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This index provides information and procedures for employers who elect to hire a retiree who is subject to the **2010 RTW Law**. Agencies should refer to Index 15.2 for information related to the employment of retirees affected by the 2020 RTW Law.

The 2010 RTW Group includes retirees who retired before July 1, 2020.

*Retirees who retired prior to July 1, 2020, and whose first reemployment fell under the 2020 RTW Law have the option to transfer to the 2010 RTW LAW (La. R.S. 11:710). They can do so by completing Form 15TR. NOTE: If the retiree makes this election, they will remain covered by the provisions of the 2010 RTW Law until 06/30/2027.*

**Retirees in the 2010 RTW Group can make an irrevocable election to transfer to the 2020 RTW Group as long as they have not previously elected to transfer from the 2020 RTW Group to the 2010 RTW Group. (See Index 15.2 for more information.)**

La R.S. 11:710, effective July 1, 2010, establishes provisions for retirees who retired on or before June 30, 2020. The information in this section is provided to help you determine whether a retiree meets the definition of “retired teacher” or “retired member,” as defined in the return-to-work (RTW) law, or if they are eligible for the Core Subjects or Special Leave provisions (effective June 17, 2022). This Index will also provide guidance regarding the enrollment of retirees and required employer reporting.

*NOTE: The RTW law applies to direct employment as well as employment by contract or corporate contract.*

### Waiting period

Retirees returning to work in a TRSL-covered position were subject to a waiting period of either 12 or 36 months beginning on the date of the member’s retirement. All waiting periods have expired as of 06/30/2023.

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## 2010 RTW provisions

Under La R.S. 11:710, the category to which a RTW retiree belongs will determine whether a retiree's benefit will be subject to a suspension and whether retirement contributions must be paid. Generally, the position in which they are hired or the certification they hold, will determine the category to which they belong.

- A reemployed retiree that meets the criteria of "retired teacher," or who is eligible for the Core Subjects or Special Leave provisions, is eligible to receive their retirement benefit, in some capacity, while reemployed.
- The "retired member" provision applies to retirees who are reemployed in a TRSL eligible position but who do not meet the criteria of "retired teacher," and who are not eligible for the Core Subjects or Special Leave provisions. The retiree will be subject to a suspension of their monthly benefit for the duration of reemployment. No additional service credit is accrued nor is any additional benefit earned; contributions are not required.

### Retired Teacher

- 1. Reemployment eligible retiree:** No impact to monthly benefit
  - Retiree who retired prior to July 1, 2010 (grandfathered group)
  - Retiree who holds an advanced degree in speech therapy, speech pathology, or audiology
- 2. Reemployment-eligible, critical shortage position:** No impact to monthly benefit once certification received (requires annual certification)
  - Full- or part-time PreK-12 "classroom teacher" where a critical shortage exists
  - Full- or part-time certified speech therapist, speech pathologist, audiologist, educational diagnostician, school social worker, school counselor school psychologist, interpreters, educational transliterators, or educators of the deaf or hard of hearing in a school district where a critical shortage exists.

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### 3. Reemployment eligible position (25% of annual retirement benefit earnings limit):

- Substitute PreK-12 "classroom teacher"
- Adult education or literacy program teacher
- Adjunct professor, as defined in La. R.S. 11:710(A)(1)
- School nurse, as defined in the La. R.S. 17:28
- Presenters of professional development training
- Tutors for any PreK-12 student
- "Classroom teachers" employed in a temporary capacity to proctor tests

#### **Core Subjects, no impact to monthly benefit**

*(Effective until 07/01/2027)*

Retiree must be certified in one of the subjects below, and employed to fill a position in the area of certification

1. Math
2. English Language Arts
3. Science
4. Special Education (excluding gifted/talented)

#### **Special Leave, no impact to monthly benefit**

*(Effective until 07/01/2027)*

Retiree must meet the following criteria and be hired to fill a vacancy due to one of the special leave scenarios listed below.

Retiree must

- Be certified, and
- Be at least age 62, and
- Have earned at least 30 years of creditable service

Employed to fill a vacancy

- Maternity Leave pursuant to R.S. 17:1211, or
- Military Leave pursuant to R.S. 17:1215, or
- Sabbatical Leave pursuant to R.S. 17:1171, or
- Extended Sick Leave pursuant to R.S. 17:1202

#### **Retired Member**

Any TRSL retiree who returns to work in a TRSL-covered position but does not meet the criteria to be considered a "retired teacher" or meet the Core Subjects or Special Leave requirements.

