Regulatory Action by CalPERS
Adoption of Title 2, Sections 586 through 586.2

Title 2. Administration
Division 1. Administrative Personnel
Chapter 2. Board of Administration of Public Employees' Retirement System
Subchapter 1. Employees' Retirement System Regulations
Article 7.5 Normal Retirement Age and Bona Fide Separation in Service

§586. Purpose

The purpose of this Article is to ensure the federal tax-qualified status of the Public Employees' Retirement System by prohibiting in-service distributions to the extent required by the Internal Revenue Code, and the regulations promulgated thereunder. In the event the applicable federal law changes, the federal law shall supercede these regulations.

NOTE: Authority: Government Code sections 20121 and 21220.5.
Reference: Government Code section 21220.5.

§586.1 Normal Retirement Age

(a) The normal retirement age of a member shall be the later of:
(1) the age when the member is first eligible to retire pursuant to Article 1 through Article 5 of Chapter 12, Part 3, Division 5 of Title 2 of the Government Code; or

(2) the highest specified age applicable to the member in the benefit formula, where the highest specified age is defined as:
- (A) 65 if the member is entitled to benefits under Government Code sections 21076 or 21100;
- (B) 60 if the member is entitled to benefits under Government Code sections 21353 or 21354.3;
- (C) 55 if the member is entitled to benefits under Government Code sections 21354, 21354.1, 21354.5, 21363, 21363.1, 21366, 21369, or 21369.1; and
- (D) 50 if the member is entitled to benefits under Government Code sections 21362, 21362.2, 21363.3, 21363.4 or 21363.8.

(b) In the event an existing benefit formula is modified or a new benefit formula is enacted, the chief actuary may determine the normal retirement age until such time that the regulations may be amended.

NOTE: Authority: Government Code sections 20121 and 21220.5.
Reference: Government Code section 21220.5.

§ 586.2 Bona Fide Separation in Service

(a) For purposes of working for a CalPERS-covered employer after retirement pursuant to Article 8, of Chapter 12, Part 3, Division 5 of Title 2 of the Government Code, a member who has not attained normal retirement age shall have a bona fide separation in service. A bona fide separation in service is defined as:

(1) no predetermined agreement between the employer and the member prior to retirement to return to work for the employer after retirement;

and

(2) a separation in service of at least 60 calendar days between the date of the member's retirement and the first day of work for the employer as a retired person. The 60 days shall commence on the day after retirement.

(b) Any retired person employed in violation of this regulation shall be subject to the consequences provided in Government Code section 21220.

(c) In the event an emergency has been declared as provided in Government Code Section 8558 that requires the employment of a retired person, the 60 calendar day separation in service requirement set forth in subdivision (a)(2) of this regulation shall not apply.

NOTE: Authority: Government Code sections 20121 and 21220.5.
Reference: Government Code section 21220.5.