SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

Agenda Item#_10.3_

Meeting Date: January 9, 2014

Subject: Resolution No. 2773: 180-Day Wait Period Exemption

- ☐ Information Item Only
- ☐ Approval on Consent Agenda
- ☐ Conference (for discussion only)
- ☐ Conference/First Reading (Action Anticipated: _____)
- ☐ Conference/Action
- ☒ Action
- ☐ Public Hearing

Department: Business Services

Recommendation: Approve Resolution No. 2773 authorizing the appointment to fill a critically needed position by classified retiree.

Background/Rationale: The Public Employee's Pension Reform Act of 2013 (Government Code §7522 et seq.) restricts school districts that contract with CalPERS from employing classified retired employees for 180 days from the date of their retirement (the "180-Day Wait Period") unless certain conditions are met. Per Resolution No. 2773, it is necessary that Susan Pointer, who is retiring from her position as legal analyst on February 3, 2014, continue to be employed after her retirement on an as-needed basis to provide training and support to her successor before the expiration of the 180-Day Wait Period.

Financial Considerations: Compensation will be paid from the Legal Services Department's Temporary Clerical/Office budget. Hours worked are not to exceed 960 hours in a fiscal year.

Documents Attached:
1. Resolution No. 2773
2. Circular Letter
3. Employment After Retirement
4. Government Code 7522 56

Estimated Time of Presentation: 3 Minutes
Submitted by: Ken A. Forrest, Chief Business Officer
Cancy McArn, Assistant Superintendent
Human Resources and Employee Compensation Services
Approved by: Sara Noguchi, Ed.D., Interim Superintendent

Item No. 10.3

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

RESOLUTION NO. 2773

APPOINTMENT TO FILL A CRITICALLY NEEDED POSITION BY CLASSIFIED RETIREE

WHEREAS, Susan Pointer ("Pointer"), after many years of dedicated service, will be retiring from her classified position as the District's only legal analyst on February 3, 2014; and

WHEREAS, the Public Employee's Pension Reform Act of 2013 (Government Code §7522 et seq.) restricts school districts that contract with CalPERS from employing classified retired employees for 180 days from the date of their retirement (the "180-Day Wait Period") unless certain conditions are met; and

WHEREAS, the District finds it necessary to have Pointer provide specialized training and support to her successor during the 180-Day Wait Period as the only employee in the Legal Services Department; and

WHEREAS, pursuant to CalPERS statutory requirements, Pointer's continued employment in her current position will be of limited duration, will not exceed 960 hours in a fiscal year, will not exceed the maximum monthly base salary paid to other employees performing comparable duties as she is the only employee in the Legal Services Department, and will not receive any benefit, retirement incentive, compensation in lieu of benefits, or other form of compensation in addition to her current hourly salary (rate of pay) and benefits, if any, extended to retirees of the District within her classification.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Education hereby certifies the foregoing recitals as true and correct and that the appointment of Pointer to continue to be employed in her current position as Legal Analyst III is necessary to fill this critically needed position in order to train and support her successor before the expiration of the 180-Day Wait Period.

BE IT FURTHER RESOLVED that the Interim Superintendent, or her authorized designee, shall take all action and steps necessary to implement this resolution.

PASSED AND ADOPTED by the Sacramento City Unified School District Board of Education as a non-consent item at the Board's regularly scheduled public meeting on this 9th day of January, 2014, by the following vote:

AYES: ____
NOES: ____
ABSTAIN: ____
ABSENT: ____

_____
Patrick Kennedy
President of the Board of Education

ATTESTED TO:

_____
Sara Noguchi, Ed.D.
Interim Secretary of the Board of Education

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Reference No.:
Circular Letter No.: 200-002-12
Distribution: VI, XII, XVI
Special:

Circular Letter

January 26, 2012

TO: **ALL PUBLIC AGENCIES, COUNTY OFFICES OF EDUCATION, AND SCHOOL DISTRICTS**

SUBJECT: **INFORMATION ON AB 1028 CHANGES TO EMPLOYMENT AFTER RETIREMENT**

The purpose of this Circular Letter is to inform you of changes to the Public Employees' Retirement Law (PERL). Effective January 1, 2012, Assembly Bill (AB) 1028 amended Government Code (G.C.) sections 21224, 21229, and 21221(h) concerning employment after retirement.

G.C. section 21224 - Limited Service During Emergency or Special Services Required; Rate of Pay, is used by the appointing powers of State and Public Agencies to temporarily employ CalPERS retirees.

G.C. section 21229 - Service for School Employer or California State University (CSU) During Emergency or Special Skills Required; Rate of Pay, is used by the appointing powers of school employers and the CSU System to temporarily employ CalPERS retirees. Both sections were amended as follows:

- To include the word "temporary" to clarify that these sections apply to retirees employed as temporary "extra help" appointments—during an emergency to prevent stoppage of public business or to perform work of limited duration, i.e., elimination of backlog, special projects, work in excess of what the employer's permanent employees can do, etc. Retirees should not be appointed to vacant permanent part-time, permanent intermittent, or permanent full-time positions, even if the hours worked will not exceed 960 hours per fiscal year or the retiree will be subject to mandatory reinstatement from retirement.