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## Key terms & definitions

Employers should be familiar with the following terms and definitions that pertain to TRSL's return-to-work law. Complete definitions of all terms below are set forth in La. R.S. 11:710.

### ***Adjunct professor***

Any part-time faculty, including instructor, assistant professor, associate professor, or professor, assigned the professional activities of instructing pupils or conducting research at a public institution of post-secondary education.

### **"Classroom teacher"**

Any employee:

- Whose position of employment requires a valid Louisiana teaching certificate and who is assigned the professional activities of instructing pupils in courses in classroom situations for which daily pupil attendance figures are kept; or
- Who is assigned to proctor admission, evaluation, or assessment testing.

### ***Substitute "classroom teacher"***

Any "classroom teacher" employed in a temporary capacity to fill the position of another "classroom teacher" who is unavailable to teach for any reason.

### ***Key points to remember***

- The RTW law applies to all TRSL retirees, *even those returning to work through an independent or corporate contract.*
- Retirees reemployed under 2010 RTW law do not earn additional service credit or additional benefits.
- Disability retirees who return to work in the field of education, whether public or private, will have their retirement benefits terminated.

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## Critical shortage

Employers may declare a critical shortage when it has been determined there is a critical shortage of certified PreK-12 "classroom teachers" in a certain subject area. A specific subject area or grade level(s), if elementary, must be identified when declaring a critical shortage.

A critical shortage may also exist when there is a shortage of certified speech therapists, speech pathologists, audiologists, educational diagnosticians, school social workers, school counselors, school psychologists, interpreters, educational transliterators, or educators of the deaf or hard of hearing.

### Steps to declare a critical shortage

Employers can certify the existence of a critical shortage after complying with all of the following requirements:

1. Advertise at least once per month in the official journal of the employer's governing authority that the employer is soliciting applications for future employment of certified teachers.
2. Post with the career development office, or similar entity, of every post-secondary institution within a 120-mile radius of the employer's governing authority at the beginning of every semester that the employer is soliciting applications for future employment of certified teachers.

*Includes public and private institutions, as well as out-of-state institutions to fulfill the 120-mile radius job posting requirement.*

3. Display a list of positions that are unfilled and that are filled by reemployed retirees on the website of the employer's governing authority and the website of the employer, if a separate website is maintained. All positions filled with a retiree must be listed, including grandfathered retirees, and those hired under the Core Subjects and Special Leave provisions.

*NOTE: Advertising the position on Teach Louisiana **does not** satisfy the above requirements; it can, however, be used as a supplemental advertising source.*

4. If **fewer than three** qualified applicants apply and the retiree is certified in the subject area/position, the employer can hire the retiree under critical shortage. If **three or more** qualified applicants apply for the position, the position does not meet the requirements set forth in law to be classified under the critical shortage provisions.

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5. Retirees rehired to fill a critical shortage (full- or part-time) must be certified in the specific subject area or position in which they are hired to fill.
6. Critical shortage positions must be certified to TRSL and the Board of Elementary and Secondary Education (BESE) within 45 days of enrollment.

### ***Certifying a critical shortage to TRSL & BESE***

The RTW law requires employers to certify critical shortage areas to TRSL and BESE. To fulfill this requirement with TRSL, complete and submit the [Retiree Return-to-Work Critical Shortage Certification](#) (Form 15CS) after the enrollment has been processed. The Form 15CS must be submitted to TRSL within 45 days of the retiree's enrollment in TRSL. **Note that when a retiree is enrolled in a critical shortage category, the RTW law requires TRSL to suspend their monthly benefit until the employer certifies the critical shortage.** Therefore, employers are encouraged to submit the Form 15CS as soon as possible after enrolling the retiree.

After TRSL receives the critical shortage certification, as a reemployed retiree meeting the "retired teacher" criteria, the retiree is not subject to a suspension of retirement benefits.

*REMINDER: Employers must process the online enrollment for a retiree being reemployed in a critical shortage position **prior** to submitting the Form 15CS certification.*

**All critical shortages must be declared and certified on an annual basis. TRSL will terminate all RTW critical shortage employment on June 30th of each fiscal year.**



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### Core Subjects, no impact to monthly benefit

*(Effective until 07/01/2027)*

Employers can hire retirees to fill certain core subject positions without affecting the retiree's monthly TRSL benefit. The retiree must be **directly employed** (not employed via 1099 or corporate contract), be certified in one of the subjects below, and be hired to fill a position in the area of certification.

