

# Chapter Two: Membership

## Teacher defined

Teachers who are certified under the provision of the Illinois School Code, employed in Illinois public common schools located outside the city of Chicago, and employed in positions requiring certification by the Illinois State Board of Education are members of TRS. The law was revised in 2013 to establish that a teacher is deemed to be certified if required to be licensed by the Illinois State Board of Education. On July 1, 2013, Illinois implemented a new system of educator licensure that replaced the previous system of educator certification.

A teacher is defined by Illinois law as any educational, administrative, professional, or other staff:

- employed in the public common schools outside the city of Chicago in a position requiring certification under the School Code.
- employed in any facility of the Illinois Department of Human Services in a position requiring certification under the School Code.
- employed as a security employee in any facility of the Illinois Department of Human Services in a position requiring certification under the School Code who was a member of TRS on June 1, 2001 or July 1, 2001, and did not elect to become a member of the State Employees' Retirement System on either June 1, 2001 or July 1, 2001.
- employed in any facility of the Illinois Department of Corrections in a position requiring certification under the School Code who was a member of TRS on May 31, 1987, and did not elect to become a member of the State Employees' Retirement System.
- employed in an educational program servicing two or more school districts in accordance with a joint agreement authorized by the School Code or by federal legislation and in a position requiring certification under the School Code.
- employed by and under the supervision and control of a regional superintendent of schools, provided this position requires the person to be certified and is in an educational program serving two or more districts in accordance with a joint agreement authorized by the School Code or federal legislation.

In addition, membership in the Teachers' Retirement System also includes any regional superintendent of schools, assistant regional superintendent of schools, state superintendent of education, any person employed by the Illinois State Board of Education (ISBE) as an executive, any executive of the boards engaged in the services of public common school education of which the state superintendent of education is an ex-officio member and any person who was employed by and a member of TRS on August 17, 2001, and any person hired by TRS on or after August 17, 2001.

The following individuals also are TRS members if they are certificated under the School Code:

- any employee of a school board association operating in compliance with the School Code, Article 23.
- any educational, administrative, professional, or other staff employed in a charter school operating in compliance with the Charter School Law.



- any officer or employee of a statewide or national teacher organization who has previous service credit with TRS and who is employed by the organizations and files an irrevocable election prior to January 5, 2012 to become a member, and did not receive credit for the service under any other article of the Illinois Pension Code.

Any employee who qualifies as a member of TRS becomes a TRS member as a condition of employment and is deemed to consent to deductions from his or her salary for TRS contributions.

## Positions covered by TRS

To qualify for TRS membership, the positions listed below must require teacher (educator) licensure and the individuals in those positions must be teacher licensed.

### Position

- Classroom teacher
- A school administrator requiring licensure as outlined in 23 IL Adm. Code 1.705
- A chief school business official requiring licensure
- Driver's education teacher
- Homebound teacher
- Librarian
- Part-time teacher
- Retired teacher when post-retirement limitations are exceeded
- School counselor
- School nurse
- School psychologist
- School social worker
- Speech language pathologist unless contracted under 5/14-6.04 of the School Code
- Substitute teacher
- Technology specialist

## Positions not covered by TRS

Individuals employed in the following positions are not members of TRS but may qualify for membership in the Illinois Municipal Retirement Fund (IMRF). A teacher who is not licensed in Illinois is not covered by TRS, even if he or she performs the duties of a classroom teacher. For more information about individuals covered by IMRF, consult the *IMRF Manual for Authorized Agents*.

### Position

- A school administrator in a position not requiring licensure
- Adult education teacher
- Assistant athletic director not requiring licensure\*
- Athletic director not requiring licensure\*
- Athletic official with IHSA or similar contract
- Audiologist
- Behavior analyst
- Buildings and grounds manager
- Bus driver
- Cafeteria worker
- Clerical worker
- Coach unless performed by a full-time or part-time contractual teacher
- Construction manager
- Custodian
- Graduate general administrator intern
- Home educator/parent educator
- Individual aide
- Mobility instructor
- Nurse, if not licensed by ISBE
- Occupational therapist
- Paraprofessional/teacher's aide
- Physical therapist
- Physical therapist assistant
- Psychologist intern
- Retired teacher when compliant with post-retirement employment limitations
- ROTC instructor
- Secretary

\* Depending on the job duties, these positions may or may not require licensure.



