

5.8 – Policy on Retiree Employment by NHRS Participating Employers

Date Adopted: October 13, 2026

Amended & Restated:

Revised:

I. Purpose and Intent

This policy establishes the requirements for NHRS retirees performing post-retirement Services for an NHRS participating employer. It is intended to ensure compliance with RSA chapter 100-A and applicable federal qualification requirements under Internal Revenue Code ("IRC") §§ 401(a) and 414(d) and the applicable Treasury Regulations ("Treas. Reg."). This policy applies to Services performed by a retiree for an NHRS participating employer. Applicable law and administrative rules and regulations control in the event of a conflict.

II. Applicable Law, Administrative Rules, and Regulations

RSA ch. 100-A

IRC §§ 401(a) and 414(d)

IRC § 72(t)

Treas. Reg. § 1.401(a)-1(b)(1)–(3) and § 1.401(k)-1(a)(3)(v)

Board Policy 5.5 – Voluntary Correction Program Policy

III. Definitions

- A. Bona Fide Separation from Service** means a termination from employment, where:
1. an employee is no longer performing Services for an Employer; and
 2. at the time of separation, the member and Terminating Employer have no written or oral agreement, commitment, promise, or mutual understanding, that the member will return at a later day to perform Services for that employer.
- B. Certification at Retirement** means a certification from the member and Terminating Employer at retirement confirming that a Bona Fide Separation from Service has occurred.
- C. Early Distribution Tax** is the additional federal income tax imposed under the Internal Revenue Code on distributions from a qualified retirement plan before age 59 ½, unless an exception applies.
- D. Employer** is an employer as defined in RSA 100-A:1, IV. NHRS participating employers are generally treated as separate employers. The State of New Hampshire is a single employer.

- E. Hiring Employer** is the participating NHRS employer for which a retiree performs Services after retirement.
- F. Services** means any work, whether full-time, part-time, or volunteer, performed for a participating employer, directly or indirectly, in any capacity, including as an employee, consultant, independent contractor, temporary or leased worker, vendor-supplied worker, or through another entity or third party.
- G. Terminating Employer** is the Employer from which the member separates immediately before retirement.

IV. Post Retirement Reemployment Requirements

- A. Bona Fide Separation from Service.** A member who retires from NHRS covered employment must have a Bona Fide Separation from Service from the Terminating Employer before receiving a retirement allowance. A mere reduction in hours or a change in title, payroll source, worker classification, or payment arrangement does not constitute a separation from employment.
- B. Mandatory 28-Day Reemployment Restriction.** A retiree may not perform Services for any participating employer during the first 28 days following the effective date of retirement. The 28-day period is a statutory minimum. Completion of the 28-day period does not cure a prearranged return to the Terminating Employer, as described in Section II(A)(2).
- C. Services.** Post-retirement Services will be evaluated based on the substance of the working relationship, regardless of title, worker classification, contracting arrangement, or method of payment. A retiree may not avoid the 28-day restriction, membership requirements, or annual hour limitation through a different contractual or payment arrangement.
- D. Mandatory Membership.** A retiree who returns to a position requiring mandatory membership will be restored to active service, and their retirement allowance will cease.
- E. Annual Hour Limit.** Unless a statutory exception applies, a retiree may not perform more than 1,352 hours of Services during a calendar year for all participating employers combined in any capacity.
- F. Membership-Optional Positions.** NHRS Staff must review reemployment in a membership-optional position for a Bona Fide Separations from Service before NHRS continues the retirement allowance or records a membership election.
- G. Certification at Retirement.** A certification from the member and Terminating Employer confirming that a Bona Fide Separation from Service has occurred is required.

V. Responsibilities

- A.** Retirees must provide complete and accurate information, disclose planned and actual post-retirement Services, comply with the 28-day restriction, and monitor total annual hours.
- B.** Hiring Employers must identify retirees performing Services, provide required information and certifications, maintain supporting records, and submit required reports to NHRS.
- C.** NHRS Staff are responsible for administering certifications, membership determinations, employer reporting, hour monitoring, and documentation and development of process documentation consistent with this policy.
- D.** NHRS will take the appropriate corrective action when a retirement or reemployment arrangement is inconsistent with RSA chapter 100-A or applicable federal qualification requirements.