

Notice No.: 92-002
Date: January 30, 1992
Applies to: PERS employers
Subject: Evaluating position eligibility

Determining whether or not to enroll and report an employee is one of the most important actions you take with regard to the Public Employees' Retirement System (PERS). This notice explains your responsibilities and provides information on how to correctly make eligibility determinations.

Employers are Responsible for Determining Eligibility

The Department of Retirement Systems (DRS) ultimately is responsible to administer the retirement laws requiring PERS membership for employees in eligible positions. However, your responsibility as an employer has several elements.

You define your positions.

The definition of a position is your responsibility. Current retirement law relates a position's eligibility to your definition of how many months and hours the position will normally require. You also determine how many positions you have.

You evaluate the eligibility of your positions.

Compare each of your positions against the standard for an eligible position. As of September 1, 1991, this standard is the same for both PERS Plan 1 and Plan 2.

An eligible position is any position which normally requires at least 5 months of 70 or more hours of compensated employment each year. A year, as used here, is any period of 12 consecutive months.

The second section of this notice will help you use this guideline to make specific eligibility determinations.

You document your eligibility determinations.

It is important that you keep a record of your eligibility determinations. Your documentation will show how many hours per month and months per year you expected the position to require. These facts will support your decision to enroll or not enroll an employee if questions arise.

You report members from their first day in an eligible position.

When you hire an employee into an eligible position, you must report him or her on your Transmittal Report from the first day of employment unless the employee is a retiree from a Washington State retirement system. (Refer to the *Monthly Transmittal Reporting Handbook* for retiree employment and reporting requirements.)

You review your positions to discover changes in their eligibility.

When a position's requirements change, eligibility for PERS may change. Re-evaluating your positions regularly will help ensure that you are correctly reporting your employees.

Factors to Consider When Making Eligibility Determinations

Begin with these questions when determining basic position eligibility:

1. "Do I expect the position ever to require 70 or more hours of compensation in a month?"
 - If the answer is NO—the position is not eligible.
 - If the answer is YES—ask question 2.

2. "Do I expect the position ever to require 5 or more months with at least 70 hours of compensation per month in any 12 month period?"
 - If the answer is NO—the position is not eligible.
 - If the answer is YES—ask question 3.

3. "Will this position 'normally' meet the eligibility standard?" That is, "Do I expect the position to have at least 5 months of 70 hours during the first year and to meet this standard at least once in each 2-year period?"
 - If the answer is NO—the position is not eligible.
 - If the answer is YES—consider this position eligible.

Consider all of an employee's work as one position.

All work an employee does for you in a given month must be considered one position, even if different types of work are performed.

Example: An employee works for you 35 hours each month as a fiscal technician and at the same time works 40 hours each month for you as a personnel assistant.

For retirement purposes, this person is employed in one eligible position (75 hours each month), not two ineligible positions.

Example: An employee works for you in an ineligible position for the first three weeks of a month. On the 21st of the month he or she begins work in an eligible position for you.

The law now specifies that an employee's *monthly* work cannot be divided into more than one position. All of the employee's work during this month is considered eligible. Enroll the employee and report contributions for the entire month. The *begin date* for transmittal reporting is the first day the employee earned compensation in the month in which eligible employment was begun.

Do not consider personnel classifications when determining eligibility.

The personnel classification your agency gives to an employee (temporary, seasonal, substitute, part-time, intermittent, etc.) does not affect PERS eligibility. If the position is eligible, any amount of time an employee spends filling that position is considered eligible.

Clarify position definition when an employee is "filling in" for someone.

At times you may hire an employee to provide coverage for someone who is on leave or absent from an eligible position. How you define this employee's position is important. If you actually place your fill-in employee into the absent person's eligible position, the fill-in employee must be reported. However, if you have a separate position for assignments that require filling in for absent employees, eligibility depends on how you have defined and documented that position. The following examples show the difference.

Example: You hire an employee to fill in for someone on leave of absence from an eligible position. You place this person in the absent employee's eligible position.

The employee should be enrolled and reported starting with the first day of employment. The personnel status of the person (substitute, temporary, etc.) does not change the eligibility of the position.

