



CALIFORNIA STATE UNIVERSITY, LONG BEACH

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| Subject: Post-Retirement Employment: CalPERS' Retirees | |
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I. Employment of Retired Annuitants

California Government Code provisions permit former CSU academic, staff and management employees and other CalPERS-covered individuals who retire and receive CalPERS retirement benefits to accept limited CSU employment without jeopardizing retirement benefits or requiring reinstatement from retirement.

II. Academic Positions

Government Code section 21227 permits a retiree to be appointed as a rehired annuitant to an academic position, however, the employment may not exceed 960 hours or 50 percent of the hours the member was employed during the last fiscal year prior to retirement, whichever is less. The hourly restriction is accumulative for all CalPERS' covered employers. Departments are to use this Government Code section for Faculty Early Retirement Program (FERP) participants and other annuitants rehired to fulfill academic program requirements. Please note that the FERP article in the CSU-CFA Collective Bargaining Agreement (CBA) is more restrictive and limits FERP employment to 90 days (720 hours) or 50 percent of the employee's regular time base in the year preceding retirement.

III. Staff and Management Positions

Under certain circumstances, retirees may be appointed as rehired annuitants to staff or management positions but are restricted to working 960 hours for all CalPERS-covered employers in a fiscal year. Annuitants may be rehired during an emergency to prevent stoppage of public business or because the retiree has skills needed in performing specialized work of limited duration. Both the department and the rehired annuitant are responsible for tracking hours of employment. It is recommended that departments document the specialized skills of the rehired annuitant for audit purposes.

IV. Calculating Employment Limits

To calculate employment limits under the relevant Government Code sections, different methods are used for academic and staff and management appointments:

- a. For FERP academic appointments: The campus academic calendar defines workdays for this purpose. If a retired faculty member is hired for an academic term, all the academic workdays (prorated by time base) defined by the academic calendar count toward the FERP 90 day (720 hour full time equivalent) or a limit of 50 percent of the employee's timebase in the fiscal year preceding retirement regardless of actual days spent teaching. This is true whether the faculty member is working full or part-time during the term.
- b. For Non-FERP academic appointments: The campus academic calendar defines workdays for this purpose. If a retired faculty member is hired for an academic term, all the academic workdays (prorated by time base) defined by the academic calendar count toward the 960 hour limit (the equivalent of 120 academic workdays) or 50 percent of the employee's timebase (time base maximum) in the fiscal year preceding retirement whichever is less regardless of actual days spent teaching. This is true whether the faculty member is working full or part-time during the term.
- c. For non-exempt and exempt staff and management appointments: Each day or partial day the retiree works is calculated on an hour-for-hour basis toward the 960 hour maximum. For example, a retiree appointed to work an eight (8) hour Monday-Wednesday-Friday schedule would charge 24 hours per week against the 960 hour maximum.



CALIFORNIA STATE UNIVERSITY, LONG BEACH

For the purpose of determining the hours a member may work post retirement, the member is to use the total hours worked (up to full time) at all CalPERS employers in the full fiscal year prior to retirement. This could include employment other than the campus or the CSU.

V. Appointments

Faculty rehired annuitants are to be appointed on a temporary basis in classification code 2358. Staff and management employees should be appointed to a classification code which most closely represents their duties as a rehired annuitant and established as hourly for purposes of tracking hours.

VI. Process of Hiring Retired Annuitants

The employee must be separated as an active employee before being reappointed as a rehired annuitant/FERP. The hiring department must ensure that the rehired annuitant has actually retired and is or soon will be collecting a pension from CalPERS before returning the individual to work as a rehired annuitant. A faculty member returning as a FERP employee must meet the FERP eligibility requirements provided in Article 29 of the CFA (Unit 3) Collective Bargaining Agreement. Additionally, in order to initiate the processing of a FERP request, the employee must complete and submit a "Notice of Intent to Retire and Option to Request Participation in the FERP Program" (ITR). The ITR form requires appropriate signature approvals. A PTF must be completed to appoint a former employee to rehired annuitant/FERP status. The PTF must identify the employee being hired as a rehired annuitant (i.e., Empl Class: Rehired Annuitant, Action/Reason: Reh/Reh)

VII. Employment Provisions

Rehired annuitants are considered *retirees* and receive their CalPERS retirement benefits in addition to compensation for limited campus work permitted under statute. Post retirement CSU compensation is subject to federal, state, and Medicare taxation. The law excludes CSU compensation from Social Security taxation for rehired annuitants receiving retirement benefits through CalPERS.

If eligible for CalPERS retiree medical and/or CSU basic retiree dental benefits, retirees continue to receive these benefits while working as rehired annuitants. Rehired annuitants are ineligible for holidays, sick leave, vacation or any *employee* leave or benefit program. An exception exists for FERP participants who are eligible for the benefits set forth in the Unit 3 contract.

VIII. Penalties for Exceeding Restrictions

If a rehired annuitant works in excess of the restriction allowed under the applicable Government Code, the rehired annuitant is subject to reinstatement to employment retroactive to when the employment began and must reimburse CalPERS for all retirement allowances received during the unlawful employment. Both the rehired annuitant and the campus also are subject to payment of retirement contributions for the wages earned during the period of employment.

IX. Additional CalPERS Post-Retirement Employment Restrictions

The CalPERS' Defined Benefit Plan is a tax-qualified pension plan under Section 401(a) of the Internal Revenue Code (IRC), and, as such, it must comply with the requirements of this section to maintain tax-exempt status. Internal Revenue Service rules do not permit the distribution of benefits to a participant who retires prior to the plan's normal retirement age unless the participant has a "bona fide" separation from service. The following restrictions must be followed:

- Normal Retirement Age – The normal retirement age is the member's benefit formula age. For example: The normal retirement age for a member with the 2% at 55 benefit formula would be age 55.
- No Pre-Determined Agreement With Employer – For members who retire before reaching normal retirement age, there can be no agreement (either verbal or written) prior to retirement to render service to any CalPERS-covered employer as a retired annuitant regardless of the length of the separation.
- Bona Fide Separation in Service – A retired member who is under normal retirement age must have a minimum separation in service of 60 calendar days prior to returning to any CalPERS-covered employment without reinstatement.



CALIFORNIA STATE UNIVERSITY, LONG BEACH

- Emergency Hiring Exceptions – Allows for immediate employment of a retired member under normal retirement age for emergency situations as defined by Government Code section 8558.

Note: Retirees who have collected unemployment insurance compensation during the 12-month period prior to an appointment must be excluded from employment if the retiree received any unemployment insurance compensation arising out of prior employment as a rehired annuitant with the same employer.

Additional Resources

Notice of Intent to Retire and Option to Request Participation in the FERP Program

Employment After Retirement with a CalPERS Covered Employer - Quick Reference for Employees