- To include the word "specialized" to clarify that retirees employed as temporary "extra help" are to have the specialized skills required to perform the needed work. The employer generally determines what specialized skills are required.

This Circular Letter also serves to remind that pursuant to G.C. sections 21224 and 21229:

- Existing law provides that retirees are permitted to work up to a total of 960 hours per fiscal year. Where a retiree works for more than one CalPERS employer during a fiscal year, the total hours worked for all employers are included within the 960-hour maximum.

- The retiree's rate of pay must be comparable to that paid to other employees performing similar duties. The rate of pay is the base salary as listed in the employer's published (publicly available) salary schedule.

- A retiree can work for more than one fiscal year for the same employer only if the employment is temporary "extra help" work as defined above.

G.C. section 21221(h) - Conditions and Limitations on Service After Retirement, applies to the governing body of contracting agencies (Public Agencies and School Employers only) was amended as follows:

- To specify that a retiree can be appointed by the governing body of a contracting agency as an interim appointment to a vacant position during recruitment for a permanent replacement.

- To specify that the compensation for this interim appointment shall not exceed the maximum published (publicly available) pay schedule for the vacant position.

- To clarify that this interim appointment is limited to 12 months from the appointment date, with or without an extension to work more than 960 hours as provided in G.C. section 21221(h).

- To provide that an interim appointment under this section cannot continue under G.C. section 21224 or 21229 after the end of the 12-month term under G.C. section 21221(h).

- To clarify that a retiree can be appointed under this G.C. section only once.

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

MARY LYNN FISHER, Chief
Benefit Services Division

A Guide to CalPERS

Employment After Retirement

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The following contains general information regarding working after retirement. Please read this section and the section that applies to your specific type of retirement. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

What You Should Know Before Working After Retirement

After you have retired, you may think about becoming self-employed, working in private industry or going back to work for your former CalPERS employer or another CalPERS employer (any employer who contracts with CalPERS for retirement benefits) as a retired annuitant. There are some restrictions you need to know about so you will not jeopardize your CalPERS service, disability or industrial disability retirement benefits.

Generally you may work in private industry or for an employer that does not contract with CalPERS for retirement benefits and continue to collect your CalPERS retirement allowance. Some restrictions will apply depending upon whether you are retired for service, disability or industrial disability.

If you intend to work for a CalPERS employer directly as an independent contractor or consultant, your employment is subject to the retirement law restrictions for retired annuitant employment.

If you intend to work for a CalPERS employer through a third-party employer, including your own business entity, your employment will be subject to the retirement law restrictions for retired annuitant employment if the terms of the employment constitute an employer-employee relationship. Please carefully read all pertinent information in this publication to ensure compliance.

A retiree can work for a CalPERS employer without reinstatement (1) as a temporary "retired annuitant" employee with certain restrictions or (2) if the position is specifically exempt from restrictions by retirement law.

180-Day Wait Period: You cannot be employed by a CalPERS employer for a period of 180 days after your retirement date without reinstating from retirement, except under certain conditions. The 180-day waiting period starts from the date of retirement. The exceptions are:

- You are a retired firefighter or retired public safety officer as defined in Government Code section 3301 (peace officer) who will perform firefighter or peace officer retired annuitant work.
- You will participate in the Faculty Early Retirement Program (FERP) with the California State University (CSU). This participation must be pursuant to a collective bargaining agreement with the CSU that existed prior to January 1, 2013 or has been included in subsequent agreements.
- The public agency or school employer's governing body presents CalPERS with a resolution, passed in a public meeting, that approves

the appointment in which the employer has certified the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed. The appointment may not be placed on a consent calendar.
- The State employer via the Department of Human Resources (CalHR) presents CalPERS with certification, approved by CalHR, of the nature of the employment and that the employment is necessary to fill a critically needed position before 180 days have passed.

The 180-day wait period provision applies without exception if you receive a Golden Handshake or any other employer incentive to retire.

All service retirees who are under normal retirement age at retirement must meet the bona fide separation in service requirement even if an exception to the 180-day wait period applies.

As a retired annuitant, you do not accrue service credit or otherwise acquire any additional retirement benefits from the retiree employment. Appointment to a permanent position, whether part-time or full-time, requires reinstatement from retirement into active employment unless the employment qualifies you for membership in the University of California Retirement Plan (UCRP), the California State Teachers' Retirement System (STRS), or any other public pension system.

Exception: Certificated employees who elect to remain in CalPERS and then retire and accept a temporary assignment in a classified or certificated position in a school are subject to the restrictions in the retirement law.

Before accepting employment with any employer, it is your responsibility to:
- Ask if they contract with CalPERS for retirement benefits.
- Inform the employer that you are receiving retirement benefits from CalPERS and specify the type of retirement, i.e., service, disability, or industrial disability.
- Ensure the employment will be in compliance with retirement law.

Once hired, it is your responsibility and your employer's to ensure your employment remains in compliance and, therefore, does not jeopardize your retirement benefits during the course of your employment.

