

**STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION**

ANDREA RINARD,)	
)	
Petitioner,)	
)	
vs.)	Case No. 2010-1890
)	
STATE BOARD OF ADMINISTRATION,)	
)	
Respondent.)	
)	
_____)	

FINAL ORDER

On March 23, 2011, the presiding officer submitted her Recommended Order to the State Board of Administration (“SBA”) in this proceeding. A copy of the Recommended Order indicates that copies were served upon counsel for the Petitioner and upon counsel for the Respondent. Both parties filed a Proposed Recommended Order, and requested that the issue be decided on these written submissions. Neither party filed exceptions. A copy of the Recommended Order is attached hereto as Exhibit A. The matter is now pending before the Senior Defined Contribution Programs Officer for final agency action.

STATEMENT OF THE ISSUE

The Statement of the Issue as set forth in the presiding officer’s Recommended Order hereby is adopted in its entirety.

FINDINGS OF FACT

The Findings of Fact set forth in the presiding officer’s Recommended Order hereby are adopted in their entirety.

CONCLUSIONS OF LAW

The Conclusions of Law set forth in paragraphs 29 through 33 of the Recommended Order are adopted and are specifically incorporated by reference as if fully set forth herein.

Paragraphs number 34 and 35 of the Conclusions of Law hereby are modified to read as follows:

34. In this case, Joint Exhibit 7, a form captioned "Request for Human Services," dated and signed on June 17, 2010, states "I understand that I have been offered, and I accept, a teaching/instructional position at the above named school for the coming school year (see effective date below)." Joint Exhibit 7 at Step 2. The effective date set forth on such form, under the heading "For Personnel Services Use Only", is August 16, 2010. Joint Exhibit 7, Last Section. The form did commit Petitioner to a contractual agreement, as the form did indicate that by accepting the employment offer, Petitioner would be ineligible to interview for other instructional positions for the school year unless otherwise permitted under the negotiated bargaining agreement. Joint Exhibit 7 at Step 2.

35. The pertinent part of Section 121.122(2), Florida Statutes precludes eligibility for renewed FRS membership to retirees who are "**initially reemployed** on or after July 1, 2010" [emphasis added]. Chapter 121, Florida Statutes specifically defines when an individual is considered to become an "employee" for purposes of the FRS. Section 121.4501(2)(g), Florida Statutes defines an "eligible employee" as "...**an officer or employee, as defined in s. 121.021**, who: 1. Is a member of, or is eligible for membership in, the Florida Retirement System, including any renewed member of the

Florida Retirement System initially enrolled before July 1, 2010 *** [emphasis added]. Section 121.021(11), Florida Statutes, defines an **employee** for purposes of the FRS as “...any person **receiving salary payments** for worked performed in a regularly established position ...” [emphasis added] Thus, it is clear from the plain language of the statute that in order to have the status of an “employee” for purposes of FRS, an individual must be performing work and receiving salary payments.

Paragraphs 36 and 37 of the Conclusions of Law hereby are rejected. This Final Order substitutes and adopts the following Conclusions of Law:

36. Petitioner asserts that Section 121.122(2), Florida Statutes, has an evident plain meaning and that she, in fact, was initially “re-employed” on June 17, 2010, because that is when she became contractually obligated to fulfill her employment contract. Respondent SBA asserts that while Petitioner may have been hired on that date, she was not an “employee” performing work and earning FRS service credit until after July 1, 2010. Joint Exhibit 7, “Request for Human Services,” specifically indicates that the effective date of the Petitioner’s employment contract is August 16, 2010. Joint Exhibit 10, Letter dated November 11, 2010 from Rosemary Owens, Assistant Principal, states that Petitioner utilized “her own time” prior to the start of the school year to prepare her lessons and classroom. There is nothing in the record to demonstrate that Petitioner received any salary payments prior to July 1, 2010.

37. Respondent lacks the authority to depart from the requirements of Chapter 121, Florida Statutes, when exercising its jurisdiction. *Balezentis v. Department of Management Services, Division of Retirement*, 2005 WL 517476 (Fla. Div. Admin.