Example: One of your employees is on leave or absent from an eligible position. You hire another individual to help with coverage. You determine that this individual is being hired into a position different from the absent employee's eligible position.

Document the criteria used in determining that the position is different. Because the fill-in employee is not serving in the same position as the absent employee, you will also have to use the eligibility guideline to evaluate whether this second position is eligible.

Example: You frequently need personnel to fill in for employees who are absent or on leave. You create and define a position designed to fill these temporary needs. An employee in this position is assigned work that needs to be done on a short-term basis, filling in for employees who are on leave or absent.

This employee has an ongoing agreement to work for you whenever "fill-in" or "temporary" work is required, and you classify and document this work as a separate position. Evaluate the eligibility of the position based on whether each year it normally requires 5 months with 70 or more hours per month. If it does not, the position would be ineligible, and the employee should not be reported. However, if this position meets the eligibility standard, report the employee.

In situations such as these, good documentation of the position into which you hire the employee will give important support for your eligibility determination.

Keep your determinations correct by reviewing your positions.

If an employee in an ineligible position works more hours or months than you had expected, it may serve as a signal for you to review the position's eligibility. Similarly, if an employee you have enrolled in PERS has less than 5 months of 70 hours in a particular year, a review of the position may be called for.

Carefully consider whether this was an isolated incident, or whether the nature of the position has changed. If the position's requirements have changed, redefine the position, document your findings, and correct your reporting as described on the next page.

Example: A position which you had declared eligible continues for more than one year without requiring the employee to work 70 hours or more per month for at least 5 months each year.

Carefully review the position. If you determine that the position has changed and is no longer eligible, document this determination. Separate the employee from the transmittal system by reporting with status code "S," and submit a DRS Notice of Separation for that employee.

Example: You hire a person into an ineligible position, but during the year a change is made in hours of work the position requires. The position now requires 5 or more months of at least 70 hours and you expect that requirement to continue. Through an oversight, this employee is not being reported to DRS although the position is now eligible

Your review shows that a change in the position's requirements made it eligible. Declare the position eligible beginning from the date the requirements changed. Document the situation carefully. Begin reporting the employee. Contributions will be due back to the date of the change that made the position eligible.

Example: You hire a person into an ineligible position. In a review you notice that the position's workload has increased over the course of the past year, and the employee has earned compensation for 5 or more months of at least 70 hours.

Determine whether this was an isolated incident, or whether the position definition should be changed. If you expect the position to continue to require at least 5 months of 70 hours or more each year, declare the position eligible. Document the change in the position and your eligibility determination. Begin reporting the employee. Contributions are due beginning with the date you declare the position eligible.

Review your positions and document changes that you find. Your documentation will show whether a position changed or whether eligibility was determined incorrectly.

Example: A review shows you have made an error and have not been reporting contributions for an employee in a position that clearly was eligible.

Contributions must be made retroactively back to the date you hired the employee into this position.

Example: You failed to review a position which was originally classified as ineligible. Two consecutive years go by in which this position has at least 5 months of 70 hours or more per year.

The position will be declared eligible effective from the beginning of the first month the employee earned 70 or more hours of compensation in the first of the two years you are examining. Contributions will be due retroactively back to that date.

Questions?

For more information, refer to the expanded discussion of eligibility in the “Membership Guidelines” section of your *Monthly Transmittal Reporting Handbook* (September 1991 update). The *Handbook* also contains examples of some common situations and explains how you should respond.

NOTE: The examples in this notice use the current eligibility standard. The legal definition of eligible position comes from RCW 41.40.010 (25) (a), Laws of 1991.

When you are evaluating eligibility for periods prior to September 1, 1991, use the eligibility standard in effect at that time. The eligibility standards for various periods are given in your *Monthly Transmittal Reporting Handbook*.

If you have additional questions about eligibility or need other assistance, please feel free to contact DRS Membership Services at (206) 753-3113 or SCAN 234-3113.

George Northcroft
Director

Notice No.: 92-003
Date: February 18, 1992
Applies to: PERS, LEOFF, JRS, and WSPRS employers
Subject: 1991 Member Annual Statements

1991 Member Annual Statements are scheduled to be mailed to your payroll office by the end of March. The statement shows the member's retirement contributions for the 1991 calendar year, as well as the total amount in the member's account.

