

Prepared by the Office of Human Resources.  
This is a NEW Procedure.

January 2011

---

RECRUITMENT, SELECTION, AND APPOINTMENTS

---

Page 1

A9.580 Employment of Employees' Retirement System (ERS)  
Retirants

1. Purpose

- a. To provide procedures and guidelines to employ retirants of the State of Hawai'i Employees' Retirement System (ERS) in accordance with Chapter 88, Hawai'i Revised Statutes (HRS), and the Internal Revenue Code (Code) Section 401(a).
- b. To establish that the regulations contained in Chapter 88, HRS, or the Code, supersede this procedure in case of conflict.

2. Objectives

- a. To comply with applicable State laws and the Code relating to the employment of retirants (retirees) from all State and county agencies whose employees are eligible for membership in the ERS. The State employers include, but are not limited to: the State executive branch, the University of Hawai'i, the Hawai'i Health Systems Corporation, the Department of Education, the Office of Hawaiian Affairs, the Judiciary, and the Legislative branch of the State. The county employers include the City and County of Honolulu, the County of Hawai'i, the County of Kaua'i and the County of Maui. Although exempt from Chapter 88, HRS, the Research Corporation of the University of Hawai'i (RCUH) is included as a State employer.
- b. To prevent retirants from inadvertently violating the Code. The Code prohibits distribution of retirement benefits prior to an employee's "retirement." If retirants are re-employed without a bona fide separation from service, they may not be considered "retired" according to the Code.

- c. To clarify the circumstances under which ERS retirants may be employed at the University.

### 3. Applicability

- a. These procedures and guidelines apply to the employment of ERS retirants:
  - 1) In a part-time or temporary position that is excluded from ERS membership (e.g., part-time employee less than 20 hours per week, temporary employee of three months duration or less), or
  - 2) In an ERS eligible position that is identified by the appropriate approving authority as a labor shortage or difficult-to-fill position.
- b. These procedures and guidelines do not apply to the employment of ERS retirants in non-compensated appointments.

### 4. Guidelines

- a. An ERS retirant may not be employed by the State or by any county unless the retirant is re-enrolled in the ERS, or unless employment without re-enrollment is authorized by Chapter 88, HRS. A retirant that is employed without re-enrollment in ERS shall acquire no additional service credit or retirement rights with respect to the employment and shall not be considered to be in service for purposes of Chapter 88, HRS.
- b. An ERS retirant may be employed without re-enrollment in the ERS and suffer no loss or interruption of benefits if the retirant is employed:
  - 1) As a part-time or temporary employee excluded from membership in the ERS, provided that:
    - a) The ERS retirant has taken a six (6) consecutive full calendar month break from State or county employment, including the RCUH, and

- b) There was no agreement made prior to the retirant's retirement (if the retirant retired after December 31, 2010) for the return to work by the retirant.
- 2) In an ERS eligible position identified by the appropriate approving authority as a labor shortage or difficult-to-fill position; provided that:
- a) The ERS retirant has taken a twelve (12) consecutive full calendar month break from State or county employment, including the RCUH,
  - b) There was no agreement made prior to the retirant's retirement (if the retirant retired after December 31, 2010) for the return to work by the retirant, and
  - c) The employer contributes to the pension accumulation fund the required percentage of the rehired retirant's compensation to amortize the system's unfunded actuarial accrued liability.

## 5. Procedures

- a. Appointment of an eligible ERS retirant in a part-time or temporary position (position excluded from ERS membership).
  - 1) As a result of the recruitment and/or appointment process, a campus/school/program selects an eligible ERS retirant as a lecturer, casual hire, non-civil service hire (i.e., 89-day, TAOL), or exempt hire. See Section 4.b.1) of this procedure for eligibility requirements.
  - 2) The retirant shall complete the UH Form 101, Certification of Retirement Period from the State or County, to certify the required retirement period of six (6) consecutive full calendar

months: [www.hawaii.edu/ohr/docs/forms/uh101.pdf](http://www.hawaii.edu/ohr/docs/forms/uh101.pdf). The human resources representative shall document the retirement period and certification date (date the retirant certifies the retirement period on the UH Form 101) in PeopleSoft, if applicable. The UH Form 101 shall be maintained in the employee's official personnel file.

