



# EDUCATOR RETURN TO WORK

*REVIEW OF REQUIREMENTS, THE BENEFITS AND POTENTIAL DRAWBACKS*

2021 Idaho Association of School Business Officials

# WELCOME

## I will be going over the following topics:

- ✓ Background history
- ✓ Return to work process
- ✓ Impact & consequences of expanding benefits
- ✓ The studies, the real cost, the possible solution



## BACKGROUND HISTORY – RETURN TO WORK

In the early 2000's, Return To Work became a topic of discussion among public pension systems nationally. At that time, PERSI statutes were very clear as to who was retired, receiving a retirement benefit and who was an active member, contributing to the system.

During this time, the Idaho School Board Association (ISBA) began considering legislation to permit the re-hiring of PERSI retired teachers in situations where there was a critical shortage, without stopping their retirement benefit.

The ISBA advised us these critical shortages are typically experienced in certain specialty areas such as math and sciences, and in rural school districts.

PERSI considered potential issues with RTW, such as:

- Funding
- Policy issues
- Double dipping perception
- Retention versus rehire
- Policy conflict with Early Retirement Incentive Program (ERIP)

## IDAHO STATUTE 59-1356(4)

Idaho Statute 59-1356(4) is an exception for a very specific group with very specific requirements.

In order to lawfully hire a retired schoolteacher, administrator, public safety officer, or person qualified to drive school buses\* under Idaho Statute 59-1356(4), the retired candidate must meet section (4).

If the candidate does not meet all of the requirements, they do not qualify.

(4) If a retired schoolteacher or administrator who retired on or after age sixty (60) years, or a public safety officer who retired, and is receiving a benefit that is not reduced under section 59-1346, Idaho Code, again becomes an employee as defined in this section and section 59-1302(14), Idaho Code, as a result of returning to employment with a school district as provided in section 33-1004H, Idaho Code, the retired member may elect to continue receiving benefits and not accrue additional service, in which event no contributions shall be made by the member during such reemployment and any benefit payable on behalf of such member shall continue. However, the school district shall pay the required employer contribution for that employee to the public employee retirement system.

# DOING IT RIGHT: REVIEW OF REQUIREMENTS FOR HIRING

*Certified Instructional Staff / Pupil Service Staff / Resource Officers / Bus Drivers*

To be eligible, IRS Statutes & Regulations and Idaho Statutes require all of the following requirements be met in order to qualify:

- ! **Retired at age 60 or older** with an original retirement date and Date of Last Contribution (DLC) after 7/1/2017.
- ! **Working as an** “administrator or teacher” defined by the Idaho State Board of Education, public safety officer, or person qualified to drive school buses at the time of retirement, per **Idaho Statute 59-1356(4)**.
- ! **Never received** an early retirement incentive (ERIP).
- ! **Bona fide termination in service.** There must be a true termination of service between the employer and the employee where the employer/employee commitment has completely ended.
- ! **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, public safety officer, or person qualified to drive school buses.
- ! **ABSOLUTELY NO promise, agreement, or prearrangement of future employment prior to termination date; written, verbal, physical or otherwise.**

# DOING IT RIGHT: REVIEW OF REQUIREMENTS FOR HIRING

*Certified Instructional Staff / Pupil Service Staff / Resource Officers / Bus Drivers*

## IMPORTANT — ALSO KNOW THAT

In addition to the previous 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.

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To hire one of the mentioned, use the following applicable forms:

- Certification of Employment of a Retired School Teacher or Administrator/RS132A
- Certification of Employment of a Retired Public Safety Officer/RS132R
- Certification of Employment of a Retired Bus Driver/RS132B\*

After the reemployment of a PERSI retiree under Idaho Code §59-1356(4) has ended, submit form Termination of Employment of a Retired School Teacher, Administrator, School Resource Officer or Bus Driver/RS132T.

\*This form will be available beginning July 1, 2021.

## POSSIBLE CONSEQUENCES

If any of the requirements mentioned on the previous slides are not fulfilled, and PERSI learns of the situation, we will need to take corrective action.

This scenario may result in **financial penalties being enforced**.

These **penalties** include:

- ! The member's retirement is considered negated and retirement benefit is stopped immediately.
- ! The employer being held responsible for repayment of all benefits, contributions, and interest.





## RETURN TO WORK GONE WRONG – Idaho Statute 59-1356(4)

Vivienne is a junior high teacher and eligible to retire. Under **Idaho Statute 59-1356(4)**, Vivienne terminates/retires from service **August 31, 2017** and receives her first retirement check **September 1, 2017**. She returns to the classroom as a return to work retiree on **September 4, 2017**.