1. Math
2. English Language Arts
3. Science
4. Special Education (excluding gifted/talented)

If an employer has declared a critical shortage for their parish, positions filled by a retiree utilizing the Core Subjects provision must be included in the advertising of vacant positions on the website of the employer's governing agency and the website of the employer (if separate). If a non-retiree who is certified in one of the subjects listed above applies for a position filled by a retiree, the non-retiree should be employed to replace the retiree at the start of the next grading period. If the retiree remains in the position, the Core Subjects category will no longer be applicable, and a new enrollment should be submitted under the applicable provision.

If an employee does not intend to utilize the Critical Shortage Provision, the posting of vacant positions is not required.

### Special Leave, no impact to monthly benefit

*(Effective until 07/01/2027)*

Employers can hire retirees to fill vacancies due to special leave circumstances without affecting the retiree's monthly TRSL benefit. The retiree must be **directly employed** (not employed via 1099 or corporate contract) and must meet the following criteria and be employed to fill a vacancy due to one of the special leave scenarios listed below.

Retiree must

- Be certified, and
- Be at least age 62, and
- Have earned at least 30 years of creditable service

Employed to fill a vacancy due to

- Maternity Leave pursuant to R.S. 17:1211, or
- Military Leave pursuant to R.S. 17:1215, or
- Sabbatical Leave pursuant to R.S. 17:1171, or
- Extended Sick Leave pursuant to R.S. 17:1202

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If an employer has declared a critical shortage for their parish, positions filled by a retiree utilizing the Special Leave provision must be included in the advertising of vacant positions on the website of the employer’s governing agency and the website of the employer (if separate).

If an employee does not intend to utilize the Critical Shortage Provision, the posting of vacant positions is not required.

**25% of annual retirement benefit earnings limit**

When employers enroll a retiree under the reemployment eligible position, 25% earnings limit category, the TRSL Employer/Membership Information Site (EMIS) will display the retiree’s earnings limit amount (25% of their annual retirement benefit) on the EMIS Member Summary page. An enrollment confirmation letter is mailed to each retiree and provides this 25% earnings limit amount.

Retirees who exceed the 25% earnings limit will have their benefit reduced by the amount in excess of the 25% limit. If a retiree returns to active service in more than one position that is subject to the 25% earnings limit in any fiscal year, the limit applies to the total earnings for all such positions in the fiscal year (July 1 – June 30).

*NOTE: The RTW law mandates that employers who fail to report earnings to TRSL and such earnings result in the overpayment of retirement benefits, the employer will be liable for repayment of the retirement benefits to TRSL.*

**EXAMPLE - Earnings limit calculation**

$\$37,884.00$  (annual benefit)  $\times$  25% =  $\$9,471.00$  (earnings limit)

TRSL Regular Plan Information			
Date of Service Accrual: 08/23/1984		Final Average Comp: 54,175.38	
Switch-Over Date:			
Social Security Eligibility Date:			
RTW Earnings Limit: 59,471.00		Original Retirement Plan	
Service Credit for Benefit Computation		Member Contributions	
Regular Service	30.00	Regular Salary Report as of 06/2017	31.20
Total as of 12/02/2014	30.00	Total Contributions	31.20



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**Online enrollment processing**

[La. R.S. 11:710](#) requires employers to notify TRSL of all retirees returning to work in TRSL-covered positions within 30 days of such reemployment. If an employer fails to enroll a reemployed retiree within 30 days of reemployment, and a retiree receives benefits which would have been suspended had the enrollment occurred timely, the return to work law provides that the employer shall be liable to TRSL for repayment of such benefits.

Retirees who retired prior to July 1, 2020 can make an irrevocable election to convert to the 2020 RTW Group; additionally, retirees who retired prior to July 1, 2020 and whose first reemployment fell under the 2020 RTW Group can transfer to the 2010 RTW Group.

The portals are notated as to which group the retiree currently belongs. Employers should only enter the other portal if an executed Form 15ELEC or Form 15TR has been received.

*EXAMPLE – Portal options/certification statement for retiree currently subject to the 2010 RTW Law who elects to be covered by 2020 RTW Law*

Please make selection below to continue.