- 3) The retirant will not be required to complete a new UH Form 101 when appointed to another University position if the human resources representative is able to confirm the retirant's eligibility for employment (i.e., meets required retirement period as certified in PeopleSoft, in receipt of a copy of the certification document). If the human resources representative is unable to certify eligibility, the retirant will be required to complete a new UH Form 101.
- 4) The retirant shall also complete Part I of the ERS-209 Certification of Compliance with Requirements for Employment of a Retirant: <http://www4.hawaii.gov/ers/Forms/ERS209RTWCertCompliance20110101.pdf>. Within seven (7) business days from the date of hire, the hiring program shall complete Part II of the form and forward to the ERS. A copy of the ERS-209 form shall be retained in the employee's official personnel file.
- 5) The retirant will not be required to complete a new ERS-209 form when appointed to another part-time or temporary University position. However, if the retirant is re-hired in a University position that requires a twelve (12) month retirement period, the retirant must complete a new ERS-209 form.
- 6) The appointment shall be processed on the appropriate payroll processing document (i.e., Payroll Notification Form (PNF) or Form 6). Refer to the ERS Retirement Group and Class Code Tables for the appropriate codes to use.

- b. Appointment of an eligible ERS retirant in a position identified as a labor shortage or difficult-to-fill (ERS Eligible Position).
- 1) As a result of the recruitment process, a campus/school/program selects an ERS retirant to fill an ERS eligible position.
  - 2) The ERS retirant may suspend his/her pension and other retirement benefits and re-enroll as an active ERS member.
  - 3) However, under certain conditions as described in Sections 6 and 7 of this procedure, if the approving authority identifies the position as a labor shortage or difficult-to-fill, a campus/school/program may hire the eligible ERS retirant without his/her having to re-enroll in the ERS and suspend the retirement benefits. See Section 4.b.2) of this procedure for eligibility requirements. The retirant will continue to receive his/her pension, not earn additional service credit, not make employee contributions, and the University shall contribute to the pension accumulation fund the required percentage of the rehired retirant's compensation to amortize the ERS' unfunded actuarial accrued liability.
  - 4) The retirant shall complete the UH Form 101, Certification of Retirement Period from the State or County, to certify the required retirement period of twelve (12) consecutive full calendar months:  
<http://www.hawaii.edu/ohr/docs/forms/uh101.pdf>.  
The human resources representative shall document the retirement period and certification date (date the retirant certifies the retirement period on the UH Form 101) in PeopleSoft. The UH Form 101 shall be maintained in the employee's official personnel file.

- 5) The retirant will not be required to complete a new UH Form 101 when appointed to another University position if the human resources representative is able to confirm the retirant's eligibility for employment (i.e., meets required retirement period as certified in PeopleSoft, in receipt of a copy of the certification document). If the human resources representative is unable to certify eligibility, the retirant will be required to complete a new UH Form 101.
- 6) The retirant shall also complete Part I of the ERS-209 Certification of Compliance with Requirements for Employment of a Retirant: <http://www4.hawaii.gov/ers/Forms/ERS209RTWCertCompliance20110101.pdf>. Within seven (7) business days from the date of hire, the hiring program shall complete Part II of the form and forward to the ERS. A copy of the ERS-209 form shall be retained in the employee's official personnel file.
- 7) The retirant will not be required to complete a new ERS-209 form when appointed to another labor shortage or difficult-to-fill University position. However, if the retirant is re-hired in a part-time or temporary University position that requires a six (6) month retirement period, the retirant must complete a new ERS-209 form.
- 8) The appointment shall be processed on a PNF. Refer to the ERS Retirement Group and Class Code Tables for the appropriate codes to use.