She is receiving: \$3,500.00 – monthly retirement benefit  
\$5,500.00 – monthly working wages  
\$9,000.00 – total monthly

On **August 25, 2018**, PERSI receives a copy of the school board minutes authorizing the hire of Vivienne for the previous school year, **dated June 15, 2017**. Because she had a promise of reemployment, Vivienne's retirement is now **negated**, and her retirement benefit is **immediately** suspended.

Her employer owes the following:

\$ 4,481.40 – Delinquent employee contributions which started accruing on \$66,000.00 in wages she during the year when she returned to work on 9/4/2017.  
\$ 42,000.00 – Retirement benefits paid to Vivienne.  
\$ 2,409.52 – Interest on the retirement benefits.  
**\$ 48,890.92 – TOTAL OWED**



## IDAHO STATUTE 59-1356(1)

Idaho Statute 59-1356(1) is for any retired member who is going to be reemployed.

(1) If an early retired member is reemployed with the same employer within ninety (90) days from retiring, or the early retired member is guaranteed reemployment with the same employer, the member shall be considered to have continued in the status of an employee and not to have separated from service. Any retirement allowance payments received by the retired member shall be repaid to the system and the retirement shall be negated. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to reemployment shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement. A retired member is not considered to have separated from service if he continues performing services for the same employer in any capacity including, but not limited to, independent contractor, leased employee, or temporary services.



## WORKING RETIRED GONE WRONG – Idaho Statute 59-1356(1)

Karl retired September 1, 2020 at the age of 63.

In October 2020, Karl started working for the same employer from which he retired. He did not meet the exception under Idaho Statute 59-1356(4).

However, Karl did not satisfy the **90-day break in service requirement, per Idaho Statute 59-1356(1)**. In May 2021, this was discovered during an audit.

**In this case, PERSI would have to stop Karl's retirement benefit and bill the school district for his benefits from November through May.**

### WHY WAS THIS RETIREMENT NEGATED?

The 90-day break in service requirement did not occur. Per Idaho Statute 59-1356(1), if a retired member is reemployed with the same employer within ninety (90) days from retiring, the member is considered not to have separated from service.



# IMPACT & CONSEQUENCES OF EXPANDING BENEFITS

Teachers are often hired earlier, reach rule of 90 and retire sooner, and live longer than general members on average.

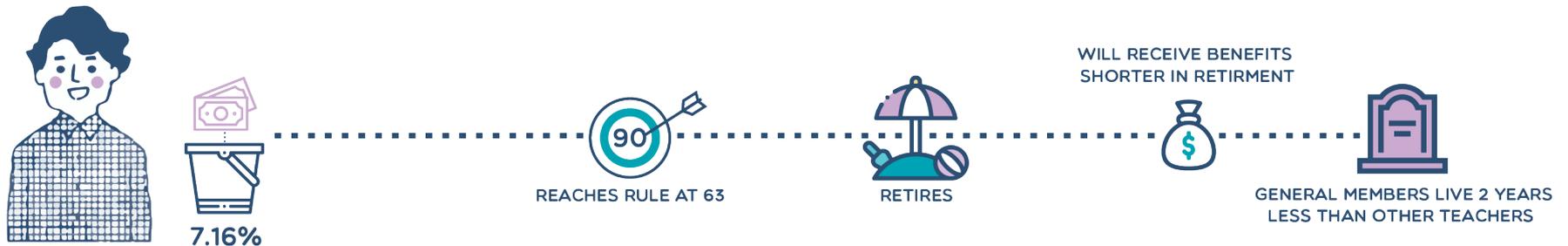
PERSI actuaries are seeing a drift during the past ten years. The numbers for male and female teachers are breaking away from general employee numbers and are becoming more comparable to fire & police numbers. The cost is highly dependent on:

**AGE | WAGE | RETIREMENT | MORTALITY**

Claire (22 years old) just graduated college and is starting her career as a 2nd grade teacher with a school district.



Jackson (30 years old) just started his career as an IT staff member with a state agency.



# THE STUDIES, THE REAL COST, THE POSSIBLE SOLUTION

During an actuarial study in 2018, PERSI's actuaries noticed a change in the retirement pattern of teachers and learned of additional costs associated with RTW. The study revealed that due to increased participation, RTW was costing an additional estimated **\$28,000** at that time.

## PERSI Return to Work (RTW) Illustration Prepared by Milliman

### Assumptions

Sal Scale	4.25%
Annual COLA	1.00%
Interest Rate	7.00%
Hire Age	30
Starting Salary	\$25,000
RTW Age	60
Final Retirement	62
Age at Death*	85

\* This is based on current average mortality for PERSI retirees who make it to age 60, and assumes no spouse benefit.