Portal A: 2010 RTW Law (Group to which retiree currently belongs)  
 Portal B: 2020 RTW Law

I hereby certify that the retiree has received and executed Form 15ELEC Return to Work (RTW) of TRSL retiree - La. R.S. 11:710.1 (RTW 2020 Group) including Section 3 of the form, whereby this retiree is making an irrevocable election to be covered by La. R.S. 11:710.1. I further certify that the employer certification portion of the form has been executed, the form will be permanently maintained in the personnel records of this employer, with a copy forwarded to TRSL.

I Certify to the Above.

Continue Enrollment

Instructions for return to work enrollments in the TRSL Employer/ Membership Information Site (EMIS)

1. Log into EMIS
2. From the menu bar, select Updates
3. From the Updates pull down menu, select Enrollments
4. Enter retiree's Social Security number.
5. **Select "Portal A — 11:710" and press "Continue Enrollment."**



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6. Enter the following information:

- System # (This field will default to 4 unless you are a Plan B parish, in which case 3 will be available.)
- Enrollment date (mm/dd/yyyy)
- Return-to-Work provision (drop-down menu will list all types)
- Gender
- Position certification (if required)

7. Select Submit

- If there are no errors, the enrollment will be processed and a confirmation message will display at the top of the window.
- If there are errors, the enrollment will not be processed and the error message will be displayed.

*NOTE: When a retiree return-to-work online enrollment is submitted by the employer, TRSL will mail a confirmation letter to the enrolled retiree returning to work.*

### Grandfathered group

Retirees with a date of retirement prior to July 1, 2010 will automatically default to the Act 1173 Return-to-Work Provision (grandfathered group, reemployment eligible retiree).



The screenshot shows the 'Enrollments' web form. It includes fields for 'System', 'Status', 'Status Code', and 'Status Date'. Below this is an 'Employment History' table with columns for 'Employee ID', 'Employer Name', 'System', 'Start Date', 'End Date', and 'RTW Type'. The table contains two rows of data. Below the table is a section titled 'Enter Enrollment Information Below' with fields for 'System', 'Employer ID', 'Enrollment Date (mm/dd/yyyy)', 'Return-to-Work Provision' (with a red warning message: 'Member will be enrolled under the return-to-work provisions of Act 1173.'), 'Gender (options: male | female)', 'Parish ID', 'Address', 'City', 'State', and 'Zip Code'. A 'Submit' button is located at the bottom of the form.



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### Higher Education agencies

A limited number of RTW provisions will apply to higher education agencies when enrolling a return-to-work retiree whose retirement date was on or after July 1, 2010, but before July 1, 2020. Available provisions are illustrated in the screen shot below.

Higher education agencies include Louisiana public universities/boards, medical, and technical and community colleges/boards.

Enter Enrollment Information Below	
System:	4
Employer ID:	0077
Enrollment Date (mm/dd/yyyy):	
Return-to-Work Provision:	Choose a Return To Work Provision
Gender (update gender if needed):	
Address:	Advanced Degree Speech
City:	Earnings Limit Presenter Of Professional Development

### Unions/ Professional Organizations/ Miscellaneous State Agencies

**Teaching personnel for the Department of Corrections (including Office of Juvenile Justice), will have the same provision options as PreK-12 agencies, with the exception of adult education literacy instructor and Special Leave provisions.**

Teacher unions, various professional organizations, and certain state agencies are limited to three return-to-work (RTW) provisions, as shown on the following page, when enrolling a RTW retiree whose retirement date was on or after July 1, 2010, but before July 1, 2020. This includes but is not limited to La Association of Educators (LAE), La Federation of Teachers (LFT), La Resource Center for Educators (LRCE), Association of Professional Educators of LA (APEL), The Board of Elementary & Secondary Education (BESE), La School Board Association, and La Department of Education (DOE) Contractors.

*Example of available options for certain types of miscellaneous agencies. DISCLAIMER: RTW Category Options available will be specific to each agency.*



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## Position certifications

For certain positions, employers are required to certify the degree or certification held by a retiree and/or that the position to be held meets certain requirements. Certifications are required for the following:

1. Retirees with an advanced degree in speech therapy, speech pathology, or audiology;
2. Retirees instructing adults through an adult education or literacy program; and
3. School nurse position (as defined in [La. R.S. 17:28](#))
4. Retirees certified and hired in a Core Subject
5. Retirees hired due to special leave vacancies

This certification is a requirement when completing the online enrollment process for a retiree in one of the above categories. *The certification for each area outlined above is as follows:*

### Advanced Degree in Speech

I certify that the retiree I am enrolling holds an advanced degree in speech therapy, speech pathology, or audiology.

