

# EMPLOYMENT AFTER RETIREMENT

How it Works for You

September 2022



## **Our Vision**

Earning your trust every day.

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## **Our Mission**

Improving the retirement security of our members by prudently investing and managing the trust assets and delivering benefits that make a positive difference in their lives.

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## INTRODUCTION

If you're considering returning to work for a TRS-covered employer after you retire, we're here to help you understand the concepts and processes related to the restrictions on employment after retirement. The information and examples in this brochure will also help you make decisions to avoid revoking your retirement or forfeiting your annuity payments.

In general, a TRS retiree who works for a TRS-covered employer during a month will forfeit his or her annuity for that month unless the retiree or the retiree's employment qualifies for an exception. This brochure describes these exceptions and provides examples of how a retiree might comply with or exceed the limits of the exceptions.

Service retirees may work without limits for an employer **not covered** by TRS without losing any monthly annuity payments. Disability retirees may also work an unlimited amount of time for an employer **not covered** by TRS but may be subject to compensation limits.

If you still have questions after reading this brochure, please contact TRS. We're here to help and are the experts on your retirement. **Do not rely on information provided to you by another retiree, co-worker or even your employer.** Employment after retirement restrictions can vary depending on when you retired or what kind of job you have, and TRS can help you understand the specific limits or requirements that apply to you.



## DEFINITIONS

### EAR

"EAR" is a common TRS acronym that stands for "employment after retirement." Generally, it refers to any work a TRS retiree performs for a TRS-covered employer and the TRS laws and rules that apply to that employment.

### Effective Retirement Date

Your effective retirement date with TRS will always be the last calendar day of the month that you retire, regardless of the last day you reported to work for your employer. This date is stated on your *Retirement Application Acknowledgment* (Form TRS 32).

### Service Retirement

Service retirement eligibility is based upon your age, membership tier and years of service credit you have at TRS. If you meet the requirements for service retirement, you may apply to receive a monthly annuity calculated according to state law.

### Disability Retirement

Members are approved by the TRS Medical Board for disability benefits. If you meet the requirements for disability retirement, you may apply to receive a monthly annuity as a disability retiree regardless of your age or years of service credit. Disability retirement annuity benefits are approved if a member is mentally or physically disabled from further performance of duty and has a disability that is probably permanent.

### Surcharges

Surcharges are additional contributions that TRS-covered employers must pay to TRS for employing TRS retirees who retired after Sept. 1, 2005 and who work more than one-half time during a month. There are two types of surcharges: pension surcharges and health care surcharges. The amount of the pension surcharge is equal to the amount of both member and state contributions on the compensation paid. The health care surcharge only applies for employed retirees who are TRS-Care participants. The amount of the health care surcharge is determined by TRS. **Please keep in mind:** These amounts are owed by your employer, not you. Effective Sept. 1, 2021, surcharges may not directly or indirectly be passed on to you through payroll deduction, fees or other means designed to recover the cost.

### TRS-Covered Employer

A public, state-supported educational institution in Texas, including school districts, charter schools, education service centers, and institutions of higher education.



## THINGS YOU SHOULD KNOW

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Whether you are retired or considering retiring this year and are planning to return to work for a TRS-covered employer, it's important to understand limitations that may apply. This section includes information on some things that may be helpful to understand before returning to work.



### EAR Restrictions

In general, a TRS retiree who works for a TRS-covered employer during a month will forfeit his or her annuity for that month unless the retiree or the retiree’s employment qualifies for an exception.



### What Happens if My Employment Does Not Qualify for an Exception?

Effective May 2021, a service retiree does not automatically forfeit his or her annuity if the service retiree’s employment with a TRS-covered employer does not qualify for an EAR exception. Instead, service retirees are subject to a “three strikes” warning procedure before forfeiting their annuity payments.

This means if you exceed the EAR limits, you will first be notified of an EAR violation without loss of annuity. You will only receive a warning or “first strike.” If you exceed the EAR limits again, after TRS issues your first strike warning, you will receive a second warning and be required to pay TRS what you earned for the month that you exceeded the EAR limits or the gross amount of your annuity payment for that month, whichever is less. This second warning and partial repayment requirement is your “second strike.” If you exceed the EAR limits again, after receiving your second strike, that is your “third strike” and you will forfeit your full monthly annuity for each month that you exceeded the limits.

Each EAR notification will include the months the violations occurred as well as the amount owed for each strike, if applicable. Please keep in mind you will only receive a first and second strike once in your retirement. Your strikes do not reset each school year.

	First-Strike Period	Second-Strike Period	Third-Strike Period
<b>Months Included</b>	Includes month of issuance of 1 <sup>st</sup> warning and all months prior to 1 <sup>st</sup> warning issuance.	Includes months after the month of issuance of 1 <sup>st</sup> warning letter through the month of issuance of 2 <sup>nd</sup> warning.	Includes months after the month of issuance of 2 <sup>nd</sup> warning letter through the month of issuance of 3 <sup>rd</sup> warning.
<b>Collection</b>	None	For each month of EAR limits violation, retiree must pay either full annuity or dollars earned, whichever is less.	For each month of EAR limits violation, retiree must pay full annuity.

*Please note the three strikes warning procedure does not apply to disability retirees. Disability retirees are still subject to annuity forfeiture for all months that their employment does not qualify for an exception to the EAR restrictions applicable to disability retirees.*



### Service Retirement Before Jan. 1, 2021

Service retirees with an effective retirement date on or before Jan. 1, 2021 are not subject to the EAR restrictions. They may work up to full time for a TRS-covered employer without forfeiting their annuity.

Services retirees with an effective retirement date after Jan. 1, 2021 are subject to the EAR restrictions. They may only work for a TRS-covered employer without forfeiting their annuity if that work qualifies for an EAR exception.

Effective Retirement Date	One-Month Break in Service	Return to Work
<b>Before Jan. 1, 2021</b>	Required	No Restrictions
<b>After Jan. 1, 2021</b>	Required	Limits Apply

**Note:** See June 15 rule if your effective retirement date is May 31 and you work up to June 15.

**Disability retirees are subject to the EAR restrictions regardless of their effective retirement date.**



### Mandatory One-Month Break in Service

All retirees must observe a one full, calendar-month break in service after their effective retirement date to avoid revoking their retirement. Returning to work for a TRS-covered employer in the month directly following your effective retirement date will revoke your retirement. If you revoke your retirement, you will be required to return any annuity payments you received along with any partial lump-sum option payments (PLSO) or TRS-Care health care payments you received. In addition, if you wish to retire again, you must terminate all employment with TRS-covered employers and then resubmit retirement paperwork with a new date.