6. Labor Shortage Position

- a. A position may be filled with an eligible ERS retirant if the appropriate approving authority identifies the position as a labor shortage.

b. Faculty Position

- 1) A faculty position may be identified as a labor shortage if the position teaches in a high demand discipline.
- 2) Requests shall be submitted to the President as the approving authority, via the Executive Vice President for Academic Affairs/Provost.

c. Civil Service Position

- 1) A civil service position may be deemed "Act 179 Labor Shortage" if the class of work or position is on shortage, has a raised hiring rate (i.e., the new entry salary is greater than the pay grade minimum), and the shortage category has been reviewed by the State Department of Human Resources Development (DHRD) within the last two (2) years and continues to experience recruitment difficulty.
- 2) The campus/school/program shall complete HRD 381 Request for Approval of Civil Service or Exempt Position as Act 179 Labor Shortage or Act 179 Difficult-to-Fill:  
[www.hawaii.edu/ohr/docs/forms/hrd381.pdf](http://www.hawaii.edu/ohr/docs/forms/hrd381.pdf)
- 3) The HRD 381 form shall be submitted to the Office of Human Resources (OHR), via the Vice President or Chancellor, for forwarding to the Director of DHRD for approval.

7. Difficult-To-Fill Position

- a. A position may be filled with an eligible ERS retirant if the appropriate approving authority deems the position as difficult-to-fill.
- b. The following may be considered in the review to determine whether the position is difficult-to-fill:

- 1) Historical or other information which establishes difficulty to recruit applicants such as the inability of the campus/school/program in the recent past to attract qualified candidates to the position, number of current and anticipated vacancies, number of vacancies on active recruitment, length of time position has been on active recruitment and vacant due to recruitment difficulty, etc.,
  - 2) Number of qualified applicants available,
  - 3) Recruitment efforts that were made within and outside of State government, recruitment results, methods used, contacts made, number of acceptances received in proportion to job offers, etc.,
  - 4) Current labor market conditions,
  - 5) Turnover rate, including reasons employees left the position,
  - 6) Criticality of filling the position citing reason(s),
  - 7) Other pertinent data, including unusual working conditions, unique elements of the job, special license requirements, remote geographical location, etc., and
  - 8) Any other factor as determined by the approving authority.
- c. Based on an analysis of the factors above, the campus/school/program may submit a request to the appropriate approving authority to deem the position as difficult-to-fill:
- 1) The President shall approve requests for Board of Regents positions, including executive, faculty and APT positions.



- 2) The Director of DHRD shall approve requests for civil service and exempt positions.
  - a) The campus/school/program shall complete HRD 381 Request for Approval of Civil Service or Exempt Position as Act 179 Labor Shortage or Act 179 Difficult-to-Fill:  
[www.hawaii.edu/ohr/docs/forms/hrd381.pdf](http://www.hawaii.edu/ohr/docs/forms/hrd381.pdf)
  - b) The HRD 381 form shall be submitted to the OHR, via the Vice President or Chancellor, for forwarding to the DHRD.
8. Penalties if Found in Violation of Chapter 88, HRS and the Internal Revenue Code
  - a. Penalties to the Retirant
    - 1) Reimburse the ERS for any retirement allowance or other benefit received during the period or periods of employment that is in violation, plus interest thereon at the rate of eight (8) percent per annum,
    - 2) Pay the ERS an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of employment that is in violation, plus interest thereon at the rate of eight (8) percent per annum, and
    - 3) Contribute toward reimbursement of the ERS for administrative expenses incurred in responding to the situation, to the extent that the retirant is determined by the ERS administrator to be at fault.
  - b. Penalties to the Employer
    - 1) Pay to the ERS an amount of money equal to the employer contributions that would otherwise have been paid for the period or periods of employment

that is in violation, plus interest thereon at the rate of eight (8) percent per annum, and

- 2) Contribute toward reimbursement of the ERS for administrative expenses incurred in responding to the situation, to the extent that the employer is determined by the ERS administrator to be at fault.

9. Annual report to the Legislature

- a. The Office of Human Resources will prepare the annual report to the legislature regarding the employment of retirants in labor shortage and difficult-to-fill Board of Regents positions.
- b. The State Department of Human Resources Development will prepare the annual report to the legislature for the hiring of retirants in labor shortage and difficult-to-fill civil service positions.