When you receive the annual statements, please distribute them to your employees. If you have not received the statements by April 10, 1992, or if a member who should have received a statement does not, please contact the Department of Retirement Systems (DRS) Membership Services at (206) 753-3113 or SCAN 234-3113.

New on the 1991 statements

Beginning this year, the statements will also show how much service credit the member earned during the 1991 calendar year (or the 1990-1991 school year for PERS members employed by education employers). DRS determines service credit based on the hours reported by the employer on the monthly transmittal reports. Months of partial service credit will appear on some members' statements. Because September 1991 was the first month partial service credit was granted, PERS members employed by education employers will not see partial service credit on their statements until next year. An explanation of partial service credit was provided in DRS Notices 91-022 (PERS non-education employers), 91-023 (education employers), and 91-025 (LEOFF employers).

Because the statements will document service credit for the first time, members may have questions about how DRS calculated the service credit. The text on the annual statements refers the members to the September 1991 Member Handbook for PERS and LEOFF and the September 1990 Member Handbook for JRS and WSPRS. These handbooks contain information on how service credit is determined. If you need additional handbooks for members who request copies, please contact the DRS Office Services Section at (206) 753-0348 or SCAN 234-0348.

Thank you for your assistance in distributing these statements to the appropriate employees.

Questions?

Questions about the PERS member statements should be directed to DRS Membership Services at (206) 753-3113 or SCAN 234-3113. Questions about LEOFF, JRS, and WSPRS member statements should be directed to the LEOFF Section at (206) 753-2075 or SCAN 234-2075.

George Northcroft
Director

Notice No.: 92-004
Date: March 11, 1992
Applies to: TRS Employers
Subject: New WACs affecting TRS Plan 1 retirees

The Department of Retirement Systems (DRS) has adopted rules to provide clear standards for determining when a TRS Plan 1 member is considered retired and for determining how many hours a TRS Plan 1 retiree may work for a public educational institution without having his or her pension suspended or reduced. These rules implementing RCW 41.32.570 took effect November 18, 1991, and are codified as WAC 415-112-330, WAC 415-112-515, WAC 415-112-535, and WAC 415-112-540.

Establishing Retirement Status

TRS Plan 1 members are not considered retired until they apply for retirement, terminate their employment, and receive a retirement benefit payment from DRS. Retiring members should not work in any capacity for a Washington public educational institution between the date they terminate employment for retirement and the date they receive their first benefit payment. In addition, retiring members should not sign a contract for future employment with a Washington public education institution prior to receiving their first benefit payment. Such work, or the existence of such a contract, will jeopardize retirement status and possibly cause forfeiture of retirement benefit payments.

Working After Retirement

Once a TRS Plan 1 retiree has received his or her first benefit payment, he or she, by law, may work up to 75 days for a public educational institution during a fiscal year (July 1 through June 30) without it affecting his or her retirement benefits. The new rule clarifies the implementation of this law by defining a work day for TRS Plan 1 as seven hours, which limits the total number of hours a retiree may work to 525 in a fiscal year. A retiree may work several days of less than seven hours to accumulate a single seven-hour day. A retiree may also accumulate more than a day of credit in a single work day, if more than seven hours are worked.

As a TRS employer, you are required to obtain a written statement from new employees as to whether they are retired from a Washington State public retirement system (RCW 41.50.130)3(a). As a TRS employer you are also required to notify DRS when a TRS Plan 1 retiree whom you employ exceeds 525 hours (75 days) of employment. A retiree working as an independent contractor is **not employed** for TRS purposes.

If a TRS Plan 1 retiree is employed under a written contract and continues to work past 525 hours (75 days), the retiree's pension benefits will be suspended. A retiree not under written contract who continues to work after completing 525 hours of compensated employment during a fiscal year will receive a reduced pension benefit each month in which he or she works, up to 20 days of additional work per fiscal year. If the retiree works 20 or more days after exceeding the 525 hours per fiscal year, the pension benefit is suspended until the retiree quits working or until a new fiscal year begins.

Questions?