Keep in mind, an early-age retiree may not negotiate with a TRS-covered employer, for any type of employment, before completing the one full, calendar-month break in service. Normal-age retirees may not negotiate with a TRS-covered employer for any type of employment that would not qualify for an EAR exception before completing their one full, calendar-month break in service.



### June 15 Rule

The June 15 rule allows a member to have a retirement date of May 31 if the member terminates his or her employment no later than June 15 in order to complete all work required for the school year. This option delays the start of your one full, calendar-month break in service. Therefore, you may not return to work from June 15 through July 31; otherwise, you will revoke your retirement. Additionally, if you plan to observe a 12 full, consecutive-calendar-month break in service, the first full month of the break is July. This means the 12-month break in service ends June 30 of the following calendar year.



### Volunteering and Independent Contractor Services

If you perform work as an independent contractor or volunteer for a TRS-covered employer during the first 12 consecutive-calendar months after your effective retirement date and that work would normally be done by an employee, you will be considered an employee instead of a volunteer or independent contractor. This means your work will be subject to the EAR restrictions. Therefore, if you're a service retiree who retired after Jan. 1, 2021 or a disability retiree, this could cause you to forfeit your annuity if your work does not qualify for an EAR exception. Furthermore, your work will restart your 12-month break in service required to be eligible for full-time employment without restrictions.

After the first 12 months following your retirement, you may volunteer or work as an independent contractor for a TRS-covered employer, without being subject to the EAR restrictions, if you meet all the legal requirements for volunteering or working as an independent contractor.



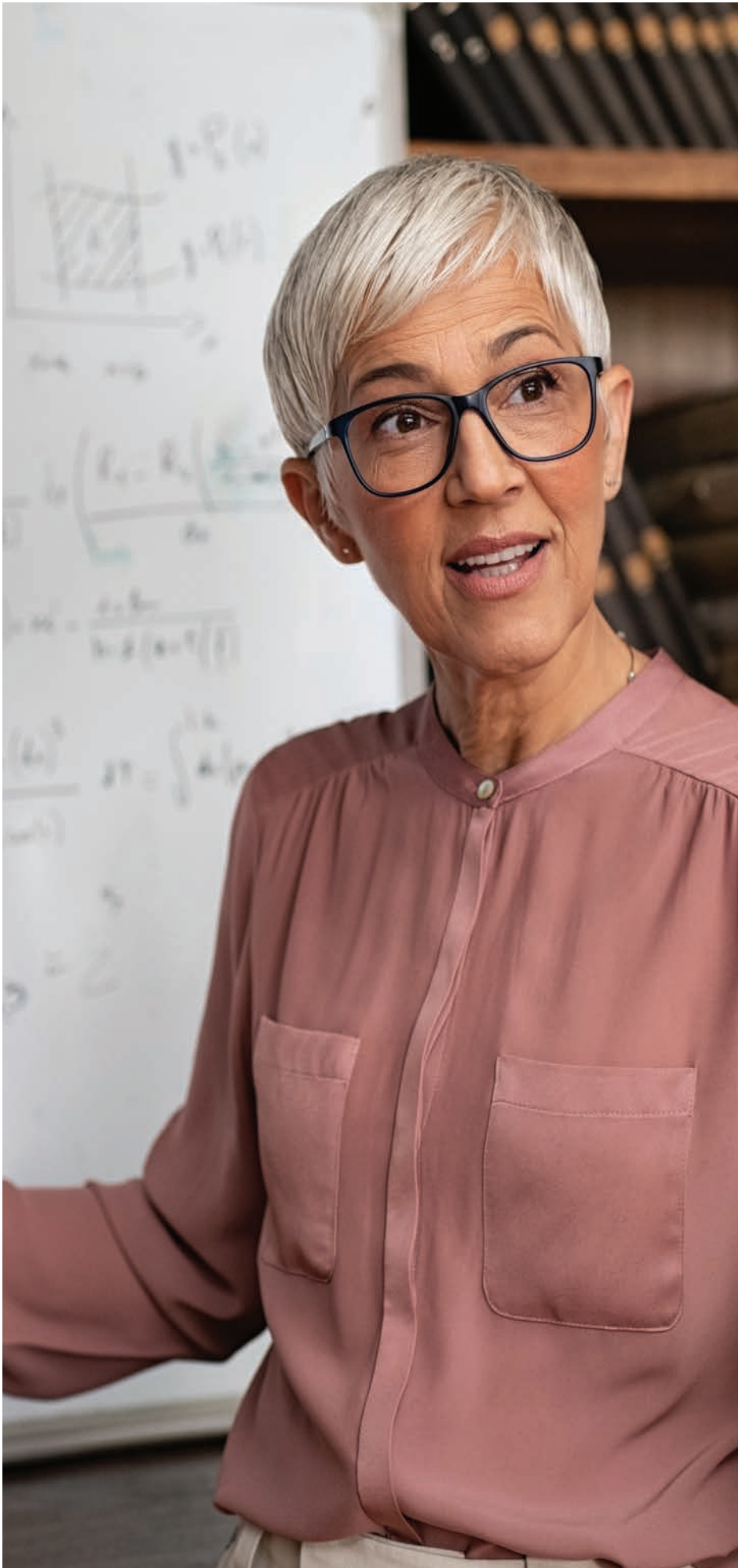
### Working for a Third-Party Entity

A third-party entity is an entity retained by a TRS-covered employer to provide personnel to the institution to perform duties or provide services that an employee of the institution would normally perform or provide. If a TRS retiree is employed by a third-party entity and the retiree performs services for or on behalf of a TRS-covered employer, the retiree will be considered employed in Texas public education for the purpose of EAR. This means the retiree's work for the third-party entity will be subject to the EAR restrictions. Any employment with a third-party entity will also restart a retiree's 12-month break in service required to be eligible for full-time employment without restrictions.



### Medicare Secondary Payer for Return-to-Work Retirees

Beginning Sept. 1, 2022, the [Medicare Secondary Payer Law](#) lets Medicare-eligible TRS-Care retirees enroll in TRS-ActiveCare if they return to work for an employer who participates in TRS-ActiveCare. If you're a return-to-work retiree enrolled in TRS-Care and eligible for Medicare, you may enroll in TRS-ActiveCare if you return to a TRS employer and work 10 or more hours per week. Find more information in the TRS-ActiveCare Benefits Booklets available on the TRS website.



