

Frequently Asked Questions (FAQs) about LB 147's Changes to the Termination of Employment Rules

1. What is LB 147?

LB 147 is a bill passed by the Nebraska Legislature in 2021. Among other things, it set a limit on the total number of days of intermittent unpaid voluntary service and/or intermittent substitute service a School plan member may work during the 180 days following termination of employment.

2. How did LB 147 change the termination of employment and distribution from retirement rules?

LB 147 did not change several important rules.

- (a) A member may not take a distribution from retirement if the member prearranged a return to work with any employer covered by the School plan.
- (b) A member may not take a distribution from retirement unless the member terminates employment.
- (c) A member does not terminate employment for retirement purposes if the member provides service to any employer participating in the School plan within 180 calendar days after the member's termination date unless the service is limited voluntary service provided on an intermittent basis and/or limited substitute service provided on an intermittent basis (hereinafter collectively referred to as "voluntary and/or substitute service").

LB 147 changed the termination rules by defining "intermittent basis" and "day of service."

3. What does "intermittent basis" mean?

"Intermittent basis" means no more than 8 days in a calendar month of voluntary and/or substitute service provided on a day-to-day basis (no prearrangement).

4. What does "day of service" mean?

"Day of service" means any length of voluntary and/or substitute service provided during a single calendar day (whether that is 5 minutes or 8 hours of service).

5. When do LB 147's rules take effect?

The law became effective May 27, 2021. This means members and employers must immediately begin limiting, tracking, and documenting, voluntary and/or substitute service performed by School plan members who terminated within the past 180 calendar days.

6. May a member work 8 days of voluntary service at an employer and an additional 8 days of substitute service, for a total of 16 days of service, in a calendar month during the 180 days after termination?

NO. A member is limited to a combined total of 8 days of voluntary and/or substitute service in each calendar month across all employers covered by the School plan, regardless of whether it is:

- 8 days of voluntary service,
- 8 days of substitute service, and/or

- A combination of voluntary service and/or substitute service totaling 8 days (such as, 4 days of voluntary service and 4 days of substitute service, or 1 day of voluntary service and 7 days of substitute service).

7. May a member work 8 days of voluntary and/or substitute service at School District 1 and another 8 days of voluntary and/or substitute service at School District 2 in the same calendar month?

NO. A member is limited to a combined total of 8 days of voluntary and/or substitute service in each calendar month across all employers covered by the School plan.

8. May a member and employer agree to have the member return to train the member's replacement?

NO. This is a prearranged return to work. Further, training a replacement is regular service, not substitute service. Substitute service is defined as temporarily backfilling for a permanent employee who is temporarily absent. In this case, the returning member is not backfilling for anyone.

9. May a member work 8 days of refereeing, officiating, or coaching paid by an employer covered by the School plan during each calendar month of the 180 days following termination?

NO. Refereeing, officiating, and coaching are considered regular employment for retirement purposes. If these services are provided during the 180 days following termination, then the member has not incurred a bona fide separation of service.

Additionally, a bona fide termination of service does not occur if the employer and member prearrange the member's return as a referee, official, or coach before the member terminates even if the prearranged return time is outside the 180-day period.

10. What happens if a member does not follow these rules?

If NPERS determines a bona fide termination did not occur, NPERS is required by law to:

- (a) Collect missed contributions from the member (with applicable interest),
- (b) Collect missed contributions from the employer (with applicable interest),
- (c) Have hours of service and compensation reported for the member by the employer, and
- (d) Collect back any distributions made to the member (with applicable interest).

11. This sounds like a lot of work. How will these days be monitored?

NPERS is preparing sample logs members and employers can use to document the service performed during the 180 days after termination. The logs are designed to have the member enter their service, have the employer(s) verify the service (preferably by signing and dating the log), and have both the member and employer keep a copy of the log so they can produce it when asked to document service after termination.

Employers may develop their own logs. However, the logs should, at a minimum, include all of the information shown on NPERS' sample logs.

LB 147 gave NPERS authority to hire another auditor. Our Internal Audit Team is incorporating new testing protocols as part of their auditing process, including requiring employers to produce documentation showing voluntary and/or substitute service during the 180 days after termination. The logs will be cross-checked against payroll and other records to ensure accurate reporting.