	With RTW		Without RTW	
	Gen/Tchr	Safety	Gen/Tchr	Safety
Accrual Rate	2.00%	2.30%	2.00%	2.30%
<b>Present Values at age 60</b>				
Benefits Paid	\$ 697,145	\$ 801,717	\$ 680,833	\$ 782,958
Contr's (age 60 - 62)	<u>(19,806)</u>	<u>(20,401)</u>	<u>(31,686)</u>	<u>(35,028)</u>
PERSI Cost	\$ 677,339	\$ 781,316	\$ 649,147	\$ 747,930
Cost of adding RTW			\$ <b>28,192</b>	\$ 33,386

**COST OF RTW: \$28,192**  
2018 Estimated

Actuaries are working on a new study to see how the pattern looks now with the additional years of data included. With more teachers taking advantage of RTW, the number may adjust depending on how long participants chose to work.

# THE STUDIES, THE REAL COST, THE POSSIBLE SOLUTION

In a 2019 study, the rates calculated for teachers were higher than those for general members. While these two groups are mostly subject to the same plan provisions: the mortality, retirement, withdrawal, and salary increase patterns amongst teachers results in more expensive benefits compared to general members.

To summarize, these projections showed that general members and their employers are currently subsidizing benefits of teachers. In theory, we are all paying for our own retirement benefit. While there is always some sort of small fluctuation taking place, no one group should be subsidizing another group's PERSI retirement benefit.

## PROJECTED CONTRIBUTION RATES PER ESTIMATE (2019 STUDY) TO BALANCE COST

ESTIMATED CONTRIBUTION RATES	GENERAL	TEACHER
Active Member	6.57%	7.98%
Employer	<u>10.96%</u>	<u>13.30%</u>
Total	17.53%	21.28%

CURRENT CONTRIBUTION RATES AS OF FY2021	GENERAL
General Member and Teacher	7.16%
Employer	11.94%
Total	19.10%





# Questions & Answers

## **FOR EMPLOYER QUESTIONS**

Please call Employer Services Center  
1-866-887-9525 or 208-287-9525

## **FOR MEMBER QUESTIONS**

Please call the PERSI Answer Center  
1-800-451-8228 or 208-334-3365

**THANK YOU  
FOR YOUR TIME & ATTENDING!**

# THE DIFFERENCES

RETURN TO WORK – ACTIVE <u>ELIGIBLE</u>	WORKING RETIRED – ACTIVE <u>INELIGIBLE</u>
Retired at age 60 or older with an original retirement date and DLC after 7/1/2017.	If not service retirement (retired at 65 years of age), must have a 90 day break in service.
Working as an “administrator or teacher” defined by the Idaho State Board of Education, public safety officer, or person qualified to drive school buses at the time of retirement, <u>per Idaho Statute 59-1356(4)</u> .	Working less than 20 hours per week.
Never received an early retirement incentive (ERIP).	Working less than 5 months. Example 4 months and 28 days.
Bona fide termination from employment.	Must submit a Certification of Employment of a Retired Member/RS132 form, Retired Public Safety Officer/RS132R, Certification of Employment of a Retired School Bus Driver available 07/01/2021.
Is receiving an unreduced PERSI retirement benefit.	Substitute teaching is <b>not</b> PERSI eligible regardless of how much time is worked.
Must return to employment as an at-will employee with a school district in positions requiring Instructional Staff Certification or Pupil Service Staff Certification.	<b><u>ABSOLUTELY NO</u></b> promise, agreement, or prearrangement of future employment.
Must submit a Certification of Employment of a Retired School Teacher or Administrator/RS132A form, Retired Public Safety Officer/RS132R, Certification of Employment of a Retired School Bus Driver available 07/01/2021.	
<b><u>ABSOLUTELY NO</u></b> promise, agreement, or prearrangement of future employment.	

# SOURCES CITED

## DOING IT RIGHT

### IRS STATUTES & REGULATIONS

26 U.S. Code(USC) §401

<https://www.law.cornell.edu/uscode/text/26/401>

26 Code of Federal Regulations (CFR) §1.409A(1)(h)

<https://www.law.cornell.edu/cfr/text/26/1.409A-1>

### IDAHO STATUTES

Idaho Statute 59-1356(4)

<https://legislature.idaho.gov/statutesrules/idstat/title59/t59ch13/sect59-1356/>

Idaho Statute 33-1004H

<https://legislature.idaho.gov/statutesrules/idstat/title33/t33ch10/sect33-1004h/>

### IDAPA RULES

IDAPA 59.01.02.114.03

<https://adminrules.idaho.gov/rules/current/59/590102.pdf>