## EAR EXCEPTIONS

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A TRS retiree who is subject to the EAR restrictions may only work for a TRS-covered employer without forfeiting his or her annuity if that employment qualifies for an EAR exception. There are several EAR exceptions available to TRS retirees. However, it's important to know the available exceptions differ for service retirees and disability retirees.





## EAR Exceptions for Service Retirees

A service retiree who retired after Jan. 1, 2021 cannot work for a TRS-covered employer without violating the EAR restrictions and beginning the three strikes process unless the retiree's work qualifies for an EAR exception. For this reason, it's important to know what EAR exceptions are available to you and what work qualifies for those exceptions. You must always have a one full, calendar-month break in service before you may return to work for a TRS-covered employer even if the work qualifies for an EAR exception.

### EAR Exceptions Available to Service Retirees:

- Substitute Employment
- One-Half Time or Less Employment
- Full-Time Employment (after a 12 full, consecutive-calendar-month break in service)
- Non-Profit Tutor Employment
- COVID-19 Surge Personnel Employment

This section explores each of the exception types; provides examples for how a service retiree's employment can qualify for each exception and how it can exceed the limits for that exception; and discusses what happens if a retiree combines more than one EAR exception in a month.

Substitute

One-Half Time or Less

Full Time (After a 12 Full, Consecutive-Calendar-Month Break in Service)

Non-Profit Tutor

COVID-19 Surge Personnel



### Substitute

A substitute is a person who serves on a temporary basis in place of a current employee. You may work without any limit on the number of hours and days if:

- the position is not vacant;
- you are not paid more than the daily rate of pay established by the employer;
- and you do not perform any other type of work for a TRS-covered employer in the same calendar month.

You may work as a substitute in a vacant position for up to 20 days during a school year, but that position must not be vacant because you retired from it. If you continue to work in that vacant position beyond 20 days in a school year, then, on the 21<sup>st</sup> day, your work in that position will no longer be considered as substitute work and may be at risk of exceeding EAR limits.

Your work may also qualify as substitute work if you temporarily serve as a monitor for an in-person class while the classroom teacher temporarily instructs the class virtually.

Working any part of a day, as a substitute, counts as working a full day.



### Complying with EAR Limits

After retiring in December and observing a one full, calendar-month break in service, Julia decided to begin substituting in February at a local school district for positions that were not vacant. She performed no other work for a TRS-covered employer during this time.

Julia complied with the EAR limits. She was able to substitute without any limit on the number of hours and days because the positions she substituted for were not vacant, and she did not perform any other work for a TRS-covered employer during that time.



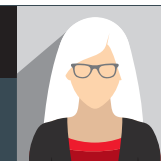
Sally retired in February 2020. She returned to work in December 2020 as a classroom monitor while Greta, the teacher of record, was temporarily teaching the class remotely. She worked in this position until February 2021, when Greta returned to teaching in the classroom after having taught virtually for 12 weeks.

Sally complied with the EAR limits. She was considered a substitute because she was temporarily monitoring the classroom in person while Greta temporarily provided remote instruction.



Jack retired in February. After a one-month break in service, Jack returned to work as a substitute. Now three teachers at Jack's school are currently teaching classes remotely until they complete quarantine. Beginning in April, Jack will be covering two classes for each teacher every day. He is expected to continue working in these positions until May 15.

Jack is complying with the EAR limits. He is considered a substitute while temporarily monitoring the classroom in person while the three teachers provide remote instruction.



### Exceeding EAR Limits

Kay decided to begin substituting in a position that recently became vacant. She substituted for a total of 23 days.

Kay was limited to working no more than 20 days as a substitute in a vacant position. She began substituting in the vacant position on the first of the month. As soon as her work in the vacant position continued past the 20<sup>th</sup> day (which was the 28<sup>th</sup> of the month), she was no longer considered a substitute for the month, which means her work on the 29<sup>th</sup> through the 31<sup>st</sup> was considered one-half time or less employment, not substitute employment. Since she worked in both a one-half time or less position and as a substitute in the same month, Kay was subject to the limits for combining EAR exceptions, and she exceeded those limits by working more than 11 days.

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		



### One-Half Time or Less

This employment type allows you to work up to 92 hours per month. Any work you perform during a month, other than substitute or COVID-19 surge personnel work, counts toward this 92-hour limit even if the work is done on a weekend or a holiday. In addition, if you work for more than one TRS-covered employer during a month, you are still limited to 92 hours total if you wish for that work to qualify for this exception. When determining the total number of hours a retiree worked in the month, TRS-covered employers are required by law to report all hours worked, even Saturdays and Sundays, and any paid leave.

For certain higher education positions, TRS uses an alternative calculation to determine whether a retiree's work in that position qualifies as one-half time or less employment:

#### Higher Education Instruction in Classroom or Lab\*

For employment measured in course hours or semester hours rather than clock hours, each hour of instruction in the classroom or lab counts as a minimum of two clock hours in order to reflect preparation, grading, and other time typically associated with instruction.

#### Higher Ed Online Instruction\*

Online instructors teaching classes taken by students for college credit must be counted as a minimum of two hours for each course or semester hour to determine the number of hours worked.

#### Continuing or Adult Education

Continuing education, adult education, and/or classes offered to employers or businesses for employee training (for which students/participants do not receive college credit), must be counted based on the number of clock hours worked.

\* If your employer has established a greater amount of preparation time for each hour of instruction, your employer's established multiplier will be used to determine the number of hours you worked. Check with your employer to determine if they will use the standard two clock hours or if they have established a different multiplier. Your employer will be able to provide this information.



### Complying with EAR Limits

After retiring in May, David decided to go back to work in a one-half time or less position in November. This means David could work up to 92 hours in November. For the first two weeks, he was scheduled to work 40 hours a week for a total of 80 hours. He did not work any hours the last two weeks of the month.

David complied with the EAR limits on one-half time or less employment. He had a one full, calendar-month break in service before going back to work and did not exceed 92 hours of work during November.



### Exceeding EAR Limits

George decided to go back to work one-half time or less in May. He agreed to work 10 hours per day on Mondays and Tuesdays. There were four full weeks and one partial week in May. George worked 100 hours during the month.

The following month he received a letter from TRS notifying him that he exceeded EAR limits in May.

George was very confused because he knew that he had followed his employer's guidelines and worked according to his agreed schedule. George looked at the EAR trifold and read that he could only work 92 hours during the month in a one-half time or less position. He exceeded EAR limits for one-half time or less employment by eight hours that month.

