



## Interpretive Memorandum No. 2013-8

**DATE:** REVISED August 2, 2022 (Originally Issued December 9, 2013)

**TOPIC:** WHEN IS A MEMBER CONSIDERED TO BE A REGULAR FULL-TIME EMPLOYEE?

### PURPOSE:

The purpose of this memorandum is to discuss when a political subdivision Member is considered to be employed on a full-time basis and entitled to enroll in NHRS. In particular, when is a Group I Member<sup>1</sup> considered to be full-time “on a regularly scheduled basis” as that term is used in Ret 302.05; or, in the case of Group II Members, when is the Member “regularly employed on a full-time basis”, as provided in RSA 100-A:1, VII and VIII?

This memorandum does not apply to State employees whose status as full-time is determined in accordance with the State Department of Personnel rules and policies.

This memorandum is not intended to address issues relating to the award of service credit.

### SUMMARY:

**A.** A Member is considered to work “on a regularly scheduled basis”, or be “regularly employed on a full-time basis”, based on the number of hours required for his or her position under the Employer’s personnel policies and procedures including, but not limited to, written policies and procedures, job descriptions, collective bargaining agreements, and employment contracts or offer letters.

**B.** Occasional reductions in work hours below the minimum participation standard (e.g., unpaid leaves or temporary changes in work hours) do not mean that the Member is longer regularly scheduled to work full-time if the Employer maintains the Member’s status as full-time.

**C.** In situations where a Member’s work hours may vary over time, or a reduction in hours continues for an extended period, the Member will be considered to be full-time, for any period under review, only if (a) they work the minimum number of hours for at least 50% of the weeks; or, (b) the weekly average number of hours meets full-time requirements.

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<sup>1</sup>Capitalized terms shall have the meanings as provided in the Interpretive Memoranda Glossary of Terms.

**D.** A Member is no longer considered to be regularly scheduled or regularly employed to be full-time if the Employer reduces the Member's work hours below minimum standards in conjunction with formally changing the Member's work status from full-time to part-time.

## **ANALYSIS:**

**A. Membership Requires Full-Time Employment.** RSA 100-A:3, I(a) provides that “[a]ny person who becomes an employee, teacher, permanent policeman or permanent fireman . . . working in a position for an employer under this chapter . . . shall become a member of the retirement system as a condition of employment.” RSA 100-A:1, V - VIII variably use the terms “regularly employed” and “full-time” to define who is an “employee”, “teacher”, “permanent policeman” or “permanent fireman” who is eligible for membership. Thus, the general rule is that NHRS membership is compulsory for regular full-time employees. The corollary to this general rule is that employees who are regular part-time employees are not eligible for membership in NHRS.

**B. Minimum Participation Standards.** Ret 302.05 contains the minimum participation standards that specify the number of hours that constitutes full-time for Group I Employees and Teachers. Employees of political subdivisions must be regularly scheduled to work at least 35 hours per week. Teachers must be regularly scheduled to work at least 30 hours per week. Even if a Teacher is not regularly scheduled to work full-time at the time of initial hire, he or she may still meet the minimum participation requirements if he or she works 30 hours per week for a cumulative minimum of 18 weeks during a school year. In such cases, the Teacher should be enrolled prospectively in the 19<sup>th</sup> week. However, if a long-term substitute signs a contract to work at least 30 hours per week for more than 18 weeks in the school year, the Teacher must be enrolled at the time of initial hire. School paraprofessionals typically are Employee Members and must work 35 hours per week; however, a school Employer may elect to enroll paraprofessionals at 30 hours, in which case the participation rules for Teachers applies and the 18 cumulative month rule is applicable.<sup>2</sup>

RSA 100-A:1, VII and VIII, define the terms “permanent policemen” and “permanent fireman”, respectively, as any person “regularly employed in a full-time position”. There is no minimum participation rule for Group II police officers or firefighters. For Group II positions, the Employer determines what the minimum hours for full-time are for any particular position (typically, this is 40 per week or its equivalent).

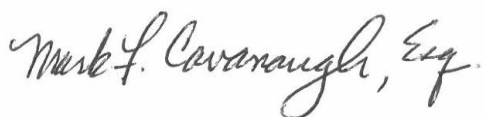
**C. Regularly Employed/Scheduled.** The use of the terms “regularly employed on a full-time basis” and “regularly scheduled basis” in the statute and the rules indicate that full-time work status is not determined based solely on a week-to-week analysis of the number of hours worked. Instead, the relevant inquiry is whether the Member's work status is such that he or she is regularly required to work a certain minimum number of number of hours, as determined in accordance with the Employer's personnel policies, position descriptions, collective bargaining agreements, or employment contracts or offer letters.

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<sup>2</sup> See Interpretive Memorandum 2018-1, at page 3.

Ret 302.05(c) provides that “[a]ny Group I member whose hourly work status is subsequently reduced to a level below the minimum participation standards established in (b) shall be ineligible to make contributions.” [Emphasis added.] However, occasional reductions in work hours do not mean that a person is not “regularly scheduled” or has had a change in “hourly work status”. In the normal course of employment, there may be some weeks when a Member’s hours fall short of the required minimum hours. However, contributions should not cease just because a Member has a relatively brief period of reduced hours due to special circumstances such as unpaid leave, modified duties under workers’ compensation laws, temporary budgetary or operational considerations, or for similar reasons. A Member’s “work status” is only considered to be “subsequently reduced” when the Employer formally reduces the number of hours required for the position and designates it as a part-time position in accordance with the Employers personnel policies and procedures.

Notwithstanding a Member’s formal status as full-time, if a Member’s actual paid work hours<sup>3</sup> are reduced for prolonged or repeated periods of time, or the Member’s paid work hours are irregular over a certain period of time, then the position may become “de facto” part-time. In these situations, a Member’s work hours are reviewed over the period of time in question. A Member will be deemed to be regularly scheduled to work the required minimum hours only if, during the period in question, either (1) the Member’s average hours worked per week are at least the required minimum hours, or (2) the Member works more than the required minimum hours in at least 50% of the weeks. If a Member does not meet either of these two requirements, the Member is not regularly scheduled to work full-time and contributions should cease until they return to full-time status. Retroactive adjustments in membership status may be required in certain circumstances.



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**Approved by Mark F. Cavanaugh, Esq.  
Associate Counsel and Compliance Officer**

8/21/2022

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**Approval Date**

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<sup>3</sup> For this purpose, actual work hours includes hours covered by paid sick or vacation time.