

INSTRUCTIONS FOR PERFORMING THE EMPLOYMENT AFTER RETIREMENT SELF-AUDIT

Objective: Verify that all TRS retirees who have returned to work have been reported correctly on the ***Employment of Retired Members Report*** in accordance with TRS Laws and Rules, TRS Employer Payroll Manual, and any supplemental instructions given by TRS. Verify that all components of the report are correct including the retiree(s) position code and the hours or days they work if they retired after January 1, 2011 or are a disability retiree (regardless of retirement date), and the retiree(s) have fulfilled the required break(s) in service before returning to work under a TRS-covered employer. **NOTE #1** below explains how negotiating for a contract of employment can affect meeting the required break(s) in service.

NOTE #1: Negotiating a contract for return to work can revoke retirement just like return to work in the calendar month(s) following the retirement. Negotiating for return to work is a failure to terminate employment and a member **MUST** terminate employment to be eligible to retire.

Early age and disability retirees cannot negotiate for return to work before the end of the required full calendar month break in service.

Normal age retirees (those whose annuity is not reduced for early age) may negotiate for return to work on no more than one half time at any time, even before retirement. However, normal age retirees cannot negotiate for full time employment (more than one half time) before the end of the required one full calendar month break in service, when the full-time employment begins after the required twelve full consecutive calendar months break in service.

Negotiating for return to work too soon **REVOKES** retirement and all benefits of retirement (annuities, partial lump sums, deferred retirement option program payments, and health care benefits paid by TRS –Care) must be repaid.

Here is the **SUMMARY OF THE STEPS** (detail of each step is on the following pages) you will follow in accomplishing the self-audit objective:

Step 1 Review TRS service retirees who retired after January 1, 2011 and disability retirees (regardless of retirement date) you have reported on the ***Employment of Retired Members Report*** and review for the required breaks in service, the type of employment, and hours/days worked, and determine if correctly reported

Step 2 Review TRS service retirees who retired before January 1, 2011, verify the retirement date on TRAQS, and determine if correctly reported on the ***Employment of Retired Members Report***

Step 3 Determine if TRS retiree(s) providing services to you as an independent contractor are correctly categorized as an independent contractor or should have been categorized as an employee for TRS purposes; if the retiree should have been categorized as an employee, the retiree must be reported to TRS on the ***Employment of Retired Members Report***

Step 4 Determine that all TRS retirees working for a third party entity are categorized as employees and reported to TRS correctly on the ***Employment of Retired Members Report***

STEP 1 –USE INFORMATION FROM EMPLOYMENT OF RETIRED MEMBERS REPORT

1A Use the most recently submitted *Employment of Retired Members Report* and supporting detail.

Open the [Employment After Retirement Self-Audit Excel Worksheet](#) and do a “Save As” to your local network before you begin.

1B Begin with those TRS retirees who retired after January 1, 2011 and are service retirees. To open the worksheet, click on the worksheet tab named “**SVC RETIREES AFTER JAN. 1, 2011**”. Populate this worksheet with the service retirees and complete the fields on the worksheet for each retiree. Enter the following into the worksheet:

- Last name
- First name
- Last 4 digits of SSN or unique identifier issued by TRS and used in TRS Reporting
- Retirement Date (mm/dd/yyyy) - use (mm/dd/yyyy) exact format when entering this date
- Date Work Began - use (mm/dd/yyyy) exact format when entering this date

Below are key questions to answer for each retiree and enter respective responses on the worksheet:

- a) Is there at least a one full complete calendar month break in service (See **NOTE #1** above about negotiating employment) from the retirement date to the date work began? (See **NOTE** regarding June 15th Rule in “**WHAT YOU NEED TO KNOW ABOUT EMPLOYMENT AFTER RETIREMENT**”) If so, then click on the cell in the “One Month Break in Service” column and from the drop down box choose “Yes”. Otherwise, choose “No”.
- b) Is the retiree working in one of the following three allowed capacities? If so, then click on the cell in the “Working in Allowed Capacity” column and choose “Yes” from the drop down box. Otherwise, choose “No”.
 1. As a substitute, without any limit on the number of days
 2. One-half time or less, each month (See **NOTE #2** on page 3 for *definition)
 3. In a combination of substitute and any other TRS-covered employment in any amount in the same calendar month, provided the total number of days worked in each calendar month does not exceed one-half the number of workdays in the calendar month. If the month has an odd number of work days, the retiree may not work more than the whole number of days available, i.e. the retiree cannot work any part of the one half day remaining.
- c) Is the retiree working as a full-time employee? For purposes of administering the limits on employment after retirement, full-time is any amount over the equivalent of 4 clock hours for every work day in that calendar month. If so, then click on the cell in the “Working Full Time” column and choose “Yes” from the drop down box. Otherwise, choose “No”.
- d) Has there been a break in service of 12 full, consecutive calendar months after the date of retirement? If so, then click on the cell in the “12 Month Break in Service” column and