Consequences of Unlawful Employment

Retiree employment found to be in violation of CalPERS law and regulations (unlawful employment) can result in your mandatory reinstatement from retirement.

If you are employed by any CalPERS employer in either a permanent part-time or permanent full-time position not specifically permitted under CalPERS law, you will be considered unlawfully employed. Unlawful employment may result in mandatory reinstatement from retirement retroactive to the date the unlawful employment occurred.

If you are employed by any CalPERS employer in any permanent or regular staff position not specifically permitted under retirement law, you will be unlawfully employed.

If you are reinstated, you will be required to reimburse CalPERS the amount of retirement allowance you received during the period of unlawful employment. In addition, through your employer, you will be required to pay the retroactive CalPERS member contributions, plus interest, equal to the amount that would have been paid had your reinstatement occurred timely. You could also be assessed the cost of any administrative expenses incurred to process your mandatory reinstatement, to the extent you are determined to be at fault. Reinstatement due to unlawful employment could also jeopardize any health benefit entitlement you may have from your current retirement.

Likewise, the CalPERS employer who unlawfully employed you will be required to pay retroactive employer contributions, plus interest, equal to the amount of employer contributions that would have been paid had your reinstatement occurred timely. Your employer could also be assessed the cost of any administrative expenses incurred to process your mandatory reinstatement, to the extent the employer is determined to be at fault.

For more information about reinstatement from retirement into active employment, please review our publication ***A Guide to CalPERS Reinstatement from Retirement***, which contains the application for reinstatement. This publication is available on the CalPERS website at **www.calpers.ca.gov** or you may request it by calling our toll free telephone number at **888 CalPER**S (or **888**-225-7377).

CalPERS Employment in a Temporary Capacity

CalPERS approval is **not** required for temporary, limited-term employment as a retired annuitant. Eligibility requirements can vary depending upon whether you are retired for service, disability, or industrial disability, and your age at retirement.

Eligible retirees can work for a State agency, university, public employer, or school employer contracted with CalPERS without reinstatement from retirement into active employment, if all of the following conditions are met.

Your temporary employment must not exceed a total of 960 hours for all employers in any fiscal year (July 1 through June 30).

- You have specialized skills needed to perform work of limited duration or your employment is needed during an emergency to prevent stoppage of public business.
- Your temporary employment will not exceed 960 hours in a fiscal year (July 1st through June 30th).
- The compensation cannot exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal an hourly rate.
- Retired annuitants cannot receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

Note: Retired annuitant employment with a State agency is limited to retirees who have civil service eligibility from previous State agency employment or who qualify for appointment under an applicable civil service employment list. Contact the Department of Human Resources (CalHR) at www.CalHR.ca.gov for additional information.

California State University (CSU) academic staff retirees can work as retired annuitant academic staff for CSU without reinstatement as long as the employment is temporary and does not exceed a total for all employers of 960 hours in a fiscal year or 50 percent of the hours employed during the last fiscal year prior to retirement, whichever is less.

Independent Contractor, Consultant and Contract Employment

If you are employed under a direct contract with a CalPERS employer as an independent contractor, consultant or contract employee, your employment is subject to retired annuitant restrictions.

Third-Party Employer

If you are employed through a third-party employer, including your own business entity, and the terms of the employment constitute a common-law employer-employee relationship, your employment is subject to retired annuitant restrictions.

At CalPERS, we have found that, upon review, many alleged third-party employment agreements and contracts in fact constitute a common-law employer-employee relationship, and are thus subject to retired annuitant restrictions. We strongly advise that you contact us to review any proposed agreement or contract before you sign it and before you begin employment.

Unemployment Insurance Payments for Work as a Retired Annuitant

California law prohibits reappointment of a retired annuitant by a CalPERS employer if, during the 12-month period prior to reappointment, the retiree received unemployment insurance compensation for prior retired annuitant employment with any public employer.

If you are working as a retired annuitant and it is discovered that during the previous 12 months you were paid unemployment insurance based on prior retired annuitant employment with any public employer, your employment must be terminated on the last day of the current pay period. You will not be eligible for reappointment as a retired annuitant by that employer for 12 months following the termination date of the current employment. Violation of this unemployment insurance restriction does not result in mandatory reinstatement from retirement.

Note: If you did collect unemployment insurance benefits, the 12-month preclusion period begins the day after the issue date of your last unemployment insurance payment.

Special Appointments – The 180-Day Wait Period Does Not Apply

- **Part-Time Member of State Board or Commission – CalPERS retirees and Non-CalPERS retirees:** You can serve as a salaried member of a State board or commission if you are appointed on a part- time basis to that position by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a State department, or the governing board of the contracting agency. Your salary can be no more than $60,000 annually, which will be increased in any fiscal year in which a general salary increase is provided for State employees.
- **Full-Time Member of State Board or Commission – CalPERS retirees:** You can serve as a non-salaried member of a State board or commission if you are appointed on a full-time basis to that position by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a State department, or the governing board of the contracting agency. If you accept the salary, you must reinstate from retirement.
- **Full-Time Member of State Board or Commission – Non-CalPERS retirees:** If you receive retirement from a public retirement system other than CalPERS, you can serve as a non-salaried member of a State board or commission if you are appointed on a full-time basis to that position by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a State department, or the governing board of the contracting agency. If you accept the salary, you must suspend your retirement benefit from the other system and become a member of CalPERS.