Hrgs). The Respondent's construction and application of Chapter 121 are entitled to great weight and will be followed unless proven to be clearly erroneous or amounting to an abuse of discretion. See, *Level 3 Communications v. C.V. Jacobs*, 841 So. 2d 447, 450 (Fla. 2002); *Okeechobee Health Care v. Collins*, 726 So. 2d 775 (Fla. 1st DCA 1998). Section 121.021(11), Florida Statutes, makes it clear that in order to be an "employee" for purposes of the FRS, an individual must be **receiving salary payments**. The record does not demonstrate that Petitioner received any salary payments for any work performed prior to July 1, 2010. Thus, Petitioner was not "reemployed" with an FRS participating employer until after July 1, 2010. As such, Petitioner is ineligible to participate in the FRS.

ORDERED

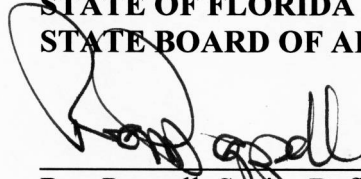
The Petitioner's request that she be entitled to renewed membership in the Florida Retirement System (FRS) hereby is denied.

Any party to this proceeding has the right to seek judicial review of the Final Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the State Board of Administration in the Office of the General Counsel, State Board of Administration, 1801 Hermitage Boulevard, Suite 100, Tallahassee, Florida, 32308, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days from the date the Final Order is filed with the Clerk of the State Board of Administration.

DONE AND ORDERED this 27th day of April, 2011, in Tallahassee,

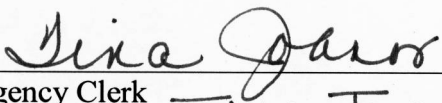
Florida.

**STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION**



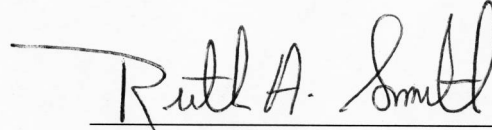
Ron Poppell, Senior Defined Contribution
Programs Officer
State Board of Administration
1801 Hermitage Boulevard, Suite 100
Tallahassee, Florida 32308
(850) 488-4406

FILED ON THIS DATE PURSUANT TO
SECTION 120.52, FLORIDA STATUTES
WITH THE DESIGNATED CLERK OF THE
STATE BOARD OF ADMINISTRATION,
RECEIPT OF WHICH IS HEREBY
ACKNOWLEDGED.


Agency Clerk TINA JOANOS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order was sent by U.S. Mail to Ron Stowers, Esq., Levine & Stivers, LLC, 245 East Virginia Street, Tallahassee, Florida 32301, and by U.S. mail to Brian Newman and Brandice Dickson, Esq., at Pennington, Moore, Wilkinson, Bell & Dunbar, P.A., P.O. Box 10095, Tallahassee, Florida 32302-2095, this 27th day of April, 2011.



Ruth A. Smith
Assistant General Counsel
State Board of Administration of Florida
1801 Hermitage Boulevard
Suite 100
Tallahassee, FL 32308

STATE OF FLORIDA
STATE BOARD OF ADMINISTRATION

ANDREA RINARD,

Petitioner;

vs.

Case No.: 2010-1890

STATE BOARD OF ADMINISTRATION,

Respondent.

RECOMMENDED ORDER

This case was presented for informal proceedings to the undersigned presiding officer for the State of Florida, State Board of Administration (SBA) on January 7, 2011, based on agreed facts and exhibits and proposed recommended orders filed by both parties.

The appearances were as follows:

APPEARANCES

For Petitioner: Ron Stowers, Esq.
 Levine & Stivers, LLC
 245 East Virginia Street
 Tallahassee, Florida 32301

For Respondent: Brandice D. Dickson, Esquire
 Pennington, Moore, Wilkinson,
 Bell & Dunbar, P.A.
 215 S. Monroe Street, Suite 200
 Tallahassee, Florida 32301

RECEIVED
STATE BOARD OF ADMIN
11 MAR 24 AM 10:09
GENERAL COUNSEL'S OFFICE

STATEMENT OF THE ISSUE

The issue is whether Petitioner is entitled to renewed membership in the Florida Retirement System (FRS).