choose “Yes” from the drop down box. Otherwise, choose “No”. Do not include any months in which the retiree worked for a third-party entity (including EIC) or worked one-half time, as a substitute, or a combination of the two.

If you are not sure of the retirement date and/or whether there has been a 12 full, consecutive calendar months after the date of retirement, then go to **TRAQS “VIEW EMPLOYEE INFORMATION”** and enter the retiree’s SSN. This screen will display whether the employee is a retiree, the retirement date, and whether they have had the required 12 full, consecutive months break in service.

NOTE #2: All retirees who retired after January 1, 2011 must have a 12 full, consecutive calendar months break from all employment with a TRS-covered employer before working full time. Without the required break in service, the retiree will forfeit the annuity for each month that the retiree works in excess of the equivalent of 4 clock hours for every work day in that calendar month or combines substitute and any other TRS covered employment in any amount in the same calendar month and works more than one half the work days in that month. A retiree retiring after January 1, 2011 may work as follows without losing any annuity payments:

- As a substitute, without any limit on the number of days
- As much as one-half time, each month*
 - In a combination of substitute and any other TRS covered employment in any amount,, provided the total number of days worked in each calendar month does not exceed one-half the number of workdays in that calendar month. If the month has an odd number of work days, the retiree cannot work more than the number of whole days available, i.e. the retiree cannot work any part of the remaining one half day.
 - As a full-time employee (greater than one-half time) after a break in service of 12 full, consecutive calendar months after the date of retirement. The retiree cannot substitute or work in any capacity or for any amount of time for a TRS covered employer or third party entity during the twelve month break in service.

*One-half time employment as used above is working no more than the equivalent of four clock hours for each work day in that calendar month (each Monday - Friday in the calendar month, including holidays and days the employer is closed for business). If the retiree combines substitute and any other TRS covered employment in any amount in the same calendar month, the retiree cannot work more than one half the days in that month. If the month has an odd number of work days, the retiree cannot work more than the number of whole work days available, i.e. the retiree cannot work any part of the remaining one half day.

1C Highlight those service retirees and add comments on your worksheet for which any of the conditions were noted as a result of completing step **1B**; note that the applicable cells pertaining to the conditions below will be automatically highlighted:

- There is not a one full calendar month break from retirement date to date work began
- Retiree has exceeded the allowable time under *b(1)* through *b(3)* in step *1B*
- The retiree is working full time and there was not a 12 full, consecutive calendar months break in service

1D Click on the tab named “**DISABILITY RETIREES**” to open the worksheet. Populate this worksheet with the disability retirees and complete the fields on the worksheet for each retiree. Enter the following into the worksheet:

- Last name
- First name
- Last 4 digits of SSN or unique identifier issued by TRS and used in TRS Reporting
- Retirement Date (mm/dd/yyyy) - use (mm/dd/yyyy) exact format when entering this date
- Date Work Began - use (mm/dd/yyyy) exact format when entering this date

Below are key questions to answer for each disability retiree and enter respective responses on the worksheet:

- a) Is there at least one full complete calendar month break from the retirement date to the date work began? (See **NOTE** regarding June 15th Rule in “**WHAT YOU NEED TO KNOW ABOUT EMPLOYMENT AFTER RETIREMENT**”) If so, then click on the cell in the “One Month Break in Service” column and choose “Yes” from the drop down box. Otherwise, choose “No”.
- b) Is the disability retiree working in one of the following allowed capacities? If so, then click on the cell in the “Working in Allowed Capacity” column and choose “Yes” from the drop down box. Otherwise, choose “No”.
 1. As a substitute, for up to 90 days
 2. As much as one-half time*, for up to 90 days (See **NOTE #2** on page 3 for *definition) or
 3. In a combination of substitute and any other TRS covered employment in any amount, provided the total number of days worked in that calendar month does not exceed one-half of the work days in that calendar month and all of the combined work does not exceed 90 days. If the month has an odd number of work days, the retiree cannot work more than the number of whole days available, i.e. the retiree cannot work any part of the remaining one half day. See **NOTE #3** below for further information.

