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**To:** [ETF SMB Board Feedback](#)  
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**Subject:** banning retired annuitant"s from teaching  
**Date:** Wednesday, December 6, 2023 10:38:01 AM

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Please direct to the following recipients:  
Wisconsin Retirement Governors Board  
Teachers Retirement Governors Board  
Wisconsin DPI

12/06/23

To Whom It May Concern,

I write to you about an issue that impacts students and school districts across the state of Wisconsin; the constraints and penalties placed upon rehired annuitants who would like to return to the classroom to help alleviate the severe shortage of quality teachers in the State of Wisconsin.

I am an extremely successful and experienced teacher. I have loved teaching since my first public school position in 1982. However, I am no longer able to teach or even substitute teach within the state of Wisconsin due to an absurd penalty regarding rehired annuitant teaching hours. I am not alone in sharing this penalty.

On September 6, 2022 I was rehired as a part time instructor of instrumental music at Parkside School for the Arts. Milwaukee Parkside School for the Arts is a fabulous K-8 school and part of the MPS system. Parkside is home to an outstanding staff and an incredibly diverse student community where as many as 24 languages are represented. State Superintendent, Jill Underly experienced this first-hand when she came to Parkside this past spring to introduce Parkside's very own Ms. Claudia Heller de Messer as one of Wisconsin's 2023 Teacher's of the Year.

**As a rehired annuitant** I was obligated to follow specific laws/restrictions which I monitored and followed to the letter. Most importantly, I could not work more than 880 hours in a year. *From the WRS website: **A rehired annuitant, by law, cannot work more than 66% of a full time position.*** This 880 hours is based on a school calendar. A full time teaching position in a school calendar year is often considered to be 1333 hours. 66% of 1333 is 880 hours. Teachers are hired on 10 month contracts.

I diligently tracked my hours and on June 24, at the end of the 22/23 school year, I had worked

779 hours. On **October 18, 2023** I received a call from MPS payroll. Apparently, I had gone 71 hours over the 880 hour threshold. I was stunned and certain I had stayed within the confines of the law. I was informed I could either resign or refreeze my pension and continue to work part time. It was extremely unfortunate that MPS payroll could not have alerted me before I went over the threshold.

As a rehired annuitant I have come to realize there is a fundamental misunderstanding in the way educator's yearly contracts and pay periods are structured. This confusion, I believe, is compromising returning educators' ability to work extended hours to help offset the dire shortage of educators. Additionally, ***and far more problematic***, the penalties placed upon students and school districts if a rehired annuitant works too many hours is exceptionally harsh. In my case, **I can no longer work for the Wisconsin Department of Public Instruction for one full calendar year.** This, in the midst of a severe teacher shortage!

In digging deeper, I realized my error was in assuming a **year** meant a school year, not a calendar year. As I stated earlier, The 880 hour mark is, in actuality, based on a 10 month teaching contract **not** a 12 month rolling calendar.

The legislature, DPI, and WRS, though, perhaps inadvertently, have spread the 880 hour threshold over a rolling 12 month calendar. By doing this, the legislature, DPI, and WRS have added **two to three** weeks of additional work hours into what would be a normal teaching contract. This misunderstanding was my downfall and why I went over the 880 hour mark.

**My penalty;** I am no longer able to teach or even substitute teach within the state of Wisconsin for one full calendar year. Mind you, I had offered to volunteer my hours that I went over and repay MPS for those hours so I could continue to teach my instrumental music students and not leave them and the school in the 'lurch' right before their upcoming Winter Holiday concerts. No luck. Again, I am not alone in sharing this penalty.

The specifics are as follows:

I restarted my part time teaching on September 6, 2022. **However**, since 9/6/22 was the beginning of a new MPS pay period and my first paycheck was not received until 9/17/22. Unbeknownst to me, **9/17/22** became my rolling calendar start date. Therefore, the 71 hours I worked from **August 20, 2023 to September 16, 2023** were added on to my 879 hours that I had worked the previous school year and thus put me over the 880.

I now realize my mistake but truly acted in good faith. My own signed contract put my start date at 9/6/22 and the end date on June 24, of 2023. I never saw any mention of a rolling 12 month calendar, only the following: *From the WRS website; **A rehired annuitant, by law, cannot work more than 66% of a full time position.***

So, with deep regret on 11/9/23 I resigned from my position at Milwaukee Parkside School for the Arts. My principal, Ms.Lila Hillman was devastated and so was I. This, unfortunately, left my

students and the staff at Parkside School for the Arts in a very difficult situation. This seems an excessively harsh penalty incurred on students and school districts even if there wasn't a severe teacher shortage.