MAY						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				



### Full Time (After a 12 Full, Consecutive-Calendar-Month Break in Service)

Service retirees with an effective retirement date after Jan. 1, 2021 may work full time in any position without forfeiting monthly annuity payments after observing a 12 full, consecutive-calendar-month break in service. This break in service begins the day after your effective retirement date and ends on the last day of the 12<sup>th</sup> month. You cannot work in any capacity in Texas public education during the 12-month break in service.

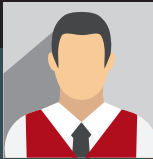
If you retired effective May 31 but used the June 15 rule to continue working in June, the first full month of your 12 full, consecutive-calendar-month break is July. This means the 12-month break in service ends June 30 of the following calendar year.



#### Complying with EAR Limits

Gabriela retired from TRS in March 2022. In April 2023, she decided to take a full-time teaching position with a local school district. Gabriela did not work in any capacity for any TRS-covered employer after her retirement prior to taking the teaching position in April 2023.

Gabriela's work qualified for the full-time exception because she took a 12 full, consecutive-calendar-month break from all TRS-covered employment after her retirement.



#### Exceeding EAR Limits

Patrick retired in July and returned to work in September of the same year as a substitute for a teacher that was out on medical leave. The teacher decided to resign, and the district offered Patrick a full-time position in January of the following year.

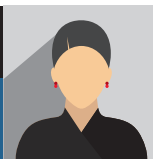
Since Patrick did not have a 12 full, consecutive-calendar-month break in service before going back to work full time and the position did not qualify for any other EAR exception that would allow him to work full time, he violated the EAR limits beginning in January.



### Non-Profit Tutor

A service retiree may work up to full time for a TRS-covered employer in a non-profit tutor position. This exception does not cover all tutor work that a retiree performs for a school district if the retiree is affiliated with a non-profit entity. Instead, the retiree's tutor employment must meet all requirements for qualifying tutor employment under Section 33.913, Education Code. Tutoring programs under Section 33.913 are administered by school districts; you should contact any school district regarding their local program if you wish to be employed under this exception.

**Note:** A retiree may not be eligible to work full time under this exception if the work is combined with other types of employment.



#### Complying with EAR Limits

Rachel retired in July. She returned to work in October as a tutor that qualified under the Non-Profit Tutor Exception because the position met all the requirements of Section 33.913, Education Code. Rachel worked full time in the non-profit tutor position and did not perform any other work.

Rachel complied with EAR limits. The Non-Profit Tutor Exception allows her to work full time without restrictions.



### COVID-19 Surge Personnel

The COVID-19 Surge Personnel Exception allows a service retiree to return to work up to full time in a federally funded position that is in addition to normal staffing levels of the school and perform duties related to the mitigation of student learning loss attributable to the coronavirus disease (COVID-19) pandemic. In addition, the position must terminate no later than Dec. 31, 2024. This exception does not apply to employment with an institution of higher education.

Importantly, any work performed under this exception does not count toward a retiree's total 92-hour limit for one-half time or less employment during a month. Work performed under this exception does not combine with or affect a retiree's employment under any other EAR exception.

Lastly, the COVID-19 Surge Personnel Exception is a surcharge exception. If your employer hires you under this exception, your employment will not subject your employer to pension or health care surcharges.



#### Complying with EAR Limits

Steve retired from TRS in December and completed a one full, calendar-month break in service. Beginning Feb. 1, he accepted a full-time position that qualified under the Surge Personnel Exception.

He did not perform any other work in the same calendar month.

Steve's employment qualified for the COVID-19 Surge Personnel Exception. He was allowed to work unlimited without restrictions. He was not subject to surcharges.



## Combining EAR Exceptions for Service Retirees

If you choose to be employed in multiple positions for either multiple TRS-covered employers or for the same employer during a month and each of those positions qualify for EAR exceptions, the limits on the number of hours or days you may work in those positions may be different than if you worked in either position individually. Here are descriptions and examples of some of the more common EAR exceptions retirees combine in a month and the limits that apply.

Employment Type	Substitute	Tutor Under Section 33.913 Full Time	Tutor Under Section 33.913 One-Half Time	One-Half Time or Less
Substitute	No limit for filled positions; if vacant position, 20-day limit	Cannot be combined	Total combined employment cannot exceed 11 days	Total combined employment cannot exceed 11 days
Tutor Under Section 33.913 Full Time	Cannot be combined	No limit	No limit	Cannot be combined
Tutor Under Section 33.913 One-Half Time	Total combined employment cannot exceed 11 days	No limit	No limit	Total combined employment cannot exceed 92 hours
One-Half Time or Less	Total combined employment cannot exceed 11 days	Cannot be combined	Total combined employment cannot exceed 92 hours	Total combined employment cannot exceed 92 hours

**Note:** Determining the correct monthly limits when combining EAR exceptions can be complicated in many cases and a retiree should strongly consider contacting TRS for guidance before doing so.

Substitute + One-Half Time or Less

One-Half Time or Less + COVID-19 Surge Personnel

One-Half Time or Less + Non-Profit Tutor

Substitute + Non-Profit Tutor



### Substitute + One-Half Time or Less

You may work as a substitute for one month and then work as much as one-half time or less the next month. However, if you work as a substitute and in a one-half time or less position in the same month, your combined work must not exceed 11 workdays in that calendar month. When determining the total number of days a retiree worked in the month, TRS-covered employers are required by law to report all days worked, even Saturdays and Sundays, and any paid leave. Working any part of a day counts as working a full day.

You will violate the EAR limits for any month you exceed 11 workdays allowed in the calendar month.



#### Complying with EAR Limits

Lauren retired in July. After observing a one full, calendar-month break in service, she decided to perform a combination of substitute and one-half time or less work.

Lauren worked as a substitute for 20 days in September. She knew she could work an unlimited number of days in a substitute position and complied with EAR limits.

Then, in October she worked in a one-half time or less position. She worked 90 hours which did not exceed the 92-hour monthly limit for one-half time or less employment.

In November, she combined substitute and one-half time or less work. She worked 11 days. When her employer asked her to substitute an additional day, she let them know she couldn't work more than 11 days without violating EAR limits.

Lauren did not violate any restrictions. She had a one full, calendar-month break in service before going back to work and did not exceed the limits for the months she worked.



#### Exceeding EAR Limits

After retiring in July and having a one full, calendar-month break in service after her effective retirement date, Valarie was hired by a community college in a one-half time or less position. Valarie worked in this position October through March.

In March, a previous employer contacted her to perform substitute work. The employer was having a difficult time finding a qualified substitute and expressed how much they needed her skills. As a result, Valarie substituted for a teacher that was out on medical leave.