Special Appointments – The 180-Day Wait Period Does Apply

- **Member of a Local Agency or School Employer Board or Commission:** You can serve as a member of a local agency or school employer board or commission if you are appointed to that position by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, the director of a State department or the governing body of the contracting agency.
- **Member of Advisory Committee:** You can serve as a member of any advisory committee if you are appointed to that position by the Governor, the Speaker of the Assembly, the President pro Tempore of the Senate, director of a State department, or the governing board of the contracting agency.
- **Appointive Member of a Public Agency Governing Body:** You can serve as an appointive member of the governing body of a public agency. However, your compensation for that office cannot exceed $100.00 per month.
- **Appointment by Legislative Committee or the Legislature:** you can serve in a position deemed temporary in nature upon appointment by the legislature, either legislative house, or a legislative committee.
- **Election Officer or Juror:** You can serve as an election officer or juror and receive fees for such service.
- **Elective Position:** You can serve in an elective office without effect on your retirement allowance **unless** all or a portion of your retirement allowance is based on previous service in the same elected office. If so, the portion of your retirement allowance based on that elected office service is suspended for as long as you serve in office while retired. If you are an active employee serving in an elective office and wish to retire before the expiration of your current term, you must resign from the position in order to retire. If you are re-elected or re-appointed to the same position after retirement, the portion of your retirement allowance based on service in that elected office will be suspended for as long as you serve in office while retired. You are required to notify CalPERS if you are elected, appointed, re-elected, or re-appointed to elective office to determine if a portion of your allowance should be suspended.
- **Preparation for Litigation or Testimony for Former Employer:** You can be employed by your former employer if your services are required to prepare for anticipated or actual litigation or to testify in trial proceedings or hearings. You can be paid per diem and actual and necessary travel expenses. However, you cannot be paid a per diem rate higher than the rate paid by the employer to others for similar services. In addition, your employer must reduce the per diem amount paid to you by the daily equivalent of your monthly retirement annuity. Your employer must contact CalPERS to obtain the amount of your monthly annuity to calculate the per diem payable to you. If you are a State retiree, your employment must be approved by the Department of Human Resources (CalHR). If you are a public agency or school retiree, your employment must be approved by a governing body of the CalPERS employer.
- **School Crossing Guard:** You can be employed as a school crossing guard and receive wages for such service.

ALL SERVICE RETIREES

Below is information related to working after service retirement. Please read all of this section, along with the What All Retirees Should Know section at the beginning of this publication. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

Employment With a Non-CalPERS Employer

You do not need CalPERS approval to work for a non-CalPERS employer. Service retirees can be self-employed or work for a private industry employer without restrictions and continue to receive their monthly retirement allowance.

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

CalPERS service retirees may seek limited-term employment as a retired annuitant without CalPERS approval but cannot be employed in permanent part-time, regular staff positions regardless of the number of hours worked. The following restrictions to post-retirement employment apply:

Bona fide separation requirement: Temporary employment as a retired annuitant with a CalPERS employer is not allowed if you are younger than the normal service retirement age, unless both of the following conditions are met:

- There is no verbal or written agreement to return to work as a retired annuitant between you and any CalPERS employer before you retired.
- There is a termination of employment (separation in service) for 60 days between your retirement date and the date your temporary employment as a retired annuitant will begin.

Normal service retirement age for CalPERS purposes is the benefit formula age shown in your retirement formula, e.g., age 55 for the 2% @ 55 formula, age 60 for the 3% @ 60 formula, and 65 for the 1.25% @ 65 formula. If your retirement allowance is based on more than one formula, regardless of when that formula was earned, the highest benefit age determines your eligibility. For service retirees under normal retirement age, the only exception to this restriction is for specific emergency conditions as defined in Government Code section 8558.

This bona fide separation (break) in service requirement is in California retirement law in order to comply with Internal Revenue Code (IRC) tax regulations which prohibit the in-service distribution of pension benefits.

After you have satisfied the bona fide break in service requirement, you may accept a temporary appointment to work as a retired annuitant. **Note:** You must also satisfy the 180-day wait period as described on page 3.

Note: Temporary employment must not exceed the work limit of 960 hours per fiscal year. Both you and your employer are responsible for monitoring compliance with this work limit. If you exceed the work limit, both you and your employer will be held accountable for unlawful employment, the consequence of which can include mandatory reinstatement from retirement into active employment (membership) in the current position.

Temporary vs. Permanent Employment

If you intend to remain retired, you may accept only a temporary appointment as a retired annuitant with any CalPERS employer, unless the employment is specifically allowed by law. You should apply only for retired annuitant designated positions. If you are a safety member on service retirement, you must reinstate from retirement in order to accept a permanent position or regular staff position in a miscellaneous category.