- Security guard
- Social worker intern
- Speech and language pathologist assistant
- Student teacher
- Student worker
- Technology director not requiring licensure\*
- Transportation director
- Tutor\*
- Contract speech-language pathologist under Section 5/14-6.04 of the School Code

\* Depending on the job duties, these positions may or may not require licensure.

The preceding lists are not all-inclusive. As stated on page 1, teachers who are licensed under the provisions of the School Code and are employed in positions requiring licensure are members of TRS. Contact ISBE at [compliance@isbe.net](mailto:compliance@isbe.net) with any questions regarding licensure requirements.

## Professional development

Providing professional development on a full-time or part-time contractual basis for a TRS-covered employer *requires* teacher licensure. Licensed individuals holding this type of position would qualify for TRS membership.

Providing professional development on an as-needed basis or providing technical assistance or in-service training of a limited duration *does not require* teacher licensure. If a teacher is only providing professional development on an as-needed basis or providing technical assistance or in-service training of a limited duration and is not employed as a full or part-time teacher for another TRS-covered employer, the earnings would not be reportable. Please refer to Chapter 3, page 4 for guidance in reporting extra-duty earnings for full and part-time contractual, substitute and part-time noncontractual teachers.

## Exchange and foreign teachers

A teacher from a foreign country who is admitted by the U.S. Citizenship and Immigration Services under a J-1 or J-2 visa does not qualify for membership in TRS. A foreign teacher who is employed only under a work permit does not qualify for membership in TRS.

A teacher from a foreign country who is licensed in Illinois, not admitted as an exchange alien or on a J-2 visa, and performs the duties of a classroom teacher does qualify for TRS membership.

## Paid leaves of absence and paid exchange leaves

Only individuals on paid sabbatical leaves granted in accordance with the School Code contribute to TRS. Individuals on other paid leaves of absence, including paid exchange leaves, do not contribute during the leave unless accumulated vacation, personal, or sick leave days are used. Refer to Chapter 6, Service Credit, and Chapter 7, Optional Service Credit.

## Employees of regional superintendents' offices

Persons employed by a regional superintendent's office are TRS members if they are:

- educational, administrative, professional, or other staff employed in an educational program serving two or more districts in accordance with a joint agreement authorized by the School Code or federal legislation;
- employed in a position requiring educator licensure; and
- licensed.

All regional superintendents and assistant regional superintendents are TRS members.



## Third-party employment agencies providing substitute teachers

Third-party employment of substitute teachers is not permitted. Substitute teachers must be employed directly by the TRS-covered employer and all required TRS and THIS Fund contributions must be remitted to TRS.

## Consultants and independent contractors

An individual who contracts with an employer to provide services for which educator licensure is required qualifies as a TRS member. Contributions on earnings are required even if the contract characterizes the individual as an “independent contractor.” Paying an individual who qualifies as a TRS member through accounts payable rather than through payroll does not exempt that individual from TRS contributions.

Any individual claiming to be an independent contractor exempt from TRS membership or the post-retirement employment limitations governing annuitants must file federal Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding, with the Internal Revenue Service seeking confirmation of independent contractor status. A federal Form SS-8 independent contractor determination must be filed with TRS before an individual can be considered exempt from TRS membership or the post-retirement employment limitations.

## Speech-Language Pathologist

Beginning with the 2004-05 school year, Public Act 93-0110 amended the School Code (Section 105 ILCS 5/14-6.04) permitting districts to contract for speech-language pathology services while making reasonable efforts to employ a speech-language pathologist or after reasonable efforts have been unsuccessful. Contract speech-language pathologists under 105 ILCS 5/14-6.04 are not TRS members and should not be reported to TRS.

Employers must complete a form certifying that the requirements of Section 5/14-6.04 of the School Code have been met. If employers have a contract speech-language pathologist under Section 5/14-6.04 of the School Code, they should contact TRS Employer Services.