During March, Valarie worked the following dates in both positions:

**MARCH** 4, 5, 6, 11, 12, 13, 18, 19, 20, 25, 26, 27, 28, and 29

for a total of 14 days.

In April, Valarie received a letter notifying her that she exceeded the EAR limits. The limit when combining one-half time or less and substitute work is 11 workdays. Since she worked 14 days, she violated EAR limits.



### One-Half Time or Less + COVID-19 Surge Personnel

You may work in a one-half time or less position and a COVID-19 Surge Personnel position in a month, and any hours you work in the COVID-19 Surge Personnel position will not count toward your 92-hour monthly limit for one-half time or less employment.



#### Complying with EAR Limits

After retiring in May and completing a one full, calendar-month break in service, Jane decided to return to work in a one-half time or less position on Aug. 1. She worked 90 hours that month. She also wanted to help in another position that qualified for the COVID-19 Surge Personnel Exception. She worked 46 hours in that position.

Jane complied with EAR limits. She did not exceed the 92 hours allowed per month in the one-half time or less position because the surge personnel employment does not count toward the 92-hour limit.



#### Exceeding EAR Limits

Rhonda retired in March and completed a one full, calendar-month break in service. Her former employer asked if she could return to work in a one-half time or less position beginning in June. She accepted the position. Rhonda also accepted a one-half time position with another employer that qualified under the COVID-19 Surge Personnel Exception. In June, Rhonda worked 96 hours in the one-half time or less position, and she worked 34 hours in the COVID-19 Surge Personnel position.

In July, Rhonda received a letter notifying her that she exceeded the EAR limits for one-half time or less employment. Even though her hours worked in the COVID-19 Surge Personnel position did not count toward her 92-hour monthly limit for one-half time or less employment, she still worked more than the 92 hours in the one-half time or less position.





### One-Half Time or Less + Non-Profit Tutor

You may combine one-half time or less employment and employment under the Non-Profit Tutor Exception during a month, but any work you perform under the exception will count toward your 92-hour monthly limit for one-half time or less employment. This means even though you're able to work up to full time in a non-profit tutor position, your work when combining these two employment types cannot exceed 92 hours total. When determining the total number of hours a retiree worked in the month, TRS-covered employers are required by law to report all hours worked, even Saturdays and Sundays, and any paid leave.



#### Complying with EAR Limits

After retiring in July and completing a one full, calendar-month break in service, Sarah decided to return to work in a one-half time or less position on Sept. 1. She worked 60 hours that month. She also wanted to help in another position that qualified for the Non-Profit Tutor Exception. Sarah worked 20 hours in the non-profit tutor position during that month.

Sarah complied with EAR limits for combining one-half time or less employment and employment under the Non-Profit Tutor Exception. The total combined hours did not exceed the 92 hours allowed in a calendar month.



#### Exceeding EAR Limits

Kevin retired in May and completed a one full, calendar-month break in service. He accepted a full-time position under the Non-Profit Tutor Exception beginning in September. Kevin also started working in a one-half time or less position with another employer in the same month.

In October, Kevin received a letter notifying him that he exceeded the EAR limits for one-half time or less employment in a month. He was not allowed to combine one-half time or less work with work in a full-time non-profit tutor position in the same calendar month.



Bob retired in May and completed a one full, calendar-month break in service. He accepted a one-half time or less position under the Non-Profit Tutor Exception beginning in September. Bob worked 82 hours that month. In September, he also started working in a one-half time or less position that did not qualify for the Non-Profit Tutor Exception. He worked 22 hours.

In October, Bob received a letter from TRS notifying him that he had exceeded the EAR limits for September. He worked a total of 104 hours in September which exceeded the 92 hours allowed for one-half time or less employment in a calendar month.



### Substitute + Non-Profit Tutor

You may work unlimited as a substitute for one month and then work unlimited as a non-profit tutor in another month. However, if you work as a substitute and as a non-profit tutor in the same month, your combined work must not exceed 11 workdays in that calendar month.

You will violate the EAR limits for any month you combine substitute and non-profit tutor employment in a month and exceed the 11 workdays allowed.



#### Complying with EAR Limits

Oliver retired in March. After observing a one full, calendar-month break in service, he decided to perform a combination of substitute and non-profit tutor work.

In May, Oliver worked as a substitute for eight days and worked as a non-profit tutor for three days. When his employer asked him to substitute an additional day, he let them know he couldn't work more than 11 days in the month without violating EAR limits for substitute and non-profit tutor employment.

Oliver did not violate any restrictions because he stayed within the monthly limits that applied.



#### Exceeding EAR Limits

Susan retired in May. After observing a one full, calendar-month break in service, she decided to perform a combination of substitute and non-profit tutor work. In September, Susan worked as a substitute for 11 days and worked as a non-profit tutor for one day.

In October, Susan received notice from TRS that she exceeded the EAR restrictions for September because she worked a total of 12 days.



## EAR Exceptions for Disability Retirees

A disability retiree, regardless of effective retirement date, cannot work for a TRS-covered employer during a month without forfeiting his or her annuity for that month unless the retiree's work qualifies for an EAR exception. For this reason, it's important to know what EAR exceptions are available to you and what work qualifies for those exceptions. Remember, you must always have a one full, calendar-month break in service before you may return to work for a TRS-covered employer even if the work qualifies for an EAR exception.

EAR Exceptions Available to Disability Retirees:

- Substitute Employment (for up to 90 days in a school year)
- One-Half Time or Less Employment (for up to 90 days in a school year)
- Non-Profit Tutor Employment (for up to 90 days in a school year)
- One-Time Three-Month Trial Work Period

This section explores each of the exception types; provides examples for how a disability retiree's employment can qualify for each exception and how it can exceed the limits for that exception; and discusses what happens if a retiree combines more than one EAR exception in a month.

For some disability retirees, the law limits the amount of compensation you may earn from any source without losing annuity payments. This section also includes more information on this topic.

**Please note:** The 12 full, consecutive-calendar-month break in service and the COVID-19 Surge Personnel Exception are not available to disability retirees.

Substitute (For up to 90 Days)

One-Half Time or Less (For up to 90 Days)

Non-Profit Tutor (For up to 90 Days)

Three-Month Trial Work Period



### Substitute (For up to 90 Days)

A substitute is a person who serves on a temporary basis in place of a current employee. You may work without any limit on the number of hours and days in a month if:

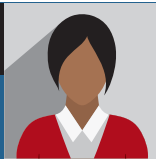
- the position is not vacant;
- you are not paid more than the daily rate of pay established by the employer;
- and you do not perform any other type of work for a TRS-covered employer in the same calendar month.