Because many permanent part-time positions require less than 960 hours per fiscal year, there is often confusion about retiree employment in such positions. If you intend to work as a permanent employee or in a regular staff position with any CalPERS employer, even if the position requires less than 960 hours per fiscal year, the retirement law requires that you reinstate from retirement into active employment. To ensure compliance, confirm with your prospective employer that the position you are accepting is a retired annuitant position, not a permanent or regular staff position, regardless of the number of work hours required in the position.

For more information about reinstatement from retirement into active employment, please review the publication ***A Guide to CalPERS Reinstatement from Retirement,*** which contains the application for reinstatement. This publication is available on the CalPERS website at **www.calpers.ca.gov** or you may request it by calling our toll free telephone number at **888 CalPERS** (or **888**-225-7377).

ALL DISABILITY AND INDUSTRIAL DISABILITY RETIREES

Below is information related to working after disability or industrial disability retirement. Please read all of this section, along with the What all Retirees Should Know section at the beginning of this publication. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

Employment With a Non-CalPERS Employer

CalPERS approval is not required to work for a non-CalPERS employer, but there are some restrictions and considerations. Generally, you may be self-employed or work for private industry and continue to collect your CalPERS retirement. There is no limit to the number of hours you can work.

You do not need CalPERS approval to work for a non-CalPERS employer. However, the position must be significantly different from the one you held when you retired on a disability or industrial disability retirement.

Disability retirees can work with certain restrictions:

- Your employment must be in a position significantly different from the one from which you retired. The position should not include duties or activities you were previously restricted from performing at the time of your retirement.
- If you are a disability retiree under the service retirement age, your retirement benefit will be subject to an **earnings limit**. You are required to report your employment earnings to CalPERS either on a monthly or quarterly basis. The total employer-paid portion of your monthly retirement benefit and your new earnings cannot be greater than the current compensation of the position from which you retired. If it is greater, your retirement benefit will be reduced. Contact CalPERS to request a ***Disability Retiree's Report of Earnings*** form.
- If you are an industrial disability retiree, your retirement benefit is not subject to an **earnings limit**, even if you are under the service retirement age.

If you are under the service retirement age and are determined to be performing duties similar to those from which you were previously found disabled, CalPERS can re-evaluate your medical condition to determine whether you should be reinstated from retirement back into your former position.

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

Your temporary employment must not exceed a total of 960 hours for all employers in any fiscal year (July 1 through June 30).

CalPERS disability and industrial disability retirees may seek temporary, limited-term employment as retired annuitants without CalPERS approval. However, certain restrictions apply:

You are limited to working no more than 960 hours for all employers per fiscal year when working in a temporary capacity.

Note: Temporary employment must not exceed the work limit of 960 hours per fiscal year. Both you and your employer are responsible for monitoring compliance with this work limit. If you exceed the work limit, both you and your employer will be held accountable for unlawful employment. The consequences can include your mandatory reinstatement from retirement into active employment (membership) in the current position.

Temporary vs. Permanent Employment

If you are a disability or industrial disability retiree, you may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement benefits; however you must have CalPERS written approval before beginning any permanent employment with a CalPERS employer.

If you intend to remain retired, you may accept only a temporary appointment as a retired annuitant with any CalPERS employer, unless the employment is specifically allowed by law. You should apply only for those positions that are designated as retired annuitant positions.

Because many permanent part-time positions require less than 960 hours per fiscal year, there is often confusion about whether retirees can work in such positions. If you intend to work as a permanent employee or in a regular staff position with any CalPERS employer, even if the position requires less than 960 hours per fiscal year, the retirement law requires you to reinstate from retirement into active employment. To ensure compliance, confirm with your prospective employer that you are accepting a retired annuitant appointment and that the position is not a permanent or regular staff position, regardless of the number of hours required to work in the position.

For more information about reinstatement from retirement into active employment, please review the publication ***A Guide to CalPERS Reinstatement from Retirement,*** which contains the application for reinstatement. This publication is available at CalPERS On-Line at **www.calpers.ca.gov** or you may request it by calling our toll free telephone number at **888 CalPERS** (or **888**-225-7377).

Disability or industrial disability retirees have another option other than reinstatement under the provision of Government Code Section 21228 for those who wish to work in either a permanent part-time or full-time position while continuing to receive their disability or industrial disability retirement benefits.

Eligibility to Work for a CalPERS Employer in a Permanent Capacity

Under Government Code Section 21228, disability or industrial disability retirees may seek permanent employment while receiving retirement benefits with CalPERS approval. However, certain restrictions apply:

You may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement benefits. You must submit the ***Request to Work While Receiving Disability/Industrial Disability Retirement Benefits*** form and the ***Physical Requirements of Position/ Occupational Title*** form located in the back of this publication and all required documents. You must have CalPERS written approval before beginning employment. Your job duties must differ significantly from those required under the position from which you retired. That is, the position should not include duties or activities you were previously restricted from performing at the time of your retirement. *If you are approved to work, you will be required to report your earnings to CalPERS and your retirement allowance will be subject to an earnings limit.*

In order to request approval to work for a CalPERS employer in a permanent position while receiving disability or industrial disability benefits, you must submit the following required documents to CalPERS:

- ***Request to Work While Receiving Disability/Industrial Disability Retirement Benefits*** form
  - Section 1, you complete and sign.
  - Section 2, your prospective employer completes and signs.