NOTE #3: If the disability retiree works more than 90 days as a substitute, on a one-half time basis, or in a combination of the two, the retiree forfeits the annuity for the month in which the 91st day is worked and for any additional month in which work occurs during that school year.

- c) Is the disability retiree working as a full-time employee? If so, click on the cell in the “Working Full Time” column and choose “Yes” from the drop down box. Otherwise, choose “No”.
- d) Is the disability retiree working under the three (3) month trial work period? See **NOTE #4** on page 5. If so, then click on the cell in “Within 3 Month Trial Work Period” column and choose “Yes” from the drop down box. Otherwise, choose “No”.
- e) Did the trial work period begin any earlier than the school year that begins after the disability retiree’s effective date of retirement, i.e. did the trial work period begin in the

same school year as the disability retiree's effective date of retirement? If so, then click on the cell in the "Trial Work Period Started Too Early" column and choose "Yes" from the drop down box. Otherwise, choose "No".

- f) Is the disability retiree working full time past the three-month trial work period? If so, then click on the cell in "Working Full Time Past the 3 Month Trial Work Period" column and choose "Yes" from the drop down box. Otherwise, choose "No".

NOTE #4: A disability retiree cannot work fulltime without losing an annuity unless the retiree is working in the three month trial work period. A disability retiree is allowed a one-time trial work period of up to three consecutive months of full-time employment to see if the retiree is able to return to full-time work. The trial period can be all in one school year or span two school years as long as the 3 months are consecutive. Also, the trial period must begin no earlier than September 1 after the disability retiree's effective date of disability retirement. If a disability retiree continues working full-time after the trial work period has ended, the disability retirement is revoked and the retiree is restored to active membership.

1E Highlight those disability retirees on your worksheet for which any of the conditions were noted as a result of completing step **1D**; note that the applicable cells pertaining to the conditions below will be automatically highlighted:

- There is not one complete calendar month from disability retirement date to the date work begins
- The disability retiree works more than 90 days as a substitute, on a one-half time basis, or in a combination of the two
- The disability retiree works in a 3 month trial work period that is earlier than the school year that begins after the disability retiree's effective date of retirement
- The disability retiree works full-time after the 3 month trial work period has ended
- The disability retiree works full-time (defined as more than one half time in the calendar month) i.e. works more than the equivalent of 4 hours for every work day in that month or combines substitute employment and other TRS covered employment in any amount in the same calendar month and works more than one half the number of work days that month.

STEP 2 – VERIFY SERVICE RETIREES RETIRED BEFORE JANUARY 1, 2011

2A Click on the tab named “**SVC RETIREES PRIOR JAN. 1, 2011**” to open the worksheet and populate with the detail used to support the retirees reported on the signature page on the **Employment of Retired Members Report**. Enter the following into the worksheet:

- Last name
- First name
- Last 4 digits of SSN or unique identifier issued by TRS and used in TRS Reporting
- Retirement Date per Employer Report (mm/dd/yyyy) - use (mm/dd/yyyy) exact format when entering this date
- Retirement Date per TRAQS (mm/dd/yyyy) - use (mm/dd/yyyy) exact format when entering this date

2B For those retirees categorized as retired before January 1, 2011 on the **Employment of Retired Members Report**, verify the retirement date is before January 1, 2011. Go to TRAQS “**VIEW EMPLOYEE INFORMATION**” and enter their SSN. This screen will display whether the employee is a retiree and the retirement date. Enter the retirement date from TRAQS into the worksheet.

2C Compare the two retirement dates. If you have identified retirees that were incorrectly categorized as retired before January 1, 2011 but actually retired after January 1, 2011, then click on the cell in the “Incorrectly Categorized and Reported” Column and choose “Yes” from the drop down box; otherwise, choose “No”. In the next column “For In correctly Categorized and Reported – Choose Correct Type”, click on the cell and choose correct type from the drop down box. Depending on whether the retiree is a service or disability retiree, add the incorrectly categorized retiree to either the “SVC Retirees after Jan. 1, 2011” worksheet as described in **STEPS 1B AND 1C** or the “Disability Retirees” worksheet as described in **STEPS 1D AND 1E** and complete all steps. For those added to the respective worksheets, click on the cell in the column “New Retirees Identified from Self-Audit”, and from the drop down box choose “Step 2 Incorrectly Categorized” **in order to identify the reason and source for the added retiree. Include in the comments section of the worksheet any supporting information that might be useful.**

