



CT TEACHERS' RETIREMENT BOARD  
765 ASYLUM AVENUE, HARTFORD, CT 06106-1500  
Toll free 1-800-504-1102 (860) 241-8401 Fax (860) 525-6018  
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[www.ct.gov/trb](http://www.ct.gov/trb)

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## **POST RETIREMENT REEMPLOYMENT STATUTORY LIMITS ON COMPENSATION**

The Connecticut Teachers' Retirement Board (TRB) recently received an [opinion from the Attorney General](#) regarding the statutory limits on compensation provided to reemployed teachers (including superintendents) pursuant to the Connecticut General Statutes that govern the TRB. The opinion prompted numerous questions, which we are attempting to answer below. The information we are providing does not supersede the relevant Internal Revenue code, the Attorney General's opinion and/or the State Statutes governing the Teachers' Retirement Board.

### **Questions and Answers**

#### **1) Question**

**What is the maximum amount that I can be paid as a retired teacher being reemployed by a school district in Connecticut?**

#### **Answer**

A reemployed teacher is limited to earning 45 percent of the teacher salary throughout the school year. Teacher salary is defined as the compensation for a teacher given the appropriate experience and education level for teachers in the district for the same assignment. This may be thought of as placing the retiree in the appropriate step and lane for the experience and educational level, the retiree can earn forty-five percent of this amount which can be earned over the full year or for a portion of the year.

## **2) Question**

**Are all types of reemployment subject to the 45 percent rule?**

### **Answer**

No, there are two other types of reemployment that are provided for under Connecticut Statutes, which are the priority school district and subject shortage area reemployment provisions. These are exempt from the 45 percent rule.

## **3) Question**

**Is there a limit of the number of years that one may serve as a reemployed retired teacher?**

### **Answer**

There is no limit to the number of years that one can be reemployed as a teacher pursuant to the 45 percent rule.

The maximum number of years that one can be reemployed in a priority or shortage area is an aggregate of two years. One may continue employment in a shortage area or priority school district after year two subject to the 45 percent rule. The number of years that an individual is reemployed under a priority or shortage basis does not affect the time that one may serve under the 45 percent rule.

## **4) Question**

**Are fringe benefits included in the 45 percent of salary limitation?**

### **Answer**

Reemployed members who are subject to the 45 percent rule may not receive any compensation in the form of fringe benefits.

## 5) Question

**Can fringe benefits be provided to members so that the total compensation exceeds 45 percent of salary?**

### Answer

The Connecticut Attorney General has ruled that Boards of Education may not provide compensation in excess of the 45 percent of salary to a reemployed teacher. Further, that the payment made to the teacher must be in the form of cash compensation (salary). This ruling resulted from concerns over compensation including fringe benefits in addition to salary. These included such items as health insurance premiums, car allowances, cell phone allowances, sick leave payments, tax deferred annuities, signing bonuses, contracts to provide services to the school district as an independent contractor, payments to sit on the Board of related Trusts, etc.. In some instances the value of allowances and fringe benefits were inconsistent with the cost of the items.

## 6) Question

**Does the 45 percent rule prohibit all payments to reemployed retirees in excess of the 45 percent rule?**

### Answer

While the Attorney General's ruling prohibits allowances for expenses such as cars and cell phones, the TRB believes that some of the items identified are necessary tools for school district employees and that given proper reimbursement, such transactions are allowable. For example, when an employee drives to a meeting necessary to serve the needs of the school district, he or she should be reimbursed at the federally allowed rate (currently 57 cents per mile). Employees in some instances may be provided a cell phone to conduct school business. Such phones may be modern and functional and should revert to the school district upon the end of the employee's tenure. Reimbursements significantly above the cost of the service should be discontinued and replaced with the provision of expenses specifically related to the cost of the items, which are necessary business tools for providing services to the district.

## 7) Question

**Can a retired Superintendent be employed to provide other services to a school district in which he or she also is reemployed as a superintendent?**

### Answer

It has been reported that there have been cases where individuals who are reemployed as the superintendent, and in that capacity serve as the Chief Executive Officer of the school district, also provide other services to the school district as an independent contractor. This creates two problems: first it makes it difficult to identify whether the payment is being received by the individual or their firm; second we view such contracts as a conflict of interest as the Chief Executive Officer is responsible for overseeing such contracts and should be prohibited from monitoring themselves. Additionally, examples where second sources of income were provided by the school's foundation to reemployed superintendents are similarly inappropriate. While there may be examples of such services being appropriate, any determination would have to be made based upon particular facts and circumstances.

## 8) Question

**How does one determine a superintendent's salary in instances where there has been a significant period since the position has been held by a full time superintendent?**

### Answer

One of the issues associated with the use of the 45 percent rule is that some superintendent jobs are permanently part time and thus there is no full time salary for comparison. The TRB has developed a safe harbor provision for review of a part time superintendent's salary. In instances where there is no recent market price for the superintendent the TRB will assume that salaries less than 225 percent of the maximum teacher salary on the salary schedule (with regards to step, and academic degree) are appropriate. Safe harbors are developed as guidelines to allow for complex processes to be simplified. TRB will consider superintendent salaries which are above the safe harbor on a case by case basis.

## **9) Question**

**How does the TRB plan on implementing these new requirements?**

### **Answer**

The TRB wants to minimize disruption in the process of hiring retirees for reemployment. The TRB will be implementing the new protocols in two phases. During the 2015-2016 school year the TRB will allow for contracts that include fringe benefits, which combined with other remuneration add up to less than 45 percent of salary. In order for this to be operative such contracts must have been executed prior to August 1 of 2015.

After July 1 of 2016, remuneration to reemployed retirees under the 45 percent rule must be only in the form of cash compensation (cash is defined to include payment by check, direct deposit etc.) and cannot include fringe benefits. The receipt of fringe benefits under the 45 percent rule thereafter is prohibited.

Revised post retirement reemployment reporting forms will be provided under separate cover to include the above provisions.