- ***Physical Requirements of Position/Occupation Title*** form
  You and your prospective employer must complete all sections and sign jointly.

- **Position duty statement**
  - Submit to CalPERS a position duty statement provided by your prospective employer that describes the permanent position in which you wish to work.

- **Current medical report(s)**
  - You must schedule an appointment with a specialist for the disabling condition(s) that precluded you from working, and provide the specialist with a copy of the position duty statement and the completed ***Physical Requirements of Position/Occupational Title*** form.
  - Provide to CalPERS a current medical report from that specialist. If you had more than one disabling condition at the time of retirement, you must provide a medical report on appropriate letterhead from each medical specialist. The specialist(s) must include the following pertinent information in their medical report:

Required Documents

- A completed ***Request to Work While Receiving Disability/Industrial Disability Retirement Benefits*** form.
- A completed ***Physical Requirements of Position/Occupational Title*** form.
- A position duty statement for the prospective job.
- A current medical report from a medical specialist.

If you are a local safety disability or local safety industrial disability retiree, you must also submit the duty statement describing the position you held when you were found disabled and the medical documentation showing the job restrictions placed upon you due to your disability.

All required documents must be submitted with your request form in order for CalPERS to begin the determination process which can take approximately three months to complete.

    - Patient (name) and the date of the most recent examination.
    - Confirmation that the specialist reviewed and discussed with the patient the position duty statement (by title) and the ***Physical Requirements of Position/Occupational Title*** form.
    - Whether or not the patient has any limitations or restrictions to performing all tasks involved.
    - Specific details explaining the restrictions, if any.
    - Specialist's signature, printed name, medical specialty, and contact information.

- **Additional medical report(s) – Local safety retirees**
  - If you are a local safety disability or local safety industrial disability retiree, you must also submit the medical documentation used at the time of your retirement identifying the restrictions placed upon you, plus a position duty statement describing the position you held when you became disabled.

- A ***Physician's Report on Disability*** form is not required.

In order for CalPERS to begin the determination process, which can take approximately three months to complete, you must submit all required documents with your request form. There are times when CalPERS may require additional information and/or an independent medical examination to supplement your medical specialist's report. If so, CalPERS will select the medical specialist, schedule the appointment, and pay for the examination.

Note: All permanent employment under Government Code Section 21228 requires approval prior to employment; there are no exceptions. If you violate this law, you and your employer will be responsible for the unlawful employment. This could result in your mandatory reinstatement from retirement into the current position, whether or not the permanent position is part-time or full-time.

Once Approved Under Government Code Section 21228

Retirees approved to work under Government Code Section 21228 do not accrue service credit or otherwise acquire retirement rights for employment as a retiree.

You will be informed of the amount of your earnings limit and how to report your earnings. The total employer-paid portion of your monthly retirement benefit and your new earnings cannot be greater than the current compensation of the position from which you retired. If it is greater, your retirement benefit will be reduced. The earnings limitation continues as long as you are employed in the approved position; it does not end when you reach your service retirement age.

Note: If you wish to change to a different employer or a different position (lateral transfer or with promotion) or if you wish to restart employment in a previously approved position, you must reapply to CalPERS and await our approval before beginning employment. If you do not receive prior approval, you will be considered unlawfully employed. There are no exceptions to this requirement.

Once approved, you will be informed of the amount of your earnings limit and how to report your earnings.

If you wish to change to a different employer or a different position or restart employment in a previously approved position, you must reapply to CalPERS and await our approval before beginning employment.

Request To Work While Receiving Disability / Industrial Disability Retirement Benefits

888 CalPERS (or **888**-225-7377) • TTY (877) 249-7442

You must complete this form in order to request approval to work for a CalPERS employer in any permanent position while continuing your disability / industrial disability retirement benefits.

Section 1

Member Certification

Please clearly print the requested information.

A ***Physician's Report on Disability*** form is not required.

Be sure to have your employer fill out **Section 2** on the reverse side of this form.

Local safety disability or industrial disability retirees must also submit the position duty statement and qualifying medical documentation used at the time of their retirement.

Name of Member (First Name, Middle Initial, Last Name) | Social Security Number or CalPERS ID

Address

City | State | ZIP Code | Country

( ) Daytime Phone | ( ) Fax Number | E-Mail Address

I understand this is a formal request for permanent employment under Government Code Section 21228 and that my employment offer is contingent upon written approval from CalPERS. I must advise CalPERS of any changes to my salary or employment (for e.g. lateral transfer or promotion) and receive approval before beginning any new permanent position. A consequence of unlawful employment may result in mandatory reinstatement from retirement into the position I am currently working, retroactive to my hire date.

I also understand that the position I am applying for must be significantly different than the one from which I retired. I am subject to an earnings limitation so that the total of the pension portion of my retirement allowance and employment earnings will not exceed the current (gross) salary of the position from which I retired.

