

STATE OF DELAWARE  
OFFICE OF MANAGEMENT AND BUDGET  
OFFICE OF PENSIONS  
PENSIONER RETURN TO WORK FAQ'S

**1. Can I return to work as an employee for an employer participating in the State Employees' Pension Plan after retirement and while I am receiving a pension benefit from the State Employees' Pension Plan?**

Yes, however ALL of the following criteria must be met:

1. If you are under age 65, you must have at least a 6-month separation from the date of retirement to the starting date of your new employment.
2. You cannot have a pre-arranged agreement with the State to return to work after retirement.
3. You cannot work in a pension creditable position. You must be in one of the following types of positions:
  - Casual/Seasonal – An employee who works less than 30.0 hours per week or, if 30 hours or more per week, not for a period to exceed 12 months.
  - Substitute – An employee in a school who is compensated on a daily basis but not on an ongoing basis in lieu of hiring a regular employee.

NOTE: 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.

4. A retiree in one of the above approved positions cannot earn more than \$40,000.00 per year without a pension offset.

NOTE: If an individual does exceed the allowable earned income, the individual's state pension benefit will be reduced over a 12-month period calculated as \$1 deduction for every \$2 earned over \$40,000. The deduction will begin in July of the year following the calendar year for which the earnings are reported.

5. You must also adhere to the Delaware Public Integrity Commissions' requirements. Please see <http://depic.delaware.gov/> code of conduct statute post-employment restrictions (29 Del C. § 5805(d)).

**2. After retirement, can I return to work with a State Employee’s Pension Plan agency or school district as an independent contractor or as a contractor for a private company?**

If you abide by several stipulations, it is possible. Primarily, there must not be a pre-arranged agreement between yourself and any agency or school district to return to work after retirement. This means that you cannot make ANY arrangements to return to work with any agency or school district prior to your retirement.

If you are under the age of 65, after a 6-month bona fide separation, you could return as long as the agency or school district is not modifying a pension creditable position to one of the above positions to accommodate you and create a transaction to circumvent the return-to-work provisions.

Also, after the 6-month separation period, if you contract with or work for any private company that is contracting with a State Employee’s Pension Plan agency or school district, you must complete the Certification of Post-Retirement Employment Status Indirect Employment form. You, the private company, and the State organization will complete this form accepting responsibility for any claims, penalties, or fines that should arise from the employment either through Delaware False Claims and Reporting Act and/or the Internal Revenue Service.

Indirect Employment form link: [STATE OF DELAWARE](#)

You must also adhere to the Delaware Public Integrity Commissions’ requirements. Please see <http://depic.delaware.gov/> code of conduct statute post-employment restrictions (29 Del C. § 5805(d)).

**3. Can I choose to not contribute to the pension fund while working for the State?**

No. Contributions to the pension fund are mandatory if you are working in a pension creditable position.

**4. Do these guidelines apply to all retirees regardless of retirement date?**

Yes. They apply to all State Employees’ Pension Plan retirees regardless of retirement date.

- 5. I am in a 12-month casual/seasonal position working over 30 hours per week. Can I begin another 12-month casual/seasonal position working over 30 hours per week immediately after my current position ends?**

You may begin another 12-month casual/seasonal position if the job duties are different than the duties of the 12-month casual/seasonal position that just ended.

- 6. I am a substitute teacher. Can I work four days a week?**

Yes, you may work an unlimited number of days as a per diem (daily) substitute. However, you may not earn more than \$40,000.00 annually without having your pension benefit offset.

- 7. Can I substitute for a teacher who is on a leave of absence (paid OR unpaid)?**

Yes, as long as the period of time does not exceed 12 months. However, you may not earn more than \$40,000.00 annually without having your pension benefit offset.

- 8. Can the school or agency title me as a casual/seasonal or contractual worker to meet the State and Federal guidelines for retirees returning to work?**

No, not if the position would normally be pension creditable. It would be viewed as a sham transaction to title the position differently in order to hire a State of Delaware retiree.

- 9. I am a teacher who retired effective July 1<sup>st</sup> and I am under the age of 65. Can I teach summer school beginning July 1<sup>st</sup>?**

No. You must wait six months from the date of your retirement before you return to work with a participating employer.

- 10. Can I receive a monthly pension benefit and be appointed to a position by the Governor before six months has expired (i.e. Board Members)?**

No. If you are under the age of 65, you must wait six months after retirement before performing any work for a participating employer including that of an appointed position.

**11. Can a retired State Trooper return to work with the State in a non-State Police Pension Plan position?**

Yes. The under age 65 retired trooper does not have to wait six months to work in a position in the State Employees' Pension Plan that is casual/seasonal, substitute or that would normally be pension creditable in the State Employees' Pension Plan. The retired trooper is receiving pension benefits from the State Police Pension Plan not the State Employee's Pension Plan.

**12. I am retired from a pension plan other than the State Employees' Pension Plan (e.g., County/Municipal General Employees Plan, County/Municipal Police Plan, Judicial Plan, a non- State of DE pension plan, etc.). Can I return to work with the State of DE in a State Employees' Pension Plan position and continue to receive benefits from my retirement plan?**

Yes. The IRS views the employers from plans other than the State Employees' Pension Plan to be a different employer than the State of DE.

You cannot return to work for an employer who participates in the same pension plan from which you are receiving a benefit without meeting the established guidelines.

**13. If I am under 65 when I retire, is there a way for me to return to work without the bona fide 6-month separation period?**

No. If you are under what the IRS considers the "normal retirement age" of 65, you must be separated from State service for at least 6 months before returning to any State agency or school district in any capacity.

**14 I currently work in a casual/seasonal (or substitute) position while I also work in a pension creditable position. I am under age 65. If I retire from the pension creditable position, can I continue to work in the casual/seasonal position without having a separation?**

No. You must take a 6-month break from the casual/seasonal (or substitute) position per IRS regulations.

**15. Is the \$40,000 pension offset per casual/seasonal and/or substitute position?**

No. The earnings limit before offset is aggregate of all casual/seasonal and/or substitutions wages earned in a calendar year.

**16. Does the \$40,000 offset apply if I retire and return to work in a position covered by another pension plan, even if it is administered by the State Pension Office?**

No.

**17. Is the \$40,000 pension offset calculated when earned or when paid?**

The \$40,000 pension offset is calculated when paid.

**18. Who should I speak to if I have questions?**

Please contact your agency's Human Resources Office or the State Pension Office (302) 739-4208 if you have any questions.

DISCLAIMER: If there is any conflict in interpretation between the FAQ's and existing law, the law governs.