You *may* work as a substitute in a vacant position, but the position must not be vacant because you retired from it. You may work up to 20 days during a school year without forfeiting your annuity. If you continue to work in that vacant position beyond 20 days in a school year, then, on the 21<sup>st</sup> day, your work in that position will no longer be considered as substitute work and may be at risk of exceeding EAR limits.

Your work may also qualify as substitute work if you temporarily serve as a monitor for an in-person class while the classroom teacher temporarily instructs the class virtually.

However, while a disability retiree may work an unlimited number of days or hours in a month as a substitute (assuming the retiree does not work more than 20 days in any vacant positions), a disability retiree may not work more than 90 days TOTAL in a school year as a substitute. Once a retiree exceeds the 90-day limit per school year, the retiree will forfeit his or her annuity for that month and every month thereafter for the remainder of the school year in which the retiree works.

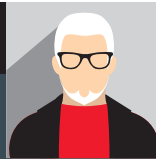
Working any part of a day, as a substitute, counts as working a full day.



#### Complying with EAR Limits

Kate retired due to a disability in March and ended all employment with her TRS-covered employer. In September, she decided to return to work. Kate substituted 60 days in the current school year while on disability retirement.

Kate did not violate TRS laws and rules as she did not return to work in the month following her retirement. In addition, she did not exceed the 90-day limit for the school year.



#### Exceeding EAR Limits

Ted retired due to a disability in June and ended all employment with his TRS-covered employer. In the fall semester, he substituted 62 days. Then, he substituted for 20 days in January and another 10 days in February.

Ted exceeded the EAR limits for a disability retiree working as a substitute and will forfeit his annuity in February because he worked more than 90 days in a school year. In addition, if Ted works any days in the following months during the same school year, he will also forfeit his annuity for those months because he has already exceeded the 90-day limit.



### One-Half Time or Less (For up to 90 Days)

This employment type allows you to work up to 92 hours per month. Any work you perform during a month, other than substitute work, counts toward this 92-hour limit even if that work is done on a weekend or a holiday. In addition, if you work for more than one TRS-covered employer during a month, you are still limited to 92 hours total if you wish for that work to qualify for this exception. When determining the total number of hours a retiree worked in the month, TRS-covered employers are required by law to report all hours worked, even Saturdays and Sundays, and any paid leave.

For certain higher education positions, TRS uses an alternative calculation to determine whether a retiree's work in that position qualifies as one-half time or less employment:

#### Higher Education Instruction in Classroom or Lab\*

For employment measured in course hours or semester hours rather than clock hours, each hour of instruction in the classroom or lab counts as a minimum of two clock hours in order to reflect preparation, grading, and other time typically associated with instruction.

#### Higher Ed Online Instruction\*

Online instructors teaching classes taken by students for college credit must be counted as a minimum of two hours for each course or semester hour to determine the number of hours worked.

#### Continuing or Adult Education

Continuing education, adult education, and/or classes offered to employers or businesses for employee training (for which students/participants do not receive college credit), must be counted based on the number of clock hours worked.

\* If your employer has established a greater amount of preparation time for each hour of instruction, your employer's established multiplier will be used to determine the number of hours you worked. Check with your employer to determine if they will use the standard two clock hours or if they have established a different multiplier. Your employer will be able to provide this information.

**Remember:** The 90-day limit per school year still applies to employment under this exception. Once a retiree exceeds the 90-day limit per school year, the retiree will forfeit his or her annuity for that month and every month thereafter for the remainder of the school year in which the retiree works.



#### Complying with EAR Limits

Kathy retired due to a disability in August and ended all employment with her TRS-covered employer. In November, she decided to return to work for a school district in a one-half time or less position. Kathy worked 89 hours over the course of 20 days in November. In January, she worked 64 hours over the course of 12 days.

Kathy did not exceed the limits for disability retirees working one-half time or less. She never worked more than 92 hours in a month and did not exceed the 90-day limit for the school year.



#### Exceeding EAR Limits

Maria retired due to a disability in December and decided to return to work in February. She accepted a one-half time or less position at an education service center. During February Maria worked a total of 120 hours over the course of 16 days.

Maria exceeded the EAR limits for a disability retiree working under the one-half time or less exception because she exceeded the 92-hour monthly limit.



Xavier retired due to disability in May and accepted a one-half time or less job at a school district. Beginning in September, he worked a set schedule of 60 hours over 15 days every month. Based on this schedule, Xavier worked his 91<sup>st</sup> day in March.

Xavier forfeited his annuity in March because he worked more than 90 days in the school year. In addition, if Xavier works any days in the following months during the same school year, he will also forfeit his annuity for those months because he has already exceeded the 90-day limit.



### Non-Profit Tutor (For up to 90 Days)

A disability retiree may work up to full time for a TRS-covered employer in a non-profit tutor position. This exception does not cover all tutor work that a retiree performs for a school district if the retiree is affiliated with a non-profit entity. Instead, the retiree's tutor employment must meet all the requirements for qualifying tutor employment under Section 33.913, Education Code. Tutoring programs under Section 33.913 are administered by school districts; contact any school district regarding their local program if you wish to be employed under this exception.

**Note:** A retiree may not be eligible to work full time under this exception if the work is combined with other types of employment. As with other EAR exceptions for disability retirees, a disability retiree may not work more than 90 days in a school year under this exception.



#### Complying with EAR Limits

Ethan retired due to a disability in July. He returned to work in October as a tutor that qualified under the Non-Profit Tutor Exception because the position met all the requirements of Section 33.913, Education Code. Ethan worked full time in the non-profit tutor position and did not perform any other work. Ethan stopped working in the non-profit tutor position after working 89 days in the school year.

Ethan complied with EAR limits for work under the Non-Profit Tutor Exception. The exception allows him to work full time in a month as long as he does not work more than 90 days in the school year.



#### Exceeding EAR Limits

Sandy retired due to a disability in September and decided to return to work in November. She began working as a tutor that qualified under the Non-Profit Tutor Exception because the position met all the requirements of Section 33.913. She worked full time in the position and worked her 91<sup>st</sup> day in February.

Sandy forfeited her annuity in February because she worked more than 90 days in the school year. In addition, if Sandy works any days in the following months during the same school year, she will also forfeit her annuity for those months because she has already exceeded the 90-day limit.