EXHIBIT A

PRELIMINARY STATEMENT

Pursuant to section 120.57(2), Florida Statutes, the parties agreed to informal proceedings in this matter and agreed further to have the issue decided on written submissions after the filing of a stipulation identifying the material facts, issue to be determined, and exhibits to be considered. On January 7, 2011, the parties entered into and filed this Joint Stipulation with 12 exhibits and separate Proposed Recommended Orders.

FACTS AS AGREED BY THE PARTIES

The following paragraphs numbered 1 through 28 are the undisputed material facts agreed to in the Joint Stipulation filed by the parties:

1. *Ms. Rinard was born on May 21, 1970. Joint Exhibit 7. She is 40 years old. Joint Exhibit 5, page 4.*
2. *Ms. Rinard graduated from the University of Florida in 1992 with a Bachelor of Arts degree in English. Joint Exhibit 6.*
3. *Ms. Rinard graduated from the University of South Florida in 1994 with a Master of Arts degree in English Education. Joint Exhibit 6.*
4. *Ms. Rinard has been continuously certified as an educator by the Florida Department of Education in the area of English, Grades 6-12, since the 1993-1994 school year. Ms. Rinard's Educator's Certificate, Department of Education Number 724487, is valid through June 30, 2015. Joint Exhibit 6.*
5. *Ms. Rinard has over 17 years of experience as a certified educator.*
6. *During the 1993-1996 school years, Ms. Rinard was employed by the Hillsborough County School District as an English teacher at East Bay High School. Joint Exhibits: 1, page 1; 3, page 2; and 6.*

7. *During the 1993-1996 school years, Ms. Rinard earned 2.8 years of creditable service in the Florida Retirement System ("FRS").*

8. *From August 1996 through June 1997, Ms. Rinard was employed as an English teacher at Berkeley Preparatory School in Tampa, Florida. Joint Exhibit 6.*

9. *From August 1997 through June 2003, Ms. Rinard was employed as an English teacher and English Department head at Cambridge Christian School in Tampa, Florida. Joint Exhibit 6.*

10. *From August 1998 through June 2003, Ms. Rinard was employed as an adjunct professor of English at Hillsborough Community College in Tampa, Florida. Joint Exhibit 6.*

11. *From January 2003 through December 2003, Ms. Rinard was employed as an adjunct professor of English at Pasco-Hernando Community College in Brooksville, Florida. Joint Exhibit 6.*

12. *In November 2003, Ms. Rinard was hired by the Hernando County School District for the remainder of the 2003-2004 school year as an English teacher at Central High School. Joint Exhibits: 1, page 1; 3, page 2; and 6.*

13. *When she was hired by the Hernando County School District in November 2003, Ms. Rinard opted to enroll in the FRS Investment Plan. Due to her 2.8 years of creditable service in the FRS system, Ms. Rinard was vested in the Investment Plan when she enrolled. Joint Exhibits: 1, page 1; and 3, page 2.*

14. *At the end of the 2003-2004 school year, Ms. Rinard left employ of the Hernando County School District. Joint Exhibit 6.*

15. From August 2004 until June 2010, Ms. Rinard was employed as an academic administrator and English teacher at Hernando Christian Academy in Brooksville, Florida. Joint Exhibit 6.

16. On May 8, 2007, Ms. Rinard took a net distribution of [REDACTED] from the FRS Investment Plan and became a retiree under the FRS. When she took the distribution, Ms. Rinard was still eligible to return to the FRS although not all of the benefits of the FRS system would have been available to her. Those benefits not available to her included, in-line-of-duty retirement and the Differed Retirement Option Plan (DROP). However, Ms. Rinard remained eligible for regular retirement benefits. Joint Exhibits: 1, page 1; 3, page 2; 4, page 1; and 5, page 4.