STEP 3 – REVIEW INDEPENDENT CONTRACTORS

If a TRS retiree is working for you as an independent contractor, then the retiree is not reported to TRS and the retiree’s monthly annuity is not affected. However, it is important to verify that the retiree is an independent contractor and not an employee to be reported to TRS. The guidelines and steps below will assist you in determining if the retiree is an independent contractor or an employee for TRS purposes. If the retiree is an employee, you will need to report the retiree on the **Employment of Retired Members Report**. **DO NOT SKIP THIS STEP.**

3A Review list of independent contractors to determine those who are TRS retirees. This information can be derived from reviewing the latest 1099s issued for professional services, as well as accounts payable for professional services for the period under review. Review the payroll

and personnel files of retirees to identify those independent contractors who are TRS retirees. Review the contract for services with this individual to assist you in addressing the guidelines below.

If you are not sure the individual is a retiree, then go to **TRAQS “VIEW EMPLOYEE INFORMATION”** and enter their SSN. This screen will display whether the employee is a retiree, the retirement date, and whether the retiree has observed the required 12 full, consecutive months break in service.

Here are some *guidelines* to assist you in determining whether the retiree is an independent contractor or actually an employee that must be reported to TRS. Also, see **NOTE #5** below.

The following questions pertain to conditions in which the individual is not an independent contractor and is an employee for TRS purposes, and must be reported to TRS:

- Does the individual hold a job as superintendent, teacher, administrator, coach, administrative support personnel, or principal/assistant principal? If “yes”, then the individual is **not** an independent contractor.
- Is the individual required to comply with the employer’s policies in performing the contracted services or otherwise under the control of the reporting entity? If “yes”, then the individual is **not** an independent contractor.

The following questions pertain to conditions in which the individual is not likely an independent contractor and requires closer scrutiny to make the final determination:

- Is the individual required to provide the services during set times or to keep certain office hours? If yes, this individual may not be an independent contractor.
- Does the individual use the reporting entity’s facilities, equipment, or materials to perform the services? If yes, this individual may not be an independent contractor.
- Does the individual only market services to your reporting entity? If yes, this individual may not be an independent contractor.
- Was the last individual that performed the services performed by the retiree an employee or the retiree? If “yes”, then individual may not an independent contractor.

NOTE #5: TRS recommends that the reporting entity and the retiree consult with their respective attorneys about the requirements for independent contractor status and understand all aspects of the arrangement, including tax consequences, before deciding to contract for the services of the retiree as an independent contractor or shareholder. However, if there is any doubt or disagreement, TRS is authorized by state law to make the final determination of whether the retiree is an employee of the reporting entity or an independent contractor. If the employment arrangement does not meet the legal tests for independent contractor, the retiree is considered an employee of the TRS-covered employer. If you have questions regarding the agreement, contact TRS before the retiree begins work. **If the retiree is an early age retiree do not contract for the retiree’s services before at least one full calendar month following the retiree’s effective date of retirement with TRS.**

3B Add new retirees you have now determined to be an employee to the appropriate worksheet – either Service Retirees retired after January 1, 2011 (Steps 1B and 1C) or Disability Retirees (Steps 1D and 1E) or Service Retirees retired before January 1, 2011 (Steps 2A, 2B and 2C). For those added to the respective worksheets, click on the cell in the column “New Retirees Identified from Self-Audit”, and from the drop down box choose “Step 3 Independent Contractor” **in order to identify the reason and source for the added retiree. Include in the comments section of the worksheet any supporting information that might be useful.**

Also, for any retirees identified through this self-audit as not previously reported you will need to determine if surcharges are owed for that retiree. Pension and TRS-Care surcharge requirements for employers still apply to the employment of retirees who retired after September 1, 2005 and who worked more than the equivalent of 4 clock hours for every work day in that calendar month or who worked a combination of substitute and any other TRS-covered employment in any amount in that same calendar month, and the total number of days worked exceeded one-half the number of workdays in the calendar month. If the month has an odd number of work days, the retiree may not work more than the whole number of days available, i.e. the retiree cannot work any part of the one half day remaining. To do this step, add these newly identified retirees to the Pension Surcharge and TRS-Care Surcharge Self-Audit worksheets by following the instructions for each surcharge self-audit.

