



WAYNE COUNTY POLICY STATEMENT

Title:	Retirants Returning to Wayne County Employment		
Wayne County Policy #		Date Issued:	5/1/2015
Category:		Date Revised:	N/A
Approved By:	Tish King, Director of Personnel/Human Resources (P/HR)		Page 1 of 5

I. PURPOSE

Enforcement of Section 28 of the County Pension Plan Act (Public Act 249 of 1943 as amended, MCL 46.12a), as it relates to re-employment of retired Wayne County employees.

II. APPLICABILITY

A retirant is an employee who retired from Wayne County and receives a pension pursuant to the Wayne County Employees' Retirement System (WCERS) Defined Benefit (DB) Plan or an employee who annuitized a Defined Contribution (DC) Plan through WCERS.

III. POLICY PROVISIONS

1. Payment of pension or retirement benefits to a retirant shall be suspended if a retirant is employed by the County from which the retirant retired unless at least one of the following requirements are met:
 - A. The retirant is employed by the County for not more than 1,000 hours in any 12 month period, which commences on the date of re-employment. Once re-employed, a retirant cannot have worked more than 1,000 hours as a retirant during the previous 12 months;
 - B. The retirant was not elected or appointed as a County Official at the time of retirement and is elected or appointed as a County Official for a term of office that begins after the retirant's retirement allowance effective date. An "appointed county official" means an individual who attains a county office through appointment (see Section III(4) below);
 - C. The retirant was an elected or appointed County Official at retirement, and is elected or appointed as a County Official to a different office from which the retirant retired for a term of office that begins after the retirant's retirement allowance effective date; or
 - D. The retirant was an elected or appointed County Official at retirement and is elected or appointed as a County Official to the same office from which the retirant retired for a term of office that begins two years or more after the effective date of the individual's retirement.
2. The retirant, upon re-employment with the County, is not eligible for any benefits from the County other than those required by law or otherwise provided to the retirant by virtue of his or her being a retirant.

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3. The retirant is not a member of the pension plan during the period of re-employment, does not receive additional retirement credits during the period of re-employment, and does not receive any increase in pension or retirement benefits because of the employment under sub division MCL 46.12(a)(28).
4. Whether a retirant is an elected or appointed Wayne County official or holds a public office will be determined according to the following five factors as established by Michigan courts:
 - A. It must be created by the Constitution or by the Legislature or created by a municipality or other body through authority conferred by the Legislature;
 - B. It must possess a delegation of a portion of the sovereign power of government, to be exercised for the benefit of the public;
 - C. The powers conferred, and the duties to be discharged, must be defined, directly or impliedly, by the Legislature or through legislative authority;
 - D. The duties must be performed independently and without control of a superior power, other than the law, unless they be those of an inferior or subordinate office, created or authorized by the Legislature, and by it placed under the general control of a superior officer or body;
 - E. It must have some permanency and continuity, and not be only temporary or occasional.
5. A Section 4 analysis shall be made on a case-by-case basis. The Director of Personnel/Human Resources (P/HR) or a higher position may request a legal opinion to assist in this determination. A copy of the legal opinion shall be provided to WCERS.
6. The P/HR staff will provide all retirants who are re-employed with information on the County Pension Plan Policy as it relates to re-employment. The retirants must sign an acknowledgement of receipt of the Policy. All department heads and those managing a retirant must assist in assuring adherence to the 1,000 hour rule.
7. Retirants should be re-employed only when economically prudent and for a short duration, and retirants under contract with the County shall not be paid more than 70% of their annual rate at the time of retirement. See Administrative Personnel Order 5-2009.
8. The P/HR staff and the WCERS staff, where applicable, shall follow the procedure outlined in Section IV, for the administration of this Policy.