17. On Thursday, June 17, 2010, Ms. Rinard interviewed with Chris Farkas, Principal of Freedom High School, Hillsborough County School District. Mr. Farkas offered Ms. Rinard a position in the school's English Department and Ms. Rinard accepted the offer on June 17, 2010. Ms. Rinard then signed an employment contract and was processed by the Hillsborough County School District's Human Resource department the same day. Joint Exhibits: 1, page 1; 3, page 2; 5, page 4; 7; and 8.

18. On June 17, 2010, Principal Farkas informed Ms. Rinard that she could begin working on and in her classroom immediately. Joint Exhibit 8.

19. On June 21, 22, 24, 28 and 30 and July 5, 6, and 19, 2010, Ms. Rinard went to Freedom High School and worked 2-3 hours each day. On these dates, Ms. Rinard cleaned and arranged her classroom, organized textbooks and other materials, obtained teaching manuals and planned lessons for the coming school year. During this time, Ms. Rinard was provided with a school-issued computer for her use. Joint Exhibit 8.

20. During the week of June 21, 2010, Ms. Rinard met with Rosemary Owens, Assistant Principal for Curriculum, obtained her course assignments for the 2010-2011 school year, and began writing lesson plans. Joint Exhibits 8 and 10.

21. On June 28 or 30, 2010, Ms. Rinard met with Elijah Thomas, Assistant Principal for Administration, and was given keys to her classroom and the school. Ms. Rinard was unable to meet with Mr. Thomas the previous week, as he was on vacation. Joint Exhibits 8 and 11.

22. On July 27-29, 2010, Ms. Rinard attended New Teacher Orientation. This orientation was required for all teachers that had not been employed by the Hillsborough County School District the previous school year. The orientation was held at Freedom High School. After the orientation program ended at 3 p.m. each day, Ms. Rinard worked in her classroom at Freedom High School for one to two hours. Joint Exhibit 8.

23. On August 2-5, 2010, Ms. Rinard attended Springboard Training-English Content Orientation. This orientation was required for all English teachers new to the school district, in order to familiarize them with the specific curriculum used in the Hillsborough County School District. Joint Exhibit 8.

24. August 16, 2010, was the first day of the pre-planning week—the week before students arrived on campus. Despite the fact that Ms. Rinard had been working since June 21 and had attended two orientation programs required by the school district prior to this date, this is the date that Ms. Rinard was supposed to begin earning service credit.

25. When she was re-hired in June 2010, Ms. Rinard was informed by the Hillsborough County School District that she would be entitled to be placed on Level 12 of the salary scale based on her 17 years of experience. Further, the Hillsborough County School District advised her that she would receive credit for her Master's degree and be placed on the

Master's degree pay scale. As a result of these salary enhancements, Ms. Rinard's base pay was over \$ [REDACTED] above that of a beginning teacher. Joint Exhibits: 1, page 1; and 3, page 2.

26. In 2009, the Legislature passed Chapter 2009-209, Laws of Florida. This law, which effected major changes to the Florida Retirement System, became effective July 1, 2010. Section 121.122(1), Florida Statutes, was amended by the act to read:

Except as provided in s. 121.053 (relating to elected officers), effective July 1, 1991, through June 30, 2010, any retiree of the state-administered retirement system who is initially reemployed in a regularly established position with a covered employer, including an elective public office that does not qualify for the Elected Officer's Class, shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System . . . A retiree is entitled to receive an additional retirement benefit, subject to the following conditions

As a result of the amendment to Section 121.122(1), Florida Statutes, any retiree of FRS reemployed after July 1, 2010, is no longer eligible for additional retirement benefits.

27. In August 2010, Ms. Rinard learned that FRS categorized her as "retired" and ineligible for further membership in FRS due to the changes to the statutes that became effective July 1, 2010. Even though Ms. Rinard was hired by the Hillsborough County School District on June 17, 2010, was assigned a classroom and a computer, received keys to her room and the school, received her schedule of classes and teaching materials, and actually performed work, such as writing lesson plans, for the school district prior to July 1, 2010, FRS determined that she is ineligible for further membership in FRS, because she did not begin to earn service credit under her current contract with the school district until August 16, 2010. Joint Exhibits: 3, page 2; 6; 8; 10; and 11.