If you have questions about how these rules are applied in specific cases, contact Margaret Wimmer, Teachers' Retirement System Administrator, at (206) 753-5290, SCAN 234-5290.

George Northcroft
Director

Notice No.: 92-005
Date: March 12, 1992
Applies to: Higher Education Employers
Subject: New WACs affecting PERS employees

Retirement law establishes an exception from PERS membership for certain employees of higher education institutions and community colleges. This exception applies to **full-time** students and their spouses when the following conditions apply:

- the person is employed by the same institution where he or she is a full-time student, or where his/her spouse is a full-time student; **and**
- the employee (if the employee is the student) determines that he or she is working at the institution primarily to further his/her education; **or**
- the employee (if the spouse of the student) determines that he or she is working at the institution primarily to further his/her spouse's education

WAC 415-108-520, effective December 31, 1991, explains the standards for applying this exception. This administrative rule specifies the responsibilities of the institutions of higher education in notifying employees of the rule. The rule also defines the responsibilities of employees in establishing and maintaining use of this exception.

NOTE: A student claiming this exception must be employed by the same educational institution that he/she is enrolled in. A student of another educational institution working for your college or university as an intern or in any other capacity does not qualify for this exception. Under these circumstances, a student would be excepted from PERS only if he/she worked in an ineligible position.

This new WAC was published in the Washington State Register, October 18, 1991, on pages 21-22. If you have specific questions about the new rule, you may contact Jack Bryant, DRS Membership Services Administrator, at

(206) 753-3109, SCAN 234-3109.

George Northcroft
Director

Notice No.: 92-006
Date: April 23, 1992
Applies to: PERS and TRS employers
Subject: Early Retirement Act of 1992 (ESHB 2947)

The Early Retirement Act (ESHB 2947) provides Public Employees' Retirement System (PERS) Plan 1 and Teachers' Retirement System (TRS) Plan 1 members who were employed on April 2, 1992, an opportunity to retire up to five years earlier than under normal retirement system rules.

Requirements for Early Retirement

To retire under the provisions of this Act, a person must:

1. Be a member of PERS Plan 1 or TRS Plan 1;
2. Be employed in a PERS eligible position on April 2, 1992, or be employed on that date by a TRS employer in a position other than substitute teacher (as defined in TRS law);
3. Provide written notification of intent to retire to his or her employer on or before June 15, 1992;
4. Submit a notarized application for retirement which must be received by DRS, or postmarked by the U.S. Postal Service, on or before June 15, 1992;
5. Separate from service no later than August 31, 1992; and
6. Meet one of the following criteria by his or her separation date:
 - a. Be age 50 with 20 years of service credit, or
 - b. Be age 55 with at least five years of service credit, or
 - c. Be any age with at least 25 years of service credit.

Questions and Answers Relating to Early Retirement Criteria

- Q. If a person does not meet all of the eligibility requirements until September 1, 1992, can he or she retire under the Act?
- A. No, early retirees must meet all eligibility requirements by their date of separation, which can be no later than August 31, 1992.
- Q. By June 15, 1992, applicants for early retirement are required to give written notification to their employers of their intent to retire. How will DRS verify whether a person has provided this notification?
- A. Applicants must sign a statement on the Early Retirement Application form certifying that they have notified their employers. DRS will accept this as verification unless an employer contacts DRS attesting that they were not notified.
- Q. If a person mails an application and it arrives at DRS after June 15, will he or she lose eligibility?
- A. Applications received by DRS after June 15, 1992, must be postmarked by the U.S. Postal Service no later than June 15, 1992. Hand-delivered applications must be received at DRS's office in Olympia no later than 5:00 p.m. on June 15, 1992.
- Q. Is a person eligible for early retirement if he or she is now a contracted TRS Plan 2 member but has service credit as a PERS Plan 1 member?
- A. No, the individual must currently be in a PERS Plan 1 eligible position.
- Q. If a school district gives an employee a contract guaranteeing a minimum number of hours, but calls that position "substitute teacher," will that employee qualify for early retirement?
- A. Teachers working under a contract are not considered substitutes under TRS law even if their employer describes their duties as "substitute teacher." An employee under contract on April 2, 1992, meets the Act's criteria.
- Q. Under a law passed last year, teachers are allowed to use out-of-state service to move up their retirement date. Does this apply under the Early Retirement Act? Can they use such service to meet the service credit requirements of the Act?
- A. Yes, service credit earned under the rules of normal service retirement are applicable under the Early Retirement Act. This includes service credit earned under other systems that can be used under dual membership (portability) rules (acquired in PERS, TRS, and the Washington State Patrol

Retirement System) as long as the member is currently active as a Plan 1 member.