STEP 4 – REVIEW RETIREES WORKING FOR THIRD PARTY ENTITIES

TRS Retirees employed by a third party entity (See **NOTE #6** below) and working for a TRS-covered employer are considered employees of the TRS-covered employer and must be reported to TRS on the *Employment of Retired Members Report* including the retirees with a retirement date before **January 1, 2011 that should be reported only in the signature component of the report.** Any applicable surcharges must also be paid. **DO NOT SKIP THIS STEP.**

NOTE #6: A third party entity is an entity or company retained by the TRS-covered employer to provide personnel that perform duties or provide services that employees of the TRS-covered employer would otherwise perform. **An example of a third party entity is Educational Independent Contractors (EIC), L.L.C. and JR3.** Please refer to the *February 2013 TRS Update* publication regarding Educational Independent Contractors (EIC), L.L.C. In this publication, there are specific instructions regarding TRS retirees hired by EIC that have not been reported to TRS that you must follow. If you have any questions as to what constitutes a third party entity, please contact TRS.

Retirees who were first employed by the third party entity prior to May 24, 2003 are excluded from this requirement and should not be reported on this report.

4A Review third party entities you are contracting with to provide personnel. Review employees working for third party entities providing services to you and determine those who are TRS retirees. Review the payroll and personnel files of retirees to identify any TRS retirees working for third party entities.

If you are not sure the individual is a retiree, then go to **TRAQS “VIEW EMPLOYEE INFORMATION”** and enter the employee’s SSN. This screen will display whether the employee is a retiree, the retirement date, and whether the retiree has met the required 12 full, consecutive calendar months break in service. Time worked for a third party entity is work that interrupts a break in service and requires that the twelve months break starts again. Identify any retirees working for third party entities who have not been reported on the **Employment of Retired Members Report**.

4B Add new retirees identified who you have now determined to be an employee to the appropriate worksheet – either **Service Retirees retired after January 1, 2011 (STEPS 1B AND 1C)** or **Disability Retirees (STEPS 1D AND 1E)** or **Service Retirees retired before January 1, 2011 (STEPS 2A, 2B, and 2C)**. For those added to the respective worksheets, click on the cell in the column “New Retirees Identified from Self-Audit”, and from the drop down box choose “Step 4 3rd Party Entity” in order to identify the reason and source for the added retiree. **Include in the comments section of the worksheet any supporting information that might be useful.**

STEP 5 - DETERMINE CORRECTIONS NEEDED FOR EMPLOYMENT AFTER RETIREMENT REPORT

After completing all steps above and entering all the required data into the worksheet, review the final results. If any fields are highlighted in red, please complete those fields before reviewing final results.

5A For retirees you highlighted as a result of **Steps 1C** and **1E**, notify your TRS Employment After Retirement (EAR) Team or your TRAQS coach for further direction and assistance.

5B To submit corrections to your **Employment of Retired Members Report**, please go to the following link for instructions

http://www.trs.state.tx.us/traqs/documents/er_correction_system_procedures.pdf

IF YOU NEED ASSISTANCE SUBMITTING ADJUSTMENTS OR CORRECTIONS THROUGH TRAQS OR IF YOU WANT TO MAKE SURE AN ADJUSTMENT OR CORRECTION IS NEEDED, CONTACT YOUR TRAQS COACH.

5C For any retirees identified through this self-audit as not previously reported you will need to determine if surcharges are owed for that retiree. Pension and TRS-Care surcharge requirements for employers still apply to the employment of retirees who retired after September 1, 2005 and are working more than the equivalent of 4 clock hours for every work day in that calendar month or who are working a combination of substitute and any other TRS covered employment in any amount in that calendar month, and the total number of days worked exceed one-half the number of workdays in the calendar month. If the month has an odd number of work days, the retiree

may not work more than the whole number of days available, i.e. the retiree cannot work any part of the one half day remaining. Go to **TRS-Care Surcharge Self-Audit** and **Pension Surcharge Self-Audit** for further information and instructions, or contact your TRAQS coach for further assistance.

5D Do not send your worksheets to TRS unless requested by TRS staff. Retain your worksheets as supporting documentation to support adjustments or corrections reported to TRS through TRAQS.

CONGRATULATIONS!

You have completed the **TRS Employment After Retirement Self-Audit**. Thank you for participating!

Please complete the [TRS Employer Self-Audit Feedback Form](#) and send to [Employer Audits](#).

QUESTIONS

If you have any questions about the self-audit, please send your questions to [Employer Audits](#). Please contact your TRAQS coach for assistance regarding any questions you may have regarding TRAQS adjustments you have identified through the self-audit.