28. Due to the FRS determination, not only is Ms. Rinard ineligible for membership in FRS, the determination also impacts her contract status with the Hillsborough County School District. Under school district policy, instructional employees who are not eligible for

membership in FRS may only be paid the same rate as a beginning teacher at Step 1 on the salary schedule. Ms. Rinard cannot receive pay based on her years of experience or for her Master's degree. The school district will reconsider this position, only if she is deemed eligible for membership in FRS. Joint Exhibit 9.

CONCLUSIONS OF LAW

29. During the 2009 legislative session, the Florida Legislature revised Section 121.122, Florida Statutes to exclude from renewed membership in the FRS any retiree who is initially reemployed on or after July 1, 2010.

30. That section now states, in toto:

121.122. Renewed membership in system

(1) Except as provided in s. 121.053, effective July 1, 1991, through June 30, 2010, any retiree of a state-administered retirement system who is initially reemployed in a regularly established position with a covered employer, including an elective public office that does not qualify for the Elected Officer's Class, shall be enrolled as a compulsory member of the Regular Class of the Florida Retirement System. Effective July 1, 1997, through June 30, 2010, any retiree of a state-administered retirement system who is initially reemployed in a position included in the Senior Management Service Class shall be enrolled as a compulsory member of the Senior Management Service Class of the Florida Retirement System as provided in s. 121.055. A retiree is entitled to receive an additional retirement benefit, subject to the following conditions:

(a) Such member must resatisfy the age and service requirements as provided in this chapter for initial membership under the system, unless such member elects to participate in the Senior Management Service Optional Annuity Program in lieu of the Senior Management Service Class, as provided in s. 121.055(6).

(b) Such member is not entitled to disability benefits as provided in s. 121.091(4).

(c) Such member must meet the reemployment after retirement limitations as provided in s. 121.091(9), as applicable.

(d) Upon renewed membership or reemployment of a retiree, the employer of such member shall pay the applicable employer contributions as required by ss. 112.363, 121.71, 121.74, and 121.76.

(e) Such member is entitled to purchase additional retirement credit in the Regular Class or the Senior Management Service Class, as applicable, for any postretirement service performed in a regularly established position as follows:

1. For regular class service prior to July 1, 1991, by paying the Regular Class applicable employee and employer contributions for the period being claimed, plus 4 percent interest compounded annually from first year of service claimed until July 1, 1975, and 6.5 percent interest compounded thereafter, until full payment is made to the Florida Retirement System Trust Fund; or

2. For Senior Management Service Class prior to June 1, 1997, as provided in s. 121.055(1)(j).

The contribution for postretirement service between July 1, 1985, and July 1, 1991, for which the reemployed retiree contribution was paid, shall be the difference between such contribution and the total applicable contribution for the period being claimed, plus interest. The employer of such member may pay the applicable employer contribution in lieu of the member. If a member does not wish to claim credit for all of the postretirement service for which he or she is eligible, the service the member claims must be the most recent service.

(f) No creditable service for which credit was received, or which remained unclaimed, at retirement may be claimed or applied toward service credit earned following renewed membership. However, service earned as an elected officer with renewed membership in the Elected Officers' Class may be used in conjunction with creditable service earned under this section, provided the applicable vesting requirements and other existing statutory conditions required by this chapter are met.

(g) Notwithstanding any other limitations provided in this section, a participant of the State University System Optional Retirement Program, the State Community College Optional Retirement Program, or the Senior Management Service Optional Annuity Program who terminated employment and commenced receiving a distribution under the optional program, who initially renews membership as required by this section upon reemployment after retirement, and who had previously earned creditable Florida Retirement System service that was not included in any retirement benefit may include such previous service toward vesting and service credit in the second career benefit provided under renewed

membership.

(h) A renewed member who is not receiving the maximum health insurance subsidy provided in s. 112.363 is entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit may be received only at the time of payment of the second career retirement benefit. The total health insurance subsidy received by a retiree receiving benefits from initial and renewed membership may not exceed the maximum allowed in s. 112.363.