### Adult Education

I certify that the retiree I am enrolling holds a valid Louisiana teaching certificate and will be instructing adults through an adult education or literacy program administered through a public institution of elementary or secondary education.

### School Nurse

I certify that the retiree I am enrolling is filling the school nurse position provided for in La. R.S. 17:28.

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*EXAMPLE – Certification for retiree with speech-related advanced degree*

When you select one of the following RTW provisions on the enrollment screen, the system requires an additional certification: Advanced Degree in Speech, Adult Education, School Nurse, Core Subjects, or Special Leave vacancies.

Enter Enrollment Information Below	
System:	4 ▼
Employer ID:	<input type="text"/>
Enrollment Date (mm/dd/yyyy):	<input type="text"/>
Return-to-Work Provision:	Advanced Degree Speech ▼
Gender (update gender if needed):	▼
Address:	<input type="text"/>
City:	<input type="text"/>
State:	<input type="text"/>
Zip Code:	<input type="text"/>
<input type="checkbox"/> I certify that the retiree I am enrolling holds an advanced degree in speech therapy, speech pathology, or audiology.	
<input type="button" value="Submit"/>	

*Example – certification for retiree being enrolled under Core Subjects*

<input type="checkbox"/>	I hereby certify that the retiree I am enrolling is CERTIFIED to teach MATH and is being reemployed to fill a position in the area of certification.
<input type="checkbox"/>	I hereby certify that the retiree I am enrolling is DIRECTLY EMPLOYED and not employed via 1099 or by Corporate Contract.
<input type="checkbox"/>	I hereby acknowledge if a teacher who is not a TRSL retiree and who is CERTIFIED to teach MATH applies for this position, that non-retiree shall be employed to replace the retiree at the start of the next grading period. Failure to take such action could result in an overpayment of benefits charged to the employer.

*Example – certification for retiree being enrolled under Special Leave*

<input type="checkbox"/>	I hereby certify that the retiree I am enrolling is a CERTIFIED TEACHER and is being reemployed to fill a VACANCY created by teacher out on EXTENDED SICK LEAVE pursuant to R.S. 17:1202.
<input type="checkbox"/>	I hereby certify that the retiree I am enrolling is DIRECTLY EMPLOYED and not employed via 1099 or by Corporate Contract.



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## Frequently asked questions (FAQs)

1. **Which TRSL retirees are eligible to return to work in a TRSL-covered position without a benefit suspension?**
  - » *In order for a TRSL retiree to return to work without a benefit suspension, the retiree must meet the definition of "retired teacher" or meet the eligibility criteria of the Core Subject or Special Leave category.*
2. **Does the TRSL return-to-work law prevent a TRSL employer from hiring a TRSL retiree who is a "retired member?"**
  - » *The TRSL return-to-work law does not prohibit or prevent an employer from employing any TRSL retiree. The law regulates the receipt of retirement benefits when a TRSL retiree returns to work; it does not regulate the employment of retirees.*
  - » *See [Question 8](#) with respect to the hiring of retirees for critical shortage positions when there are three or more certified applicants, one of whom is not a retiree.*
3. **Which retirees are considered "retired teachers" as a result of being in the "grandfathered" group?**
  - » *All TRSL retirees who retired on or before June 30, 2010 are considered "retired teachers" in the "reemployment eligible retiree" category. These retirees may be reemployed by a TRSL employer without a suspension of their retirement benefits. Employee and employer contributions must be paid during reemployment.*
4. **What grade levels are included in the definition of "retired teacher" with respect to being a "classroom teacher" in a critical shortage area? Is pre-kindergarten included?**
  - » *In 2018, the TRSL return-to-work law was amended to include pre-kindergarten in the "retired teacher" category of "reemployment eligible critical shortage position" as a full- or part-time "classroom teacher."*
5. **Who is considered a "classroom teacher" under the TRSL return-to-work law?**
  - » *The law defines a "classroom teacher" as any employee:*
    - » *whose position of employment requires a valid Louisiana teaching certificate; and*
    - » *who is assigned the professional activities of instructing pupils in courses in classroom situations for which daily pupil attendance figures for the school system are kept.*
  - » *Remember that the definition of "classroom teacher" only relates to individuals attempting to meet the definition of "retired teacher" related to a critical shortage or a substitute.*

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### 6. Who is included in the “classroom teacher” definition with respect to “instructing pupils in courses in classroom situations for which daily pupil attendance figures for the school system are kept?”