Questions and Answers, Continued

- Q. If a member has withdrawn service credit that would be enough to meet the requirement of the Early Retirement Act, can he or she restore that time and use that service credit to qualify for early retirement?**
- A. If the member is eligible to restore the service credit under normal rules and completes restoration by August 31, 1992, he or she can use that service to meet the service credit requirement of the Early Retirement Act.**
- Q. Under PERS Plan 1, a member can get retirement service credit for up to five years of military service rendered prior to entering PERS employment if he or she has accumulated 25 years of service credit. Is this requirement changed by the Early Retirement Act?**
- A. No, a member still must have 25 years of service credit before he or she is able to receive prior military service credit. This has not been changed by the Early Retirement Act.**
- Q. Is a person eligible for early retirement if he or she is on leave from an eligible PERS Plan 1 position or a TRS Plan 1 position on April 2, 1992, the effective date of the Act?**
- A. The following table shows the situations that will be considered a state of "employment" when processing applications under the Act.**

Status of Employee	Considered Employed	Conditions
Actively employed in a PERS eligible position or in a position for a TRS employer (not a substitute teacher)	YES	
Working in a PERS ineligible position	NO	
Paid leave	YES	
Unpaid, authorized leave	YES	DRS will check the employer's transmittal. If the employee appears on the transmittal, DRS will assume leave is authorized. If not, the employer must supply DRS with a written explanation before a decision is rendered.
Unpaid, unauthorized leave	NO	
Vested, not active (RIFs, voluntary terminations, etc.)	NO	
Working as a substitute teacher	NO	

Reemployment Restrictions Under the Early Retirement Act

The Early Retirement Act places special reemployment restrictions on certain employers of both PERS and TRS early retirees: state agencies, higher education, school districts, and educational service districts. The Act did not create new restrictions on other types of employers reemploying early retirees. It is an employer's responsibility to determine whether a retiree seeking work retired under the Early Retirement Act.

The standard restrictions which can affect retirees' benefits if they work after retirement are not changed by the Early Retirement Act. The brochure "Thinking About Working After Retirement?" provides information on this subject.

Employment Restrictions on State Agencies and Higher Education Institutions

The Early Retirement Act places certain restrictions on state agencies in hiring persons who retire under its provisions. The same restrictions also apply to higher education institutions.

Under the Early Retirement Act, state agencies and higher education institutions may not award a personal services contract to any person who retires from state service under the provisions of the Act.

Also, state agencies and higher education institutions may not hire persons as temporary or project employees if those persons retired from state service under the provisions of the Early Retirement Act.

Exceptions to these restrictions may be granted by written approval from the Director of the Office of Financial Management (OFM) if the OFM Director finds that the proposed contract is necessary to protect the public safety, protect against the loss of federal certification or loss of critical federal funds, or to carry out functions so essential to the agency that even temporary suspension or delay of services would have a significant negative impact on the public.

These restrictions on state agency hiring of early retirees expire on June 30, 1995.

Employment Restrictions on School Districts and Educational Service Districts

Boards of directors of school districts or educational service districts may not use personal service contracts to hire persons who retire from state service under the provisions of the Early Retirement Act.

Exceptions to the restrictions imposed by the Act may be granted by written approval from the Superintendent of Public Instruction if the Superintendent

finds that the proposed contract is necessary to protect student safety, to protect against the loss of school district certification or loss of federal funds, or to carry out functions so essential to the district that even temporary suspension or delay of services would have a significant negative impact on students.

These restrictions on school district and educational service district hiring of early retirees expire on August 31, 1995.

Early Retirement Special Services and the Application Process

To ensure that members understand the effects of early retirement, the legislature has directed DRS to provide an information packet describing the potential implications of early retirement. Persons who elect to retire are required to sign a statement, included on the Early Retirement Application form, that they have received and understood the information.

