

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
LINCOLN PLAZA NORTH  
400 Q STREET  
SACRAMENTO, CA 95811  
NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATION**

Pursuant to the requirements of subdivision (c) of Section 11346.8 of the Government Code and Section 44 of Article 2 of Chapter 1 of Division 1 of Title 1 of the California Code of Regulations, the California Public Employees' Retirement System (CalPERS) hereby provides notice of changes it has made to its proposed regulation, titled "Definition of Limited Duration Employment," adopting Section 574.1 of Article 4 of Subchapter 1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations.

A Notice of Proposed Regulatory Action was published in the California Regulatory Notice Register (File Number Z-2022-0607-10) on June 17, 2022. The 45-day comment period commenced on June 17, 2022 and closed on August 1, 2022. CalPERS received public comments from 37 submitters during this period, and two additional submitters after the comment period closed. After reviewing and considering all of the comments received and following further analysis, CalPERS has opted to revise the proposed regulations.

The revised proposed regulation includes non-substantive wording changes, renumbering, and restructuring. CalPERS is providing the Addendum to the Initial Statement of Reasons to explain the purpose and necessity for the changes. The Addendum to the Initial Statement of Reasons also cross references the previous numbering with the renumbering to ease comparison review and delineates all amendments to the proposed regulation, including those that are due to non-substantive wording changes, renumbering, and restructuring. The numbering provided below refers to the renumbered paragraphs. The following changes to the proposed regulation are focused on the substantive changes:

Working after retirement appointments (Section 574.1(a))

- Amended section 574.1(a) to clarify that the limit is 24 consecutive months per appointment, even if a retired person does not work in each month of the 24 consecutive month period, and regardless of how many hours the retired person works in those months. The amended language also changed "CalPERS-covered employer" to "CalPERS-covered public employer" starting with this subdivision and throughout the proposed regulation to clarify that "CalPERS-covered employer" was intended to cover all "CalPERS-covered public employers" as specified in existing statutes. (Hereinafter, "employer" refers to applicable CalPERS-covered public employers.)
- Amended section 574.1(a)(1) to clarify the definition of start date of the 24 consecutive month limit in the definition of limited duration.

- Amended section 574.1(a)(2) to clarify that the appointment end dates that employers must report to CalPERS include end dates for post-retirement appointment extensions and any additional extensions authorized under an approved exemption.
- Amended section 574.1(a)(3) to remove the requirements regarding the date by which an employer must extend a post-retirement appointment.
- Amended section 574.1(a)(3)(A) and added sections 574.1(a)(3)(A)(i) through (vii) to include additional criteria that the employer's governing body must certify when approving a post-retirement appointment extension, as well as removing the prohibition on the appointment extension being placed on a consent calendar.
- Added section 574.1(a)(3)(B)(iii) to specify the Senate Committee on Rules or the Assembly Rules Committee as the governing body for legislative post-retirement appointments.
- Amended section 574.1(a)(4) to clarify when the extension periods start and that a retired person cannot continue to serve in the post-retirement appointment beyond the 24 consecutive month period or 36 consecutive month period until the employer satisfies the conditions specified in the proposed regulation.
- Amended section 574.1(a)(6) to specify the process and timeframes for CalPERS to review requests for exemptions and specify that a retired person cannot continue to serve in the post-retirement appointment until the exemption request is approved.
- Amended sections 574.1(a)(6)(A)(i) and (ii) to clarify that the exemption option if a post-retirement appointment does not exceed 120 hours per fiscal year is continuous, specify that the 12 consecutive month exemption is continuous regardless of how many months or hours in those months the retired person served during that extension period, and changed the timeframe for requesting a subsequent exemption.
- Amended section 574.1(a)(6)(B) to specify the requirements for an employer to request an exemption.
- Added sections 574.1(a)(6)(B)(i) through (viii) to include additional criteria that the employer's governing body must certify when approving a post-retirement appointment exemption.
- Added section 574.1(a)(6)(C)(iii) to specify the Senate Committee on Rules or the Assembly Rules Committee as the governing body for legislative post-retirement appointments.
- Amended section 574.1(a)(8) to clarify what constitutes a new post-retirement appointment in the definition of limited duration.

#### Working after retirement appointments (Section 574.1(b))

- Added section 574.1(b) to account for collective bargaining agreements that explicitly provide the duration of permissible employment for the retired person, not to exceed 60 consecutive months. This additional language also specifies that the appointment duration is consecutive regardless of how many months or hours in those months the retired person served in the appointment during that appointment duration. Any employer and retired person subject to this subdivision are not subject to subdivision (a) of this proposed regulation.
- Added section 574.1(b)(1) to specify the definition of start date of the post-retirement appointment subject to this subdivision.
- Added section 574.1(b)(2) to specify employers must report the specified end date not to exceed the duration defined in the applicable collective bargaining agreement or 60 consecutive months from the appointment start date, whichever is less, and provide CalPERS a copy of the applicable collective bargaining agreement specifying the duration of that post-retirement appointment.
- Added section 574.1(b)(3) to specify the start and end dates for post-retirement appointments in effect prior to the effective date of this subdivision.
- Added section 574.1(b)(4) to specify that a retired person serving in a post-retirement appointment in accordance with this subdivision cannot serve in another post-retirement appointment with the same employer subject to this regulation.
- Added section 574.1(b)(5) to specify the consequences for a violation of this subdivision.

#### Temporary upgrade pay appointments (Section 574.1(c))

- Amended section 574.1(c) to clarify the 24 consecutive month limit is continuous regardless of how many months or hours in those months the individual serves in the upgraded position/classification during that 24 consecutive month period.
- Amended section 574.1(c)(1) to clarify the definition of the start date of the 24 consecutive month limit in the definition of limited duration.
- Added section 574.1(c)(2) to clarify that an individual may serve in the same upgraded position/classification more than once within the 24 consecutive month period.
- Added section 574.1(c)(3) to clarify that an individual may serve in the same upgraded position/classification more than once and when a new 24 consecutive month period is initiated.
- Added section 574.1(c)(3)(A) to reincorporate and amend previous section 574.1(b)(1) to account for potential periods of vacancy before an individual is appointed to an upgraded position/classification or when an employer needs to rotate appointments to an upgraded position/classification between two or more individuals.
- Added section 574.1(c)(3)(B) to account for situations when an individual is temporarily appointed to an upgraded position/classification when the permanent appointee is on approved leave.

All changes are reflected in the proposed regulation, attached hereto, with double strikethrough and double underlined text to identify additions and deletions.

If you have any comments regarding the proposed regulation, CalPERS will accept written comments between December 1, 2022 and 11:59 p.m. on December 16, 2022. Comments may be submitted by e-mail to: [Regulation\\_Coordinator@calpers.ca.gov](mailto:Regulation_Coordinator@calpers.ca.gov) or mailed to the following address:

Andrew White, Regulation Coordinator  
California Public Employees' Retirement System  
P.O. Box 942720  
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All written comments received by 11:59 p.m. on December 16, 2022, which pertain to the indicated changes will be reviewed and responded to by CalPERS team members as part of the compilation of the final rulemaking file. Please limit your comments to the modifications of the text.