- » *The law defines “classroom situations” as including “teaching in a school classroom or in other settings such as a home or hospital or other learning situations such as co-curricular activities, which instruction may be provided in person or through an approved medium such as television, radio, computer, internet, multimedia, telephone, and correspondence that is delivered inside or outside the classroom or in other teacher-student settings.” Examples of “classroom teachers” include:*
  - » **Teachers in traditional PreK-12 classroom settings in which a teacher maintains records of student attendance, i.e. a teacher assigned a class(es) to perform instructional activities for a designated number of students in a designated subject area or grade, as established for the school year or course length.**
  - » **Teachers providing instruction to students in PreK-12 instructional settings during a regular school day whereby:**
    - » 1) *The services provided to the child are a component of the child’s instruction in a subject area(s); &*
    - » 2) *There is an attendance record maintained with respect to the child by the teacher providing the instruction or by a teacher to whom the child is primarily assigned for the subject area or grade, if the instructional services provided are supplemental to the course work of the primary assignment. For example, for children needing assistance under the Individuals with Disabilities Education Act (IDEA), an interventionist or resource teacher may provide instruction which supplements instruction provided in the primary subject area assignment.*
  - » **Teachers providing distance learning via the internet or other means, if the teachers are maintaining records of daily attendance for the school system.**
  - » **Teachers providing instruction to homebound students, if the teachers are maintaining records of daily attendance for the school system.**

### 7. Can a principal, other school administrator, or central office staff member (“administrator”) be considered a “retired teacher” under the TRSL return-to-work law?

- » *TRSL retirees who retired on or before June 30, 2010, (“grandfathered” group) are considered “retired teachers,” regardless of the position they are filling. Therefore, such “retired teachers” can be administrators.*
- » *In addition, “retired teacher” includes retirees who hold an advanced degree in speech therapy, speech pathology, or audiology. The TRSL return-to-work law does not require such retirees to be employed in a speech-related position. As a result, a retiree with one of these advanced degrees could fill an administrator position and be considered a “retired teacher.”*

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### 8. Is there a situation in which I would be prevented from hiring a retiree?

- » *The TRSL return-to-work law does not prevent a school system from hiring a retiree. It only places restrictions on the hiring of a retiree in a critical shortage area, if a certified applicant who is not a retiree applies for an advertised position. Under the TRSL return-to-work law, a certified applicant who is not a retiree must be hired before any certified "retired teacher" is employed, unless fewer than three teachers have applied for the position, each of whom are certified in the critical shortage area being filled.*

### 9. Does a retiree have to be certified in the critical shortage area?

- » *Retirees filling a position in a critical shortage area must be certified in the critical shortage area. The TRSL return-to-work law, with respect to filling a position with a retiree when there are fewer than three applicants, requires that all applicants are certified in the critical shortage area.*
- » *Please note that the certification requirements referenced herein only relate to the requirements set forth in the TRSL return-to-work law.*

### 10. What types of employment are considered part-time employment with respect to "classroom teachers?"

- » *For the purposes of the TRSL return-to-work law, TRSL considers part-time to include the following:*
  - » **Working 20 hours or less per week**
  - » **Filling a position temporarily vacated by a full-time employee**
  - » **Working on a special project or program that is temporary or short term**

### 11. Can a part-time speech therapist, speech pathologist, audiologist, educational diagnostician, school social worker, school counselor, school psychologist, interpreter, educational transliterator, or educator of the deaf or hard of hearing be considered a "retired teacher" under the critical shortage provision of the return-to-work law?

- » *Yes. As of 7/1/2024, eligible critical shortage positions can be full- or part-time.*

### 12. When can a TRSL retiree be considered a "substitute classroom teacher" as set forth in the earnings limit provision of TRSL's return-to-work law?

- » *A TRSL retiree can be considered a "substitute classroom teacher" if a TRSL employer has a distinct substitute teaching position that meets the definition of "classroom teacher" or if the position that the retiree is temporarily filling meets the definition of "classroom teacher."*

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- » “Substitute classroom teacher” is defined as any classroom teacher employed in a temporary capacity to fill the position of another classroom teacher who is unavailable to teach for any reason. Thus, it is imperative that the TRSL retiree be a classroom teacher replacing another classroom teacher.
- » If a retired classroom teacher returns to work on a part-time or temporary basis without replacing another classroom teacher, the “substitute classroom teacher” criteria will not be satisfied. Employers of such individuals should instead consider whether such position qualifies as a part-time critical shortage position.