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IV. PROCEDURAL PROVISIONS

Pre-hire

1. The P/HR staff shall review all employment applications to determine if an applicant was previously employed by Wayne County. If so, staff must determine and verify with P/HR Payroll staff whether the person retired from the County and, if so, what type of pension benefit the person is receiving, i.e., DB or an annuitized DC. A retired applicant must be separated from the County at least 30-days before they are eligible for re-employment.
2. All Wayne County retirants seeking reemployment at the County must be given this Policy and must sign acknowledgement of receipt.
3. The P/HR staff shall determine if the candidate is exempt from the 1,000 hour rule. If the position considered is one needing further determination, on a case by case basis, P/HR staff must consult a director or above to request a legal opinion.
4. Requisitions requesting retirant re-employment for a Project Consultant Position, must be accompanied with a Scope of Services (Scope of Services Template must include language relative to the 1,000 hour rule requirements). Staff will review the hourly rate and hours per week to determine if the proposed salary is appropriate based on existing work rules (e.g., other policies and/or administrative personnel orders).

Auditing

A PeopleSoft query is available and shall be used to identify individuals for compliance with this policy. This query provides a listing of people being paid both as a retiree and an employee.

1. The following individuals are excluded from the query:
 - A. Elected officials: they are entitled to maintain their pensions and be employed by Wayne County.
 - B. Those receiving benefits but no pension payment: if they are entitled to receive active employee benefits the retiree benefits will be inactive.
 - C. Those receiving a pension as a pension beneficiary: they are entitled to continue working for Wayne County and receive the pension as a beneficiary.
 - D. There may be other positions that are entitled for exclusion: these positions must be reviewed on a case by case basis.

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2. The query shall be utilized in the following manner to review those individuals not exempt or excluded from the 1,000 hour rule.
 - A. The earnings codes shall be reviewed to ensure that only time paid as an active employee is considered (e.g. mileage, leave payoffs, severance pay etc. shall be excluded from the calculation).
 - B. If the employee retired within the last 12 months, it must be determined whether the query captured earnings codes attributed to regular wages earned prior to retirement. These hours shall be deducted from the calculation.
 - C. The P/HR Payroll Manager or designee shall run a query bi-weekly.

Reporting

1. The Payroll staff will notify WCERS staff, via email, of re-employment of a retiree at time of rehire.
2. The P/HR Payroll Manager will review the bi-weekly report to determine who has reached at least 840 hours. Upon reaching 840 hours the P/HR Payroll Manager will notify, via email the employee that his or her pension, health, life and optical reimbursement benefits will be suspended if their hours exceed 1,000 hours. Included in the email shall be the employee's supervisor and the WCERS designated staff. The template email will contain information about the suspension process (pension, health, life and optical reimbursement benefits will be suspended as of the first of the month, etc.).
3. Upon the retirant working more than 1,000 hours, based upon a rolling 12-month calendar, the Payroll Manager or designee shall send that report to WCERS staff for implementation of suspension of the pension and the Benefits Manager for cancellation of benefits where applicable.
4. Once WCERS receives the report from P/HR Payroll, it will send a suspension letter to the retirant and notify the WCERS Board of the suspension.
5. Pursuant to the County Pension Plan Act, MCL 46.12a(28), the WCERS Board shall suspend the pension benefits effective the first day of the calendar month following the retirant reaching 1,000 hours.
6. Pursuant to the County Pension Plan Act, MCL 46.12a(28), the WCERS Board shall resume payment of the pension effective the first day of the calendar month following the termination of employment upon receipt of a report which includes the retirant's termination date, provided by P/HR. Reinstatement of a pension is subject to being paid in arrears.

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V. ENFORCEMENT

P/HR is responsible for development, revision, communication, and enforcement of this policy and procedure. The P/HR staff, in coordination with WCERS Staff, shall assist in the interpretation and monitoring of adherence to this policy and procedure. Any employee in violation of this policy may be subject to disciplinary action, up to and including termination. All County retirants and management staff of employed retirants are subject to this policy including temporarily employed retirants.

VI. DISCLAIMER

If in direct conflict with other internal or departmental policy, this policy will be considered to be the overriding policy unless otherwise directed by the Director of Personnel/Human Resources or his/her designee.

VII. RELATED DOCUMENTS

- Wayne County Retirement Ordinance
- County Pension Plan Act (MCL 46.12a)
- Wayne County Charter
- EEOC Statement
- Affordable Care Act
- APO 5-2009

VIII. REVISION HISTORY

ACTION	DATE	BY WHOM	REASON
Created	5/1/2015	Tish King, Director of P/HR	New Policy
Revised	5/20/2015		