



*The following information was recently provided to NYSTRS' participating employers. As a Retirement System delegate, it is important you are aware of these issues. Please share this Delegate News with NYSTRS members in your district.*

## **Retirees Must Have Bona Fide Break Before Returning to Post-Retirement NYS Public Service**

New retirees who plan on working in NYS public service in retirement must have a bona fide one-day break in service, meaning they must be fully separated from ALL public employment for at least one full business day before beginning NYS public employment in retirement.

Eligibility for retirement under the New York State Retirement & Social Security Law (RSSL) requires a complete separation from all NYS public employment, whether full-time, part-time, or per diem. Recent court decisions have reaffirmed that a bona fide break in all service is required before returning to NYS public service employment in retirement. While this has always been a longstanding requirement, compliance is now receiving increased legal and administrative scrutiny.

### **What this Means for Employers**

To be eligible for post-retirement employment in NYS public service, a member must:

- Resign from all NYS public employment and officially retire.
- Begin collecting a retirement benefit.
- Be removed from all payrolls and remain fully retired for at least one full business day.
- Avoid signing any post-retirement contract, agreement or commitment before retiring. If a member signs paperwork or commits to post-retirement work before effectively retiring, they may jeopardize their pension eligibility.

Note that a "business day" refers to a weekday (Monday through Friday), not a weekend or a recognized public holiday.

Post-retirement employment may commence after the bona fide break, but a member will be subject to all earnings after retirement limitations.

**The only exception** permitted by the RSSL: Elected officials may continue serving their current term; however, they are still restricted by all post-retirement earnings limitations outlined in Sections 211 & 212.

### **How Contract Dates Affect Retirement Eligibility: An Example**

A member's retirement date must be at least one business day beyond the last date salary was earned under the contract – not necessarily their last day in the classroom. Most collective bargaining



agreements are in effect through June 30, even though the last day of student contact often occurs earlier in the month. What follows is an example:

If a teacher's last classroom day is **Thursday, June 26, 2025**, but the contract runs through **Monday, June 30**, the earliest effective retirement date they could select is **Tuesday, July 1, 2025**.

That day would serve as the **bona fide break** – a full business day in retired status, with no NYS public employment. In this example, the earliest the member could return to post-retirement NYS public employment is **Wednesday, July 2**.

If the employer accepts an earlier resignation date, ending the contractual obligation sooner, an earlier retirement date may be possible.

Employers play a key role in ensuring compliance. Please verify effective resignation dates and contract timelines carefully to help members avoid complications in their retirement processing. For more information, consult [Section 20: Earnings After Retirement](#) of our [Employer Manual](#).