I have attached a position duty statement of the job and a completed ***Physical Requirements of Position/ Occupational Title*** form. I have also attached a current medical report completed and signed by a physician specializing in the condition for which I retired on disability/industrial disability retirement. The physician is a medical specialist who certifies that he/she has examined me, reviewed the attached position duty statement and ***Physical Requirements of Position/Occupational Title*** form and indicates whether or not I am able to perform all of the tasks without any restrictions or limitations.

Member Signature | Date (mm/dd/yyyy)

This form continues on the back.

Put your name and Social Security number or CalPERS ID at the top of every page

Your Name | **Social Security Number or CalPERS ID**

Section 2

Employer Certification

Permanent employment or changes in employment status (e.g., lateral transfer or promotion) that begins prior to written approval from CalPERS may result in mandatory reinstatement.

It is the intent of: _____ (Employer) to hire: _____ (CalPERS Member)

in the position of: _____ (Job Title) pursuant of Government Code Section 21228;

and contingent upon written approval from CalPERS.

Employer Address (City, State, ZIP Code)

Daytime Phone | Fax Number | E-Mail Address

We understand that reinstatement of the retiree, due to unlawful employment, to any position within our agency, may result in penalties and payment of contributions to CalPERS, retroactive to retiree's date of hire.

The salary range for this position is: _____ hourly/monthly.

Employer Signature | Date (mm/dd/yyyy)

Print Name of Authorized Personnel | Classification Title

Mail to: **CalPERS Benefit Services Division** • P.O. Box 2796, Sacramento, California 95812-2796

Physical Requirements of Position/Occupational Title

888 CalPERS (or **888**-225-7377) • TTY: (877) 249-7442 • Fax: (916) 795-1280

Section 1 — Member Information

This form must be completed by the member **and** their employer to supplement the physical requirements listed on the member's job duty statement/job description.

Name of Member (First Name, Middle Initial, Last Name)

Social Security Number or CalPERS ID

Position/Occupational Title

Name of Employer

Worksite Street Address

City

State

ZIP

Section 2 — Physical Requirements Information

Indicate with a check mark (✔) the frequency required for each activity listed at the right.

Activity	Never	Occasionally Up to 3 hours	Frequently 3–6 hours	Constantly Over 6 hours	Distance/ Height
Sitting					
Standing					
Running					
Walking					
Crawling					
Kneeling					
Climbing					
Squatting					
Bending (neck)					
Bending (waist)					
Twisting (neck)					
Twisting (waist)					
Reaching (above shoulder)					
Reaching (below shoulder)					
Pushing & Pulling					
Fine Manipulation					
Power Grasping					
Simple Grasping					
Repetitive use of hand(s)					
Keyboard Use					
Mouse Use					
Lifting/Carrying					
0 – 10 lbs.					
11 – 25 lbs.					
26 – 50 lbs.					
51 – 75 lbs.					
76 – 100 lbs.					
100 + lbs.					

Continued on page 2.

Put your name and Social Security number or CalPERS ID at the top of every page.

Your Name | Social Security Number or CalPERS ID

Section 2 (continued)

Physical Requirements, continued

Indicate with a check mark (✓) the frequency required for each activity listed at the right.

If there is not enough space to enter all your additional requirements or comments, attach a separate sheet. Be sure to use a label, or clearly write your name and Social Security number on each attachment.

Activity	Never	Occasionally Up to 3 hours	Frequently 3–6 hours	Constantly Over 6 hours	Distance/ Height
Walking on uneven ground					
Driving					
Working with heavy equipment					
Exposure to excessive noise					
Exposure to extreme temperature, humidity, wetness					
Exposure to dust, gas, fumes, or chemicals					
Working at heights					
Operation of foot controls or repetitive movement					
Use of special visual or auditory protective equipment					
Working with bio-hazards (e.g., blood-borne pathogens, sewage, hospital waste, etc.)					

Section 3

Signature of Employer and Member

This form must be completed and signed by you and your employer and sent to a medical specialist along with other documentation.

The medical specialist must be the treating physician specializing in your disabling condition.

If you are a Disability Retirement Election applicant, your employer must provide you a copy of this completed form. Your employer must send the signed original to CalPERS.

Also, you must attach your current job duty statement/job description and a copy of the ***Physical Requirements of Position/Occupational Title*** form to the ***Physician's Report on Disability*** form prior to sending them to a medical specialist. Complete document submittal requirements are described in ***A Guide to Completing Your CalPERS Disability Retirement Election Application***.

If you are a Request to Work While Receiving Disability/Industrial Disability Benefits applicant or a Reinstatement from Disability/Industrial Disability Retirement applicant, you must attach the job duty statement/job description of the prospective job to a copy of the completed ***Physical Requirements of Position/ Occupational Title*** form prior to sending them to a medical specialist. You must submit the resulting medical report and other required documents to CalPERS. The ***Physician's Report on Disability*** form is not required.