(2) A retiree of a state-administered retirement system who is initially reemployed on or after July 1, 2010, is not eligible for renewed membership.

§121.122, Fla.Stat. (2009)(emphasis added).

31. Section 121.4501(2)(k), Florida Statutes defines “retiree” as “a former participant of the optional retirement program [also known as the Investment Plan] who has terminated employment and has taken a distribution as provided in s. 121.591, except for a mandatory distribution of a de minimis account authorized by the state board. § 121.4501(2)(k) Fla.Stat. Because Petitioner terminated FRS-covered employment and took a distribution from her Investment Plan account, she is considered a retiree.

32. Under the express terms of the applicable statute, a retiree who becomes initially reemployed with an FRS participating employer on or after July 1, 2010 is ineligible to participate in the retirement system. §121.122(2), Fla. Stat.

33. The history of the legislation which made the relevant changes to Section 121.122 in 2009 reflects that the legislature was aware of the result of excluding from participation in the FRS those who had terminated employment and taken a distribution early in their working years. As the agency affected by the change in the statute it administers, Respondent submitted an analysis of House Bill 479 to the Full Appropriations Council on General Government & Health Care which stated:

HB 479 would also close the renewed membership class to retirees of a state-administered retirement system initially reemployed by a Florida Retirement System participating employer on or after January 1, 2010. However, this bill would require employer contributions to be paid on the salary of reemployed retirees who are not enrolled as renewed members to maintain the funding base for the Health Insurance Subsidy Program. In addition, this bill would require the employer to pay any unfunded actuarial liability portion of the employer contribution rate for active members if an unfunded actuarial liability cost re-emerges. The bill does not provide for the paying of the Investment Plan administrative contribution.

Retirees initially reemployed before January 1, 2010, would continue their renewed membership and employers would continue to owe the total employer contribution rate for these renewed members. As the number of retirees who are enrolled as renewed members in the FRS is reduced over time, this would gradually reduce the overall cost to employers.

In the longer-term, these changes could result in savings to the FRS Pension Plan by limiting future liabilities for renewed membership and by altering retirement patterns based upon plans for returning to work within a few months of terminating employment. The actual impact would have to be determined by an actuarial special study conducted by the Division of Retirement's consulting actuary.

Closing the Renewed Membership Class to future participation would impact not only those reemployed retirees who retired at normal retirement, but it would also impact those who retired early.

Under the FRS Pension Plan a member becomes vested with six years of service. A retiree may take an early retirement if vested and within 20 years of the normal retirement age. However, in doing so the benefit is reduced by five percent for each year remaining before the retiree reaches normal retirement age. For retirees of the Special Risk Class, the earliest a member could receive an early retirement benefit would be at age 35 and one month. For retirees of the other membership classes, early retirement benefit would be at age 42 and one month if vested. These early retirement retirees would be ineligible for renewed membership should they return to FRS employment.

Under the FRS Investment Plan, a participant vests after only one year of service. If a member terminates and takes a distribution, he or she is considered a retiree and ineligible for renewed membership in the FRS. **Conceivably, a retiree who participated in the Investment Plan for one year and took a distribution at the age of 24 could later return to work for an FRS employer for 30 years or more and never be eligible for a retirement benefit.** This could impact the ability of FRS employer's (sic) to recruit employees in the future.

Exhibit 12, Florida State Board of Administration Report to Full Appropriations Council on General Government & Health Care on HB # 479, Feb. 16, 2009, p. 5 (emphasis added). It is clear that the legislature was made aware of the harsh results which could be caused by absolutely precluding those deemed by operation of law to be retirees from ever again participating in the FRS, and with this awareness, enacted Section 121.122 as it currently reads. The SBA is not authorized to depart from this statutory mandate.