### 13. Who is considered an “adjunct professor” under the return-to-work law? Can a university use its definition of adjunct professor to determine if a retiree can be considered a “retired teacher?”

- » The return-to-work law sets forth a specific definition for “adjunct professor,” as follows:
  - » “Adjunct professor” means any part-time faculty, including any instructor, assistant professor, associate professor, or professor, assigned the professional activities of instructing pupils or conducting research at a public institution of post-secondary education. Instruction may be provided in person or through an approved medium such as television, radio, computer, internet, multimedia, telephone, or correspondence and may be delivered inside or outside the classroom or in other teacher-student settings.

### 14. What is considered “part-time” for post-secondary educational institutions with respect to adjunct professors and the return-to-work law?

- » State law directs that TRSL utilize federal regulation in determinations regarding an individual’s part-time status. Specifically, the applicable federal regulation is 26 CFR 31:3121(b)(7)-2, and provides as follows with respect to teaching faculty:
  - » “A teacher employed by a post-secondary educational institution (e.g., a community or junior college, post-secondary vocational school, college, university or graduate school) is not considered a part-time employee for purposes of this section if he or she normally has classroom hours of one-half or more of the number of classroom hours designated by the educational institution as constituting full-time employment, provided that such designation is reasonable under all the facts and circumstances.” This federal regulation also provides the following example:
    - » **EXAMPLE:** A community college treats a teacher as a full-time employee if the teacher is assigned to work 15 classroom hours per week. A new teacher is assigned to work 8 classroom hours per week. Because the assigned classroom hours of the teacher are at least one-half of the school’s definition of full-time teacher, the teacher is not a part-time employee.



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### 15. How do you apply the “part-time” definition to faculty performing research and who do not have classroom hours?

- » *The portion of the federal regulation cited above applies to post-secondary educational institution employees who are serving as teachers. The return-to-work law includes in the definition of “adjunct professor,” faculty “conducting research at a public institution of post-secondary education.”*
- » *For TRSL retirees otherwise meeting the definition of “adjunct professor” as a result of their research duties, the general part-time definition in the federal regulation (26 CFR 31:3121(b)(7)-2) will apply. This provision defines part-time as follows: “a part-time employee is any employee who normally works 20 hours or less per week.”*
- » **NOTE:** *While a university may use its own definition of adjunct professor for various purposes, when determining if a TRSL retiree is an “adjunct professor” for the purpose of the return-to-work law, the definition set forth in that law (provided in [Question 13](#) above) must be applied.*

### 16. The positions qualifying as a “retired teacher” in the return-to-work include “school nurse,” which is defined as the position provided for in La. R.S. 17:28? What is required by La. R.S. 17:28?

- » *La. R.S. 17:28 (A) provides: Each city and parish school system shall employ at least one school nurse certified by the State Board of Elementary and Secondary Education but shall not exceed a statewide average of one certified school nurse for each one thousand five hundred students. Each certified school nurse shall be responsible for performing such health care services as may be required by state law, guidelines established by the Department of Education, or both, provided these services comply with the rules and regulations as established by the Louisiana State Board of Nursing. The school nurse program shall be funded through the state general fund and included within the budget of the Department of Education, office of academic programs, bureau of student services.*

### 17. The positions qualifying as a “retired teacher” in the return-to-work include a position for “tutor” for any student in pre-K through 12th grade. What qualifies as ‘tutoring’?

- » *There is no definition of ‘tutor’ in the return-to-work law. In common usage, the term ‘tutor’ generally means a person charged with the instruction and guidance of an individual or a very small group.*

### 18. The positions qualifying as a “retired teacher” in the return-to-work include a position for a classroom teacher employed in a temporary capacity to proctor tests. Does the proctor have to be filling in for a “classroom teacher”? What other requirements must the proctor meet?

- » *The proctoring position is a stand-alone “retired teacher” classification, which unlike the “substitute classroom teacher” classification, **does not** require the retiree to be filling in for or temporarily replacing another “classroom teacher”.*

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» With regard to proctoring, the definition of “classroom teacher” in the return-to-work law provides that an individual must be assigned to proctor admission, evaluation, or assessment testing. Furthermore, the proctoring position must require a valid Louisiana teaching certificate. Note that proctoring is not an eligible “critical shortage” position.