Signature of Employer Representative | Date (mm/dd/yyyy)

Title | ( ) Phone Number

CalPERS Business Partner ID

Signature of Member | ( ) Phone Number | Date (mm/dd/yyyy)

Mail to: **CalPERS Benefit Services Division** • P.O. Box 2796, Sacramento, California 95812-2796

BECOME A MORE INFORMED MEMBER

CalPERS On-Line

Visit our website at **www.calpers.ca.gov** for more information on all your benefits and programs.

Reaching Us By Phone

Call us toll free at **888 CalPERS** (or **888**-225-7377).
Monday through Friday, 8:00 a.m. to 5:00 p.m.
TTY: (877) 249-7442

my|CalPERS

Stay informed and be in control of the information you want and need — with my|CalPERS!

my|CalPERS is the personalized and secure website that provides all your retirement, health, and financial information in one place. Take advantage of the convenience of 24/7 access to learn more about CalPERS programs and services that are right for you in your career stage. With my|CalPERS, you can:

- Get quick and easy access to all your account information.
- Manage and update your contact information and online account profile.
- Access information about your health plan and family members enrolled in your plan.
- See all the information you need to make health plan decisions.
- View, print, and save online statements.
- Go "green" by opting out of receiving future statements by mail.
- Use financial planning tools to calculate your retirement benefit estimate or estimate your service credit cost.
- Keep informed with CalPERS news so you don't miss a thing.

CalPERS Education Center

my|CalPERS is your gateway to the CalPERS Education Center. Whether you're in the early stages of your career, starting to plan your retirement, or getting ready to retire, visit the CalPERS Education Center to:

- Take online classes that help you make important decisions about your CalPERS benefits and your future.
- Register for instructor-led classes at a location near you.
- Download class materials and access information about your current and past classes.
- Browse our retirement fair schedule.
- Make a personal appointment with a retirement counselor.

Log in today at **my.calpers.ca.gov**.

Visit Your Nearest CalPERS Regional Office

Fresno Regional Office
10 River Park Place East, Suite 230
Fresno, CA 93720

Glendale Regional Office
Glendale Plaza
655 North Central Avenue, Suite 1400
Glendale, CA 91203

Orange Regional Office
500 North State College Boulevard, Suite 750
Orange, CA 92868

Sacramento Regional Office
Lincoln Plaza East
400 Q Street, Room E1820
Sacramento, CA 95811

San Bernardino Regional Office
650 East Hospitality Lane, Suite 330
San Bernardino, CA 92408

San Diego Regional Office
7676 Hazard Center Drive, Suite 350
San Diego, CA 92108

San Jose Regional Office
181 Metro Drive, Suite 520
San Jose, CA 95110

Walnut Creek Regional Office
1340 Treat Blvd., Suite 200
Walnut Creek, CA 94597

Visit the CalPERS website for directions to your local office.
Regional Office hours are Monday to Friday, 8:00 a.m. to 5:00 p.m.

INFORMATION PRACTICES STATEMENT

The Information Practices Act of 1977 and the Federal Privacy Act require the California Public Employees' Retirement System to provide the following information to individuals who are asked to supply information. The information requested is collected pursuant to the Government Code (Sections 20000, et seq.) and will be used for administration of the CalPERS Board's duties under the California Public Employees' Retirement Law, the Social Security Act, and the Public Employees' Medical and Hospital Care Act, as the case may be. Submission of the requested information is mandatory. Failure to supply the information may result in the System being unable to perform its function regarding your status and eligibility for benefits. Portions of this information may be transferred to State and public agency employers, State Attorney General, Office of the State Controller, Teale Data Center, Franchise Tax Board, Internal Revenue Service, Workers' Compensation Appeals Board, State Compensation Insurance Fund, County District Attorneys, Social Security Administration, beneficiaries of deceased members, physicians, insurance carriers, and various vendors who prepare the microfiche or microfilm for CalPERS. Disclosure to the aforementioned entities is done in strict accordance with current statutes regarding confidentiality.

You have the right to review your membership file maintained by the System. For questions concerning your rights under the Information Practices Act of 1977, please contact the Information Practices Act Coordinator, CalPERS, 400 Q Street, P.O. Box 942702, Sacramento, CA 94229-2702.

While reading this material, remember that we are governed by the Public Employees' Retirement Law and the Alternate Retirement Program provisions in the Government Code, together referred to as the Retirement Law. The statements in this publication are general. The Retirement Law is complex and subject to change. If there is a conflict between the law and this publication, any decisions will be based on the law and not this publication. If you have a question that is not answered by this general description, you may make a written request for advice regarding your specific situation directly to CalPERS.

California Public Employees' Retirement System
400 Q Street
P.O. Box 942701
Sacramento, CA 94229-2701

888 CalPERS (or **888**-225-7377)
www.calpers.ca.gov

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7522.56.

(a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.
(b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.
(c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.
(d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.
(e) (1) Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.
(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:
(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.
(2) The state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days have passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.
(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.
(4) The retiree is a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.
(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.
(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.
(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree who takes office as a judge of a court of record pursuant to Article VI of the California Constitution or a retiree of the Judges' Retirement System or the Judges' Retirement System II who is appointed to serve as a retired judge.
(Amended by Stats. 2013, Ch. 528, Sec. 11. Effective October 4, 2013.)