Early Retirement Line

If a member meets the criteria for eligibility and is interested in taking advantage of the early retirement option, he or she should contact DRS immediately and request an Early Retirement Packet. DRS will review the member's file to verify eligibility for early retirement. If eligible for early retirement, the member will receive an Early Retirement Packet that includes a benefit estimate, an Early Retirement Application form, and other important information. Those who do not qualify will be notified by mail.

PERS Early Retirement line 753-5283
TRS Early Retirement line..... 753-7320

Questions?

Specific employer questions about the early retirement reemployment restrictions should be directed to the appropriate employer oversight agency: for state agencies, the Department of Personnel; for school districts and ESDs, the Superintendent of Public Instruction; for community and technical colleges, the State Board for Community College Education; for state colleges and universities, your institution's benefit specialist. Other employer questions about the Early Retirement Act can be directed to the DRS Employer Relations Unit at (206) 753-8696 or SCAN 234-8696. Your employees should direct their questions to the appropriate Early Retirement line listed above.

George Northcroft
Director

Notice No.: 92-007
Date: April 27, 1992
Applies to: School district employers of PERS members
Subject: "Classified substitute" employees and PERS eligibility

DRS Notice 90-005 notified all Public Employees' Retirement System (PERS) employers that effective **June 7, 1990**, temporary employment is not an exclusion to PERS membership. Any employee who occupies a PERS eligible position is required to be enrolled and reported in PERS, even if the employment is not permanent. This applies to all temporary employees, including those whom the school district calls "classified substitutes."

Facts About Temporary Employment

There are a number of different ways a temporary employee might occupy a position. The responsibility to determine which position the temporary employee occupies lies with the employer. Please maintain adequate documentation of your eligibility determinations for each position and adequate documentation as to which position the staff member occupies.

DRS Notice 92-002 detailed the two essential elements of an employer's determination regarding the eligibility of any position.

- The employer determines **which position** the classified substitute or temporary employee is occupying. The employer determines whether the substitute employee is actually filling the position of the absent employee, filling his/her own separate position, or filling some other position. Once the employer determines which position the employee occupies, the employer must then determine whether that position is eligible.
- The **position** determines whether or not you will enroll and report an employee in PERS. This includes any employee who is hired on a temporary basis, including anyone employed as a PERS classified substitute.

There are a number of ways in which school districts can structure the positions of classified substitutes. Some of these involve placing the classified

substitute in his or her own “substitute” position; others involve establishing specially designated substitute positions which are used to employ any temporary employee. Other school districts do not have separate positions for their classified substitutes, but actually place the classified substitute in the position of the absent employee. The type of position your district uses will affect whether and how you report classified substitutes to the retirement system.

Reporting Employees Who Always Occupy the Same Position

Some of the ways in which school districts employ temporaries or classified substitutes are detailed below. You may find other situations in your school district, but two elements are always the key to determining whether to report the employee:

- You as the employer determine which position the employee occupies
- Once you have determined which position, you apply the standard eligibility criteria to determine if this is an eligible position.

Case 1:

A school district establishes a separate position for each individual it employs as a classified substitute. Regardless of whom the individual is substituting for, he or she is occupying his/her own classified substitute position.

The district must then evaluate each position, to determine whether the position is being occupied at least 70 hours per month in at least five months of each year. Whenever a position meets the eligibility standard, the employee occupying it must be reported to the retirement system.

Case 2:

The school district has several positions that are used to employ all classified substitutes. Any temporary employee is hired into one of these positions. Each position is occupied by more than one classified substitute.

These positions may or may not be eligible; the employer must evaluate each of them using the standard eligibility criteria: is the position usually occupied for 70 or more hours per month at least five months each year?

Example:

A school district has three separate, defined positions for classified substitutes. Whenever any classified substitute works for the district, he or she occupies one of these positions. Multiple employees occupy each position.

When the district evaluates the eligibility of these positions during the past school year, it finds that two positions always were occupied at least

70 hours per month during the school year and determines that these are eligible positions. The third position, however, was occupied for 70 or more hours per month during only four months. The district must now decide whether that position **normally** is occupied for 70 hours during only four months of the year. If so, this is an ineligible position. However, if the district decides that the school year being evaluated is an exception and the position normally does require 70 hours in most months, the district will declare the position eligible.