Speech-language pathologists not under Section 5/14-6.04 of the School Code continue to be members of TRS.

## Tier I and Tier II membership

Public Act 96-0889 added a new section to the Pension Code that applies different benefits to anyone who first contributes to TRS on or after January 1, 2011 and does not have any previous service credit with a pension system that has reciprocal rights with TRS. These members are referred to as Tier II members.

A teacher or administrator is a **Tier I** member if he/she:

- worked for a TRS-covered employer in a licensed position (including subbing) prior to Jan. 1, 2011;
- became a member of TRS prior to Jan. 1, 2011 but took a refund of his/her TRS contributions;



- became a member of a retirement system that has reciprocal rights with TRS prior to Jan. 1, 2011; or
- became a member of a reciprocal system prior to Jan. 1, 2011 but took a refund.

Please note that nonlicensed, extra-duty work (such as coaching) done prior to Jan. 1, 2011 does not qualify the person for Tier I membership.

A teacher or administrator is a **Tier II** member if he/she:

- never worked in a licensed position for a TRS-covered employer prior to Jan. 1, 2011;
- never was a member of a reciprocal retirement system prior to Jan. 1, 2011.

For additional information regarding benefits for Tier I and Tier II members, please refer to Chapter 11, Retirement Benefits and Chapter 13, Death Benefits.

## Membership date

*(80 IL Adm. Code 1650.310)*

The effective date of membership in TRS is the date of employment as recorded by the employer. If the employer has not recorded the date of employment, the date of membership is the first payroll day for which contributions are required.

## Enrollment as a member

Each new member must complete a Member Information and Beneficiary Designation (MIBD) form. This form provides TRS demographic and beneficiary information for the member. Completion of this form also allows an account at TRS to be established for the member. It is important that the form is sent to TRS as soon as the member completes it to ensure that TRS has the member's current mailing address and beneficiary designation.

Whenever a member wishes to change a previously designated beneficiary, he or she must complete a new MIBD form. Such a change may be necessary due to a change in the member's family status (e.g., marriage, birth, divorce, or death).

## Employees covered by Medicare

All TRS members hired after March 31, 1986, including retired TRS members who teach, and all persons who change employers after March 31, 1986, are subject to the Medicare tax. Annexations, consolidations, and transfers result in continuing employment; therefore, Medicare contributions are not required for members hired before April 1, 1986. The total Medicare tax is 2.9 percent of salary: the employer pays 1.45 percent and the member pays 1.45 percent.

During the 2003-04 school year, TRS conducted a one-time Medicare-only referendum for members who had been continuously employed since March 31, 1986. These members were given the opportunity to elect to prospectively participate in Medicare. In June 2004, TRS notified employers of those members who elected to contribute to Medicare, and they began making contributions and accumulating Medicare credit for salary earned on or after July 1, 2004.

TRS does **not** collect the Medicare tax. This tax is paid directly to the Internal Revenue Service.



## Employees covered by Social Security

Active and retired members of TRS cannot contribute to Social Security on earnings covered by TRS. The Social Security Administration considers annuitants of a retirement system as “covered” by the system. Therefore, retired TRS members employed as substitute teachers cannot contribute to Social Security.

Earnings that are not reportable to TRS (e.g., bus driving and paraprofessional/teacher’s aide), are subject to Social Security and may be reportable to the Illinois Municipal Retirement Fund (IMRF).

If you have questions regarding proper withholding, refer to the grid on page 8. This grid lists various extra duties and teaching positions performed by active and retired teachers and whether TRS or Social Security and/or Medicare should be withheld. Please use this for general guidance and contact the Social Security Administration for specific questions.

## Social Security notification requirements for employees

The Social Security Protection Act of 2004 requires employers to provide a written notice to **new** employees not covered by Social Security who begin work on or after January 1, 2005. The notice informs TRS-covered employees that they are not covered by Social Security, but are covered by a public retirement system (TRS). The notice also provides an explanation of the affect a pension based on earnings not covered by Social Security can have on an employee’s Social Security benefit, such as a reduction due to Government Pension Offset (GPO) Provision or Windfall Elimination Provision (WEP).