(**note:** In the past, some districts hired part time annuitants for a set % while others districts had part time annuitants clock in their hours. This would put the districts that use a set % in a position to maximize what their part time teachers are allowed to do without going over the 880 hours mark since they are not actually clocking in their hours. MPS asks their part time teachers to clock in their hours. Additionally, some districts have more work days than others and higher thresholds for what is considered full time. One size doesn't fit all school districts).

Here are some suggestions that could be implemented within the existing framework, perhaps relatively quickly, that would give rehired annuitants more flexibility and help the state in this moment of a teacher shortage crisis.

- ***A rehired annuitant, by law, cannot work more than 66% of a full time position or 880 hours over a school calendar year whichever is greater.***
  - ***A school calendar is recognized as 180 teaching days plus 10-20 teacher work days for a total of 190-200 days depending on the school district.***
  - ***Any hours worked over the 880 threshold would be nullified and not subject for reimbursement. Rehired annuitants will not be required to forfeit their positions for going over the 880 hours unless agreed upon by both parties (teacher and school district).***
  - ***School Districts rehiring annuitants to work on a part time basis are encouraged, but not required, to offer school year contracts based upon an agreed percentage amount to avoid teacher's going over the 880 hour threshold.***

I am hoping that some meaningful resolution can be found as soon as possible. If not for me, for other annuitants who are willing to come back into the workforce. Financially, and at age 65, I am in a very secure place and my 'ship' may have just sailed. However, In an era where we are seeing massive teacher resignations coupled with massive teacher shortages, denying students and school districts of dedicated and successful teachers who are willing to work seems incongruent with the goals of providing children in the state of Wisconsin the best education possible.

Thank you. Most sincerely,

Jim Loebel

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December 13, 2023

JAMES LOEBL  
5550 N. KENT AVE.  
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53217-5155

DEAR MR. LOEBL:

Thank you for writing to the governing boards of the Wisconsin Department of Employee Trust Funds and the Wisconsin Retirement System (WRS). Thank you for your suggestions; however, as the definition of “year” is contained in administrative code, as explained below, implementing them would not be able to be accomplished without legislative action.

**WRS Participation Standard for Teachers**

In order to become a participating employee in the WRS, an employee has to meet both prongs below of the WRS participation standard. This is true for all employees, including rehired annuitants. This is state law, which ETF must comply with and has no discretion in administering.

- **One year requirement** -- you had to be expected to work for at least a year. This means 365 consecutive days, not a school year. This 365-day requirement is contained in administrative code, ETF 20.015 (3), which has the force of law. According to this, we cannot treat teachers differently than other employees by using the school year to determine their eligibility.
- **Two-thirds requirement** -- you had to be expected to work at least 880 hours (2/3 of full-time for a teacher) in a year.

The only exception to the participation standard in state law is for third party contractors. Contractors hired by a WRS employer through a separate entity are not subject to the WRS participation standard and are not eligible for WRS participation.

**Your MPS Job as a Rehired Annuitant 2018 to 2022**

When you were hired by the Milwaukee Public Schools as a rehired annuitant for the first time, in September of 2018, you meet both prongs immediately, and were enrolled in the WRS immediately. Your WRS monthly annuity was suspended while you were a participating employee, which is required under state law. When you retired again, in June of 2022, your

original annuity for your original WRS service (1990 to 2017) was unsuspending. During the time your annuity was suspended, the payments you would have received were put into an account for you and earned interest. When you retired again in June of 2022, the amount in that account increased your original annuity by [REDACTED] per month. At that time, you also received a lump sum payment of [REDACTED]. This comprised of the employer and employee contributions made during your time as a rehired annuitant, plus interest.

### **Your MPS Job as a Rehired Annuitant 2022 to 2023**

When you were again hired by the Milwaukee Public Schools, in September of 2022, the Rehired Annuitant Form (ET-2319) that you and your employer filed with ETF on 9/27/2022 shows that you expected to work at least a year, but did not expect to meet the 880 hours per year standard. You were thus not enrolled in the WRS at that time.

Then, on the one-year anniversary of your initial date of employment, your employer was required by state law to evaluate whether you had met the participation threshold for WRS participation in the preceding 12-month period. It was at this time that your employer found that you had worked 951.35 hours, thus exceeding the 880-hour limit. At this point you met the WRS participation standard of working 2/3 time for at least one year. Therefore, you needed to be enrolled in the WRS or leave employment. This was required by s. 40.26 (1m) (a), Wis Stats. You chose to leave employment; had you remained employed with MPS, your annuity would have been suspended and we would have followed the same process we followed in 2018. We would have placed the missed payments in an account for you where they would have earned interest. The total amount would have increased your annuity when you resumed it after terminating employment. You would also have received another benefit based on that service.

In summary, the participation requirements for the WRS and annuity suspension procedure is set by Wisconsin law, and ETF does not have discretion in administering either of them.

Sincerely,



Matt Stohr, Administrator  
Division of Retirement Services  
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