34. In this case, however, Joint Exhibit 7, a form titled Request for Human Services and dated June 17, 2010, states "I understand that I have been offered, and I accept, a teaching/instructional position at the above named school for the coming school year (see effective date below)." Ex.7 at Step 2. It shows that Petitioner accepted an offer of employment at Freedom High School on June 17, 2010, which committed her to a contractual agreement ("By accepting this offer, I understand that I am ineligible to interview for other instructional positions for the designated school year If I fail to meet the contractual commitment made, I may be ineligible for employment within the district for the remainder of the contacted time". Ex.7 at Step 2. This agreement was executed by Petitioner and the school Principal on June 17, 2010, and the contractual obligations stated therein apparently began immediately, even though the effective date on which her position would commence was August 16, 2010. Ex. 7, last section.

35. The pertinent part of Section 121.122(2), Florida Statutes precludes eligibility for renewed FRS membership to retirees who are "initially reemployed on or after July 1, 2010" (emphasis added).

36. Petitioner asserts that the above section of the statute has an evident plain meaning, and that she was in fact initially reemployed on June 17, 2010. Respondent SBA asserts that while Petitioner may have been hired on that date, she was not earning FRS credit

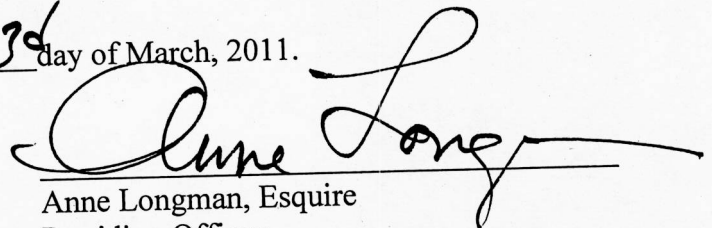
until after July 1, 2010, but does not clarify how this fact correlates with the statutory language used in the 2009 revision to Section 121.122, which states only that the retiree is ineligible to participate if initially reemployed after the July 1, 2010 date. The express terms of the statute make no reference to the concept of earning service credit and are not ambiguous. Even if extrinsic interpretive aides were necessary to my recommendation, neither of the parties has cited to me any materials which would clarify the meaning of the term "initially reemployed," as used in this statute context.

37. Under these circumstances, I conclude that Respondent is compelled to carry out the terms of the amended statute as written, and that Petitioner was "initially reemployed" when she was tendered and accepted an offer of employment with the Hillsborough County School District on June 17, 2010.

RECOMMENDATION

Having considered the law and the undisputed facts of record, I recommend that Respondent, State Board of Administration, issue a final order granting the relief requested.

RESPECTFULLY SUBMITTED this 23^d day of March, 2011.



Anne Longman, Esquire
Presiding Officer
For the State Board of Administration
Lewis, Longman & Walker, P.A.
P.O. Box 16098
Tallahassee, FL 32317

NOTICE: THIS IS NOT A FINAL ORDER

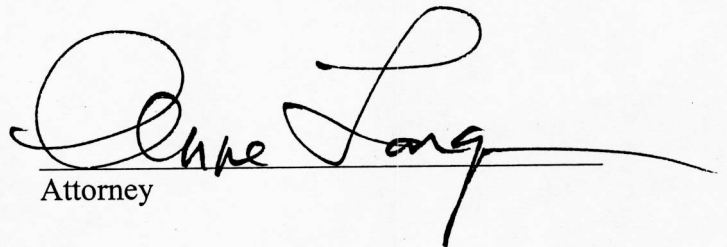
All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order, which must be filed with the Agency Clerk of the State Board of Administration and served on opposing counsel at the addresses shown below. The SBA then will enter a Final Order which will set out the final agency decision in this case.

Filed with:
Agency Clerk
Office of the General Counsel
Florida State Board of Administration
1801 Hermitage Blvd., Suite 100
Tallahassee, FL 32308
(850) 488-4406

This 23^d day of March, 2011.

Copies furnished to:
Brandice D. Dickson, Esquire
Pennington, Moore, Wilkinson,
Bell & Dunbar, P.A.
215 S. Monroe Street, Suite 200
Tallahassee, Florida 32301

Ron Stowers, Esq.
Levine & Stivers, LLC
245 East Virginia Street
Tallahassee, Florida 32301
Counsel for Petitioner



Attorney