### 19. Does the earnings limit provision apply to retirees who hold advanced degrees in speech therapy, speech pathology, or audiology; or does it apply to retirees enrolled in the Core Subjects or Special Leave provisions?

» No, the earnings limitation does not apply to retirees who hold advanced degrees in speech therapy, speech pathology, or audiology, nor does it apply to retirees enrolled in the Core Subjects or Special Leave vacancies. Employer certification is required for this group, and is included in the enrollment process.

### 20. What are the earning limitations for eligible retirees?

» For retirees who are “retired teachers” under the “reemployment eligible position” provisions of the return-to-work law, the law restricts earnings in a fiscal year (July 1 – June 30) to no more than 25% of the retiree’s annual benefit.

» **EXAMPLE:** If a retiree’s annual benefit is \$40,000 per year, their earnings limit would be \$10,000. If the retiree’s earnings in a fiscal year exceed \$10,000, their benefit would be reduced by the amount of earnings over \$10,000.

### 21. Can a retiree be reemployed in more than one position that is subject to the 25% earnings limit in any fiscal year?

» Yes, a retiree can hold more than one earnings limit position as it relates to TRSL’s return-to-work law, but the earnings limit applies to the total earnings for all such eligible positions in the fiscal year.

» **EXAMPLE:** The earnings of a retiree who is a substitute teacher for a school district and an adjunct professor for a university will be combined for the purposes of the earnings limitation. If the retiree is employed by multiple employers, each employer must enroll the retiree and report monthly salary and contributions.

### 22. What penalties may an employer be subject to for failing to enroll a return-to-work retiree?

» The return-to-work law requires employers to enroll reemployed retirees within 30 days of employment. If an employer fails to do so and a benefit payment is made that should have been suspended but for the lack of enrollment (e.g., the retiree would have been enrolled as a “retired member”), the employer will be liable for the repayment of any amounts paid to a retiree.

» **EXAMPLE:** If School Board A employs Retiree Z, who is a “retired member,” and fails to enroll Retiree Z in TRSL for six months following reemployment, Retiree Z will continue to receive retirement benefits



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during the six-month period. School Board A will therefore be liable to TRSL for the payment of the six months of retirement benefits paid to Retiree Z.

### 23. Are retirees returning to work at a charter school subject to TRSL's return-to-work law?

- » Pursuant to charter school law, each charter school may elect to participate in TRSL ("Participating Charter School") or to not participate in TRSL ("Non-participating Charter School"). The TRSL return-to-work law applies to Participating Charter Schools; therefore, a retiree returning to work at a Participating Charter School is subject to all provisions governing return to work, just as though he or she had returned to work at a traditional public school. Such retirees must qualify as a "retired teacher" in order to not be subject to a benefit suspension upon their return to active service.
- » Non-participating Charter Schools are not subject to TRSL laws, including the return-to-work law; therefore, a retiree returning to work at a Non-participating Charter School is not subject to the return-to-work provisions in the law. Such retirees may return to work at a Non-participating Charter School without being subject to a suspension of their TRSL retirement benefits.
- » **NOTE:** Pursuant to La. Atty. Gen. Op. No. 11-0257, applicable constitutional and statutory law does not grant charter schools the authority to modify the teachers' retirement and benefit plan selected in its approved charter during the charter school's operation. As a result of this opinion, charter schools that have attempted to withdraw from TRSL are considered "Participating Charter Schools."

### 24. Do the benefit suspension provisions in the TRSL return-to-work law apply to all TRSL retirees?

- » The benefit suspension provisions in the TRSL return-to-work law apply to all retirees, except any retiree hired by the Louisiana Association of Educators (LAE), whose employment prior to retirement was not subject to a collective bargaining agreement. La. R.S. 11:701(35)(v)(cc) specifically provides that such retirees shall not be subject to a benefit reduction or suspension. Any retiree hired by LAE who was covered by a collective bargaining agreement when he or she retired is subject to all of the provision of the TRSL return-to-work law, including benefit suspension provisions.

### 25. Can a return-to-work (RTW) employee join the ORP?

- » No. Membership in the ORP conflicts with the specific provisions of La. R.S. 11:710, 710.1, and 710.2 regarding the employment of retirees. RTW provisions are the more specific statute with respect to the employment of retirees, the RTW statutes control and should be applied as an exception to the more general ORP statutes. Therefore, RTW retirees who are employed pursuant to R.S. 11:710, 710.1, and 17.2 are not eligible to participate in the ORP.