Case 3:

The school district has a single position that is used to employ all classified substitutes. Any temporary employee is hired into this position. In a large district, as many as 50 people may be filling this position.

A position such as this will usually be eligible because the number of hours worked in it during any month will be more than 70. (However, in a small district that rarely uses this position, the position might be ineligible.)

Example 1:

A school district has a single separate, defined position for classified substitutes. Whenever any classified substitute works for the district, he or she occupies this position. Usually 25 to 50 people work in this position in any month, and the total number of hours worked by people filling this position always exceeds 70 hours per month during the school year. This is an eligible position and any classified substitute working in it should be reported to the retirement system.

Example 2:

A school district has a single, defined position used for all classified substitutes. However, this district does not have the need to employ classified substitutes very often and sometimes the collective number of hours worked by classified substitutes in this position is less than 70 hours per month. This position may or may not be eligible; the employer must evaluate it using the standard eligibility criteria: is this position usually occupied for 70 or more hours per month at least five months each year?

Reporting Employees Who Work In Multiple Positions

Some school districts have no separate position(s) for temporary or substitute employees. A classified substitute occupies the position of the absent employee.

- If the temporary or substitute employee actually occupies the **position** of the absent person, and that position is eligible, you must enroll and report the temporary (substitute) employee regardless of the number of hours worked.

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- A classified substitute working **only** in an ineligible position or positions would not be reported.
 - If an employee substitutes in multiple positions, all compensation is reported if **any one** position is eligible. Once an employee works in an eligible position, all earnings in that month are to be reported on the transmittal report.
 - If a previously reported classified substitute works in no eligible position(s) during a specific calendar month, you must separate that employee from the transmittal report, using status code “S” and an “End Date,” and submit a Notice of Separation. If in the future you again report the employee, don’t forget to provide a “Begin Date” on the transmittal report.

Case 4:

A school district employs a PERS member as a bus driver in a position that requires five hours per day of work each day of the week. This is an eligible position. Any person who substitutes **in this position** must be reported to DRS even if he/she only works one day or one hour.

Case 5:

An employee substitutes in ineligible positions from November 5 through November 10, then occupies eligible positions from November 18 through November 28. Report all November compensation you pay the employee.

If this employee is again employed in December, working in both an eligible and an ineligible positions, the school district continues to report all of the employee’s compensation on the transmittal report. If the employee is not employed in any eligible position during December, the school district submits a separation code for the employee, using a November “End Date” on the transmittal report.

Establishing Ineligible Positions for Classified Substitutes

Employers may establish ineligible positions in which to place classified substitutes. If an ineligible position is not available to hire the classified substitute into, or if the employer is unable to formally establish an ineligible position, the employer may take the following steps.

- The employer may document a policy, signed by the appropriate authority, which indicates that each retirement eligible position has a corresponding retirement ineligible position.
- Send a copy of this policy to DRS Membership Services.

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- When you hire a classified substitute into the ineligible position, the employee must sign a statement that he or she understands that he/she is being hired into a position that is not eligible for retirement.
 - Maintain the employee's statement in the employee's personnel file. At a minimum, you should review and update the statement annually.

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- As with all ineligible positions, the employer should evaluate the position at least annually to determine if it still meets the definition of an ineligible position.

Retirement law prohibits an employer from defining an employee's monthly work in such a way that an individual employee's work for that employer is divided into more than one position. For this reason, please monitor the work pattern of any employee working in multiple ineligible positions. If the employee's pattern of work is such that he/she works 70 or more hours per month in at least five months per year, evaluate whether the employee is still in an ineligible position.

Questions?

If you have questions related to temporary or "substitute" employment in PERS positions, please reference the "Guidelines to PERS Membership" (revised September 1991) in your *Monthly Transmittal Reporting Handbook*. The examples at the end of that section of the *Handbook* should help you apply the membership rules to specific situations.

If you have additional questions, you may contact DRS Membership Services at (206) 753-3109, SCAN 234-3109.

George Northcroft
Director