



California Public Employees' Retirement System
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Membership

Circular Letter

March 22, 2022

Circular Letter: 200-025-22

Distribution: IV, V, VI, X, XII, XVI

To: All Employers
Subject: Expiration of Provisions of Governor's Executive Orders Related to COVID-19

Purpose

The purpose of this Circular Letter is to provide information regarding the expiration of specified provisions in Executive Orders N-25-20, N-35-20, N-84-20, N-12-21, and N-3-22, effective April 1, 2022, and its impact to the post-retirement employment requirements for California Public Employees' Retirement System (CalPERS) retired annuitants.

Background

On February 25, 2022, Governor Newsom issued Executive Order N-4-22 to phase out provisions of COVID-19 related executive orders put in place since March 2020 to help facilitate a coordinated response and ensure the state could quickly and efficiently respond to the effects of the pandemic. This executive order states that specified provisions in the above referenced orders will expire after **March 31, 2022**. As a result, the post-retirement employment requirements for retired annuitants will resume April 1, 2022.

Summary of Impacts

Effective April 1, 2022, the following post-retirement requirements will no longer be suspended and will apply to all CalPERS retired annuitants:

- 180-day wait period after retirement
- 60-day bona fide separation in service
- 960-hour per fiscal year work limit

- Limitation that a retired annuitant may only be appointed to a vacant position once under Government (Gov.) Code section 21221(h)

All other post-retirement employment requirements continue to remain in effect, and you should monitor your retired annuitants' employment pursuant to those rules.

180-Day Wait Period Exception

Any CalPERS retired annuitant hired by your agency on or after April 1, 2022 is subject to the 180-day break in service requirement unless a valid exception applies.

A retired annuitant approved to return to work prior to the completion of their 180-day wait period under Executive Order N-12-21 or N-3-22 with a start date prior to April 1, 2022 will be allowed to work until June 30, 2022. If it is determined the retired annuitant's service is needed beyond June 30, 2022, and they are within their 180-day wait period, your agency needs a valid exception (non-COVID-19 related) to continue their employment. If there is not a valid exception, they must separate from employment on June 30, 2022. If an exception is not pursued, they may wait the additional time to satisfy the 180-day waiting period and return as a retired annuitant pursuant to the law.

Approvals needed by your agency's governing body must be approved before July 1, 2022 for the retired annuitant to continue employment.

School Employers

The County Office of Education is the governing body responsible for approving appointments under this requirement. School district appointments must be approved by the County Office of Education to be considered valid for the 180-day wait exception.

State Employers

Appointments must be approved by the Department of Human Resources (CalHR) to be valid. For employees of the California State University, the Trustees of the California State University must approve the appointment to be valid.

To ensure compliance for all your retired annuitants, we recommend you identify all retired annuitants that have been employed as part of the executive orders related to COVID-19. This may help expedite approvals needed for the retired annuitant to continue employment.

Bona Fide Separation in Service

A CalPERS retired annuitant hired by your agency on or after April 1, 2022 who retired before their normal retirement age must have a bona fide separation in service and wait 60 days before returning to work even if there is a valid exception to the 180-day wait period.

As part of the bona fide separation requirement, there cannot be a predetermined agreement between the employer and the member prior to retirement to return to work for the employer after retirement. The pre-determined agreement requirement has never been lifted and continues to remain in effect. You can verify a member's or retired annuitant's normal retirement age in myCalPERS or by contacting our office.

Work Hour Limitation

Effective April 1, 2022, the 960-hour work limitation (per fiscal year) will be reinstated for all retired annuitants. For retired annuitants employed prior to April 1, 2022, to ensure adequate staffing under the executive orders, the hours worked on and after April 1, 2022 will begin to count toward the 960-hour limit. These hours will be counted along with any hours worked in the fiscal year under any appointment not covered by the executive orders.

As of July 1, 2022, each retired annuitant will be able to work 960 hours for the new fiscal year. CalPERS will continue to monitor the hours worked for retired annuitants and send communication to the retired annuitants and employers to confirm when a violation is found.

Appointment to Vacant Positions

On December 14, 2020, Governor Newsom issued Executive Order N-84-20, an update to Executive Order N-25-20, regarding working after retirement rules. The limitation that a retired annuitant may only be appointed once to a vacant position pursuant to Gov. Code section 21221(h) was suspended as it applied to retired annuitants engaged in mitigating the effects of the COVID-19 pandemic.

Effective April 1, 2022, the suspension of this requirement will end. If a retired annuitant is employed in one of these positions and the appointment needs to be extended, you may extend the retired annuitant's appointment. However, the extension must be completed prior to April 1, 2022. If a retired annuitant's appointment is extended prior to April 1, 2022, the retired annuitant must vacate the position by June 30, 2022, and you must find a replacement for that position. Another retired annuitant may fill that position if all the post-retirement employment requirements have been met.

On April 1, 2022, the requirements of Gov. Code section 21221(h) will be fully reinstated, and a retired annuitant can only be appointed once to an interim/vacant position. Any reappointments or extensions will be considered a second appointment and will be a violation of the post-retirement employment rules.

Continued Compliance

You must continue to enroll and report retired annuitants to CalPERS. The remaining working after retirement provisions in the Public Employees' Retirement Law and Public Employees'

Pension Reform Act of 2013 will continue to apply before and after the expiration date of April 1, 2022, including:

- Compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate.
- A retired annuitant shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

You should monitor all current and future retired annuitants based on these requirements. If you have questions or need assistance with the post-retirement employment rules, review the [employer reference guides](#) on the CalPERS website.

Until March 31, 2022, you can continue to send notifications for public agencies and school retired annuitants to the [CalPERS' Executive Order Review mailbox](#) and to [CalHR's California State of Emergency mailbox](#) for state retired annuitants.

CalPERS will send notifications regarding the changes to the post-retirement employment requirements to all retired annuitants that have been identified as working under these executive orders.

Questions

If you have any questions, call our CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Renee Ostrander, Chief
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