitute or contracted employee as defined above. During 2012, the Pension Office will be contacting all agencies and school districts regarding retirees that are employed within their Organization to ensure compliance with the State and IRS provisions.

If you have any questions, please feel free to contact the Office of Pensions at pensionoffice@state.de.us or (302) 739-4208 or 1-800-722-7300 toll free. You can also visit our website at www.delawarepensions.com for Frequently Asked Questions about returning to work with the State of Delaware after retirement.