All TRS members hired after January 1, 2005 must be provided with the notice and sign the form because TRS members do not contribute to Social Security. Please use the Social Security number as the employee’s identification number. The TRS code (TRS employer number) should be used for the employer’s identification number. Copies of the signed forms must be sent to the TRS Springfield office, where they will be filed in the members’ records.

The notice is available on the Social Security Administration web site, [www.socialsecurity.gov/form1945](http://www.socialsecurity.gov/form1945). The page contains information on the notice and how the form can be downloaded or ordered from the site.

Questions about the notification requirements should be directed to the Social Security Administration, (800) 772-1213, or the employer’s local Social Security office.

## Employees covered by IMRF

Many employees of school districts are covered by the Illinois Municipal Retirement Fund (IMRF), and contributions must be made for those employees to that retirement fund. IMRF members must also contribute to Social Security. Consult the *IMRF Manual for Authorized Agents* for more information.

If a licensed teacher is employed as a teacher for part of the school day and in a non-TRS-covered position (e.g., paraprofessional/teacher’s aide or secretary) for the remainder of the day, report to TRS earnings and service information for the portion of the day the individual is employed in the TRS-covered position. Do not report earnings or service information to TRS from the non-TRS-covered position, but evaluate the noncovered position separately for possible IMRF coverage. Please refer to Example 13 in Chapter 5.





## Employees who are TRS annuitants

Do not collect TRS contributions from retired employees who are receiving an annuity from TRS unless TRS post-retirement employment limitations are exceeded. See Chapter 10, Post-Retirement Matters, for information about post-retirement employment limitations.

## Notification of felony conviction

TRS members who have been convicted of work-related felonies are not eligible for TRS membership and benefits. According to the Illinois Compiled Statutes (40 ILCS 5/16-199):

**Felony conviction.** *None of the benefits provided for in this Article shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his or her service as a teacher.*

The School Code (105 ILCS 5/21-23b) requires the employing school board to notify ISBE and TRS of any felony conviction of a TRS member. The employer should contact the TRS Office of General Counsel as soon as possible if a TRS-covered employee is charged with a work-related felony and apprise the office of any developments in the case.



Duty	TRS	Medicare	Social Security
A F.T or P.T. teacher at a district prior to April 1, 1986, who teaches summer school.	X		
A F.T or P.T. teacher at a district after March 31, 1986, who teaches summer school.	X	X	
A F.T or P.T. teacher at a district prior to April 1, 1986, who performs summer extra duties that are related to the academic program, such as curriculum writing.	X		
A F.T. or P.T. teacher at a district after March 31, 1986, who performs summer extra duties that are related to the academic program, such as curriculum writing.	X	X	
A F.T. or P.T. teacher who performs summer work not involving teaching or supervising students or related to the academic program.		X	X
A F.T. or P.T. teacher from a neighboring school district who teaches summer school.	X	X	
A F.T. or P.T. teacher from a neighboring school district who performs summer extra duties related to the academic program.	X	X	
A F.T. or P.T. teacher from a neighboring school district who performs summer extra duties not related to the academic program.		X	X
A substitute or hourly teacher during the school year who teaches summer school.	X	X	
Substitute or hourly teacher during the school year who performs summer extra duties that do not require licensure, but are related to the academic program.		X	X
A substitute or hourly teacher during the school year who performs summer extra duties that do not require licensure and not related to the academic program.		X	X
A substitute or hourly teacher who performs extra duties during the school year that do not require licensure, but are related to the academic program.		X	X
A substitute or hourly teacher who performs extra duties during the school year that do not require licensure and are not related to the academic program.		X	X
A teacher who has never taught for a TRS-covered employer and teaches only summer school.	X	X	
A retired teacher who teaches during the school term.		X	
A retired teacher who teaches summer school that requires licensure.		X	
A retired teacher who performs extra duties that do not require teacher licensure, but are related to the academic program (does not count against post-retirement employment limitations).		X	
Earnings that are in excess of 401(a)(17) limits.		X	
Earnings that are in excess of Tier II limits.		X	