### Three-Month Trial Work Period

As a disability retiree, you are allowed a one-time only trial work period to determine if you can return to work full time. This trial period must be three consecutive months. To opt for the trial work period, you must notify TRS by submitting the *Employment after Retirement Disability Election* form (TRS 118D), found on the TRS website. The TRS 118D must be filed with TRS before the end of the trial period for the election to be effective. The trial work period cannot be elected in the same school year you retired.

If you continue to work full time after the trial work period has ended, you will be recovered from disability retirement and returned to active membership. You must repay any annuity payments that you received after being restored to active service.

Any days you work during the three-month trial period do not count against the 90-day limit for a school year. In addition to the trial work period, you can work up to 90 days as a substitute, one-half time or less, a combination of substitute and one-half time or less, or in a non-profit tutor position. However, you will forfeit your annuity in any month you work past the 90-day limit or you exceed the monthly limits.



## Combining EAR Exceptions for Disability Retirees

If you choose to be employed in multiple positions for either multiple TRS-covered employers or for the same employer and each of those positions qualify for EAR exceptions, the number of hours or days that you may work in those positions may be limited.

Remember: All days you work in a school year count toward the 90-day limit unless those days are part of a three-month trial period. **The 90-day limit applies regardless of the employment type or combination of types.**

Here are descriptions and examples of some of the more common EAR exceptions that disability retirees combine in a month and the limits that apply.

Employment Type	Substitute*	Tutor Under Section 33.913 Full Time*	Tutor Under Section 33.913 One-Half Time*	One-Half Time or Less*
Substitute*	No limit for filled positions; if vacant position, 20-day limit	Cannot be combined	Total combined employment cannot exceed 11 days	Total combined employment cannot exceed 11 days
Tutor Under Section 33.913 Full Time*	Cannot be combined	No limit	No limit	Cannot be combined
Tutor Under Section 33.913 One-Half Time*	Total combined employment cannot exceed 11 days	No limit	No limit	Total combined employment cannot exceed 92 hours
One-Half Time or Less*	Total combined employment cannot exceed 11 days	Cannot be combined	Total combined employment cannot exceed 92 hours	Total combined employment cannot exceed 92 hours

*\*All days worked in a school year count toward the 90-day limit unless those days are part of a three-month trial period. The 90-day limit applies regardless of the employment type or combination of types.*

**Note:** Determining the correct monthly limits when combining EAR exceptions can be complicated in many cases and a retiree should strongly consider contacting TRS for guidance before doing so.

Substitute + One-Half Time or Less

Substitute + Non-Profit Tutor

One-Half time or Less + Non-Profit Tutor



### Substitute + One-Half Time or Less

You may work as a substitute for one month and then work as much as one-half time or less the next month. However, if you work as a substitute and in a one-half time or less position in the same month, your combined work must not exceed 11 workdays in that calendar month. When determining the total number of days a retiree worked in the month, TRS-covered employers are required by law to report all days worked, even Saturdays and Sundays, and any paid leave. Working any part of a day counts as working a full day.

You will violate the EAR limits for any month you exceed 11 workdays allowed in the calendar month.



#### Complying with EAR Limits

Michele retired due to a disability in November. After observing a one full, calendar-month break in service, she decided to perform a combination of substitute and one-half time or less work.

Michele worked as a substitute for 20 days in January. She knew she could work an unlimited number of days in a substitute position and complied with EAR limits.

Then, in February she worked in a one-half time or less position. She worked 90 hours over the course of 16 days which did not exceed the 92-hour monthly limit for one-half time or less employment.

In March, she combined substitute and one-half time or less work. She worked 11 days. When her employer asked her to substitute an additional day, she let them know that she couldn't work more than 11 days in the month without violating EAR limits.

Michele did not violate any restrictions. In each month she worked, she stayed within any monthly limits that applied. Similarly, she did not exceed the 90-day limit for the school year.



#### Exceeding EAR Limits

After retiring in July due to a disability and having a one full, calendar-month break in service after her effective retirement date, Rebecca was hired by a community college in a one-half time or less position.

Rebecca worked in this position October through January.

During January, a previous employer contacted her to perform substitute work. The employer was having a difficult time finding a qualified substitute and expressed how much they needed her skills. As a result, Rebecca substituted for a teacher that was out on medical leave.

**During January, Rebecca worked the following dates in both positions:**

**JAN.** 3, 4, 5, 11, 12, 13, 18, 19, 20, 23, 25, 26, 27, and 29

**for a total of 14 days.**

In February, Rebecca received a letter notifying her that she exceeded the EAR limits. The limit when combining one-half time or less and substitute work is 11 workdays. Since she worked 14 days, she violated EAR limits.






### Substitute + Non-Profit Tutor

You may work unlimited as a substitute for one month and then work unlimited as a non-profit tutor in another month, provided you do not exceed the 90-day limit for the school year. However, if you work as a substitute and as a non-profit tutor in the same month, your combined work must not exceed 11 workdays in that calendar month.

You will violate the EAR limits for any month you combine substitute and non-profit tutor employment in a month and exceed the 11 workdays allowed.






#### Complying with EAR Limits

Thomas retired due to a disability in March. After observing a one full, calendar-month break in service, he decided to perform a combination of substitute and non-profit tutor work.

In May, Thomas worked as a substitute for eight days and worked as a non-profit tutor for three days. When his employer asked him to substitute an additional day, he let them know he couldn't work more than 11 days in the month without violating EAR limits for substitute and non-profit tutor employment.

Thomas did not violate any restrictions because he stayed within the monthly limits that applied.





#### Exceeding EAR Limits

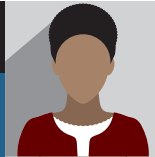
Josie retired in May due to a disability. After observing a one full, calendar-month break in service, she decided to perform a combination of substitute and non-profit tutor work. In September, Josie worked as a substitute for 11 days and worked as a non-profit tutor for one day.

Josie forfeited her annuity for September because she worked a total of 12 days.



### One-Half Time or Less + Non-Profit Tutor

You may combine one-half time or less employment and employment under the Non-Profit Tutor Exception during a month, but any work you perform under the exception will count toward your 92-hour monthly limit for one-half time or less employment. This means even though you're able to work up to full time in a non-profit tutor position, provided you do not exceed the 90-day limit for the school year, your work when combining one-half time or less employment with non-profit tutor employment in the same month cannot exceed 92 hours total in that month. When determining the total number of hours a retiree worked in the month, TRS-covered employers are required by law to report all hours worked, even Saturdays and Sundays, and any paid leave.



