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> **Post-Retirement Employment of CalPERS Retired Annuitants – Leave of Absence or Interim Vacant Position**

Post-Retirement Employment of CalPERS Retired Annuitants – Leave of Absence or Interim Vacant Position

June 4, 2025

Circular Letter: 200-021-25

Topic: Other

To: All CalPERS Employers

Purpose

The purpose of this Circular Letter is to ensure compliant employment of retired annuitants (RA) to temporarily fill positions for permanent employees on a leave of absence or to fill vacant positions on an interim basis during recruitment for a permanent appointment, as required by the Public Employees' Retirement Law (PERL) and the Public Employees' Pension Reform Act of 2013 (PEPRA).

Use of Retired Annuitants by Public Agencies for Leave of Absence or Interim Vacant Positions



A public agency that has elected to have all or any part of its employees become members of this system and that has contracted with the California Public Employees' Retirement System (CalPERS) for that purpose is a "contracting agency" under Government (Gov.) Code section 20022. For clarification purposes, the State of California and most schools are not "contracting agencies" for purposes of the PERL.

Under Gov. Code section 21221, subdivision (g) (hereinafter "Gov. Code section 21221(g)"), a **contracting agency** is permitted to use an RA to temporarily fill a position for an employee on a **leave of absence**. In addition, under Gov. Code section 21221, subdivision (h) (hereinafter "Gov. Code section 21221(h)"), a contracting agency is permitted to use an RA to **fill a vacant position on an interim basis while recruiting for a permanent appointment**. Contracting agencies must comply with the requirements described below when appointing RAs to these positions.

Leave of Absence Appointments

Governing bodies of contracting agencies are authorized by Gov. Code section 21221(g) to appoint an RA during a permanent employee's leave of absence under the following conditions:

- The appointment must be approved with a resolution in an open meeting, not on a consent calendar, indicating:
 - The position is available because of a leave of absence granted to a person on payroll status for a period not to exceed one year; and
 - The position requires specialized skills, and the retired person filling the position has the specialized skills required for the position.
- The resolution must be filed with CalPERS prior to the appointment.
- The employment must be terminated at the end of the leave of absence and is not to exceed one year.



- These appointments are typically used for single/unique positions, e.g., interim city manager, police chief, director, other managerial/executive positions.

Interim Vacant Appointments

Governing bodies of contracting agencies are authorized by Gov. Code section 21221(h) to appoint an RA to fill a vacant position on an interim basis during the recruitment to permanently fill the position under the following conditions:

- The position requires specialized skills, and the retired person filling the position has the specialized skills required for the position or is appointed during an emergency to prevent stoppage of public business, e.g., floods, earthquakes, etc.
- The RA can only be appointed to the position once. An RA appointed more than once is subject to reinstatement.
- There must be an open recruitment to permanently fill the vacant position. An RA placed in an interim appointment **without** an open recruitment could be subject to reinstatement. An RA hired for a permanent appointment is subject to reinstatement.
- The RA cannot receive any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate.
- CalPERS recommends that the appointment be approved with a resolution in an open meeting, not on a consent calendar. The resolution should be filed with CalPERS prior to the appointment.
- These appointments are typically used for single/unique positions, e.g., interim city manager, police chief, director, other managerial/executive positions.

In addition, appointments of RAs under Gov. Code sections 21221(g) and 21221(h) must adhere to other post-retirement restrictions set forth in Gov. Code section 7522.56. Review the publications referenced for more details about these requirements.



Use of Retired Annuitants by State & School Employers

State agencies and schools, as well as contracting agencies, **are allowed** to hire RAs in positions of limited duration to perform work that qualifies as extra help under Gov. Code sections 7522.56, 21224, and 21229.

Appointments of RAs under Gov. Code sections 21221(g) and 21221(h) for leave of absences and interim vacant positions are only available to **contracting agencies**. Schools that are not contracting agencies and state employers may not appoint RAs under Gov. Code sections 21221(g) and 21221(h). Most schools are not contracting agencies for purposes of the PERL.

Steps to Hire a Retired Annuitant

RAs should not be considered a permanent solution to business needs, nor can they be allowed to work indefinitely. An employer hiring an RA should ensure the appointment begins after retirement, in accordance with applicable waiting periods described in the publications referenced. Prior to retirement, the employee must separate from all CalPERS-covered employment, including from positions determined to be non-contributory. Employers can review non-contributory appointments by generating the "Overtime Appointment Identifier Report" Cognos report.

If an employee fails to separate from employment, the employee will need to change their retirement date, which may result in an overpayment of benefits. An RA appointment cannot be a continuation of pre-retirement employment, either in the form of an RA-specific appointment or otherwise.

For More Information

Refer to the [Employment After Retirement \(PUB 33\) \(PDF\)](#) and the [Public Agency & Schools Reference Guide \(PDF, 3 MB\)](#) or the [State Reference Guide \(PDF, 2.2 MB\)](#) for further guidance regarding employing and reporting post-retirement employment of an RA.



Questions

If you have questions, call our CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**) or email questions to our Post-Retirement Employment and Audits team at working_after_retirement@calpers.ca.gov.

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