#### Complying with EAR Limits

After retiring in July and completing a one full, calendar-month break in service, Tonya decided to return to work in a one-half time or less position on Sept. 1. She worked 60 hours that month. She also wanted to help in another position that qualified for the Non-Profit Tutor Exception. Tonya worked 20 hours in the non-profit tutor position during that month.

Tonya complied with EAR limits for combining one-half time or less employment and employment under the Non-Profit Tutor Exception. The total combined hours did not exceed the 92 hours allowed in a calendar month.



#### Exceeding EAR Limits

Michael retired in May and completed a one full, calendar-month break in service. He accepted a full-time position under the Non-Profit Tutor Exception beginning in September. Michael also started working in a one-half time or less position with another employer in the same month.

In October, Michael received a letter notifying him that he exceeded the EAR limits for one-half time or less employment in a month. He was not allowed to combine one-half time or less work with work in a full-time non-profit tutor position in the same calendar month.



## COMPENSATION LIMITS FOR DISABILITY RETIREES

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If you applied for disability retirement or retired **before Aug. 31, 2007**, there is **no limit** on compensation you can earn while receiving a disability retirement annuity from TRS.



## Compensation Limits for Disability Retirees

If the following two conditions are met, there is a limit on the amount of annual compensation you may earn:

- you apply for disability retirement after Aug. 31, 2007; and
- your effective retirement date is after Aug. 31, 2007.

The compensation cap is based on your income during a calendar year. It includes compensation for any work performed for any employer including a TRS-covered employer, self-employment, work as an independent contractor, and profit from a business.

The limit is the highest salary received in any school year before disability retirement or \$40,000, whichever is greater. This limit does not apply to retirees receiving gross disability retirement benefits of \$2,000 or less per year. If you're subject to the cap, you must correctly report your compensation to TRS by May 1 of the calendar year after the compensation was earned.

If you exceed the amount of compensation allowed, you will forfeit your disability annuity payment and you will be required to pay for the full cost of your TRS-Care coverage, until you are able to report that your compensation is below the established limit.



## ADDITIONAL INFORMATION

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The following page contains information to help you find answers should you have additional questions concerning employment after retirement.

**EAR Limits Chart**

View the EAR Limits information on the [Employment After Retirement \(EAR\) Limits \(for Retirees\)](#) page on the TRS website.

**Interactive Employment After Retirement Video**

Have you explored our interactive *Employment After Retirement* video? This video answers some of our active members' and retirees' most common questions about returning to work after retirement as well as rules and restrictions that may apply. Find the video, along with other videos in our Member Education Video Series, on the [TRS Member Education Videos](#) page on the TRS website.

**TRS Website:**

[www.trs.texas.gov](http://www.trs.texas.gov)

**TRS Mailing Address:**

Teacher Retirement System of Texas  
1000 Red River Street  
Austin, Texas 78701-2698

**TRS Telephone Counseling Center:**

1-800-223-8778

Monday – Friday, 7 a.m. – 6 p.m. Automated information is available day or night, seven days a week.

**TRS Benefit Services Fax Number:**

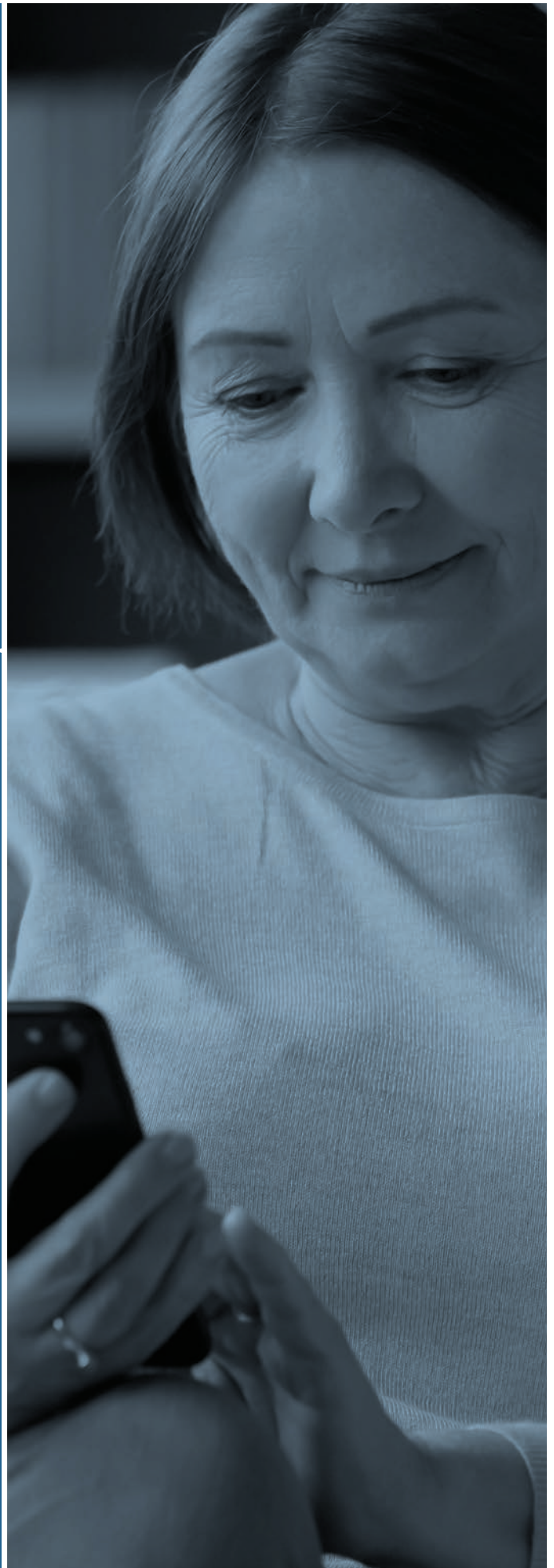
512-542-6597

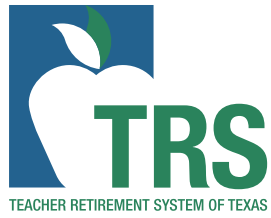
**Follow Us On:**

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*This brochure has been written in nontechnical terms wherever possible. However, if questions of interpretation arise as a result of the attempt to make the information about employment after retirement easy to understand, TRS laws and rules must remain the final authority.*

*This information is based upon the TRS plan terms in effect on Nov. 1, 2021. The TRS plan terms are subject to change due to notifications to the law enacted by the Texas Legislature; to the rules adopted by the TRS Board of Trustees; and to changes in federal law related to qualified retirement plans.*





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