



Submission Instructions for CalPERS' 180-Day Wait Period Exception and Sample Resolutions – Public Agency

Bona Fide Separation in Service

If a member retires/will retire prior to their normal retirement age, the highest of all formulas (e.g., age 55 for 2% at 55 formula, age 60 for 2% at 60 formula, age 62 for 1.25% at 65 formula, etc.), you cannot provide an agreement, written or verbal, for post-retirement employment *prior* to the member's retirement date. The retiree must be separated from service for 60 days between the date of retirement and the first day worked for the employer. This bona fide separation in service requirement is mandated by federal tax law and must be met *before* you obtain a 180-day wait period exception.

If the member has more than one retirement benefit formula, then the normal retirement age may be up to the maximum normal retirement age of 62. For more details, refer to the Employment of a Retiree section of the CalPERS [Public Agency & Schools Reference Guide \(PDF, 3.0 MB\)](#).

Included are two sample resolutions for public agencies to use for approving a 180-day wait period exception. The required documents should be submitted to CalPERS *before* the retiree begins working to ensure the exception is valid and the employment is compliant.

The resolution for **Extra Help Retired Annuitants**, under **Government (Gov.) Code sections 7522.56 and 21224**, is for CalPERS retirees hired to perform work of limited duration, such as elimination of a backlog, special project work, or to perform work exceeding regular staff work. Public agencies should only appoint retirees to retired annuitant designated positions. A retiree must reinstate from retirement to be employed in any regular staff position which includes any permanent positions such as full time, part-time, seasonal, limited term, permanent intermittent, exempt from membership, or any other type of temporary or periodic regular staff position.

The resolution for **Interim Vacant Retired Annuitant** under **Gov. Code sections 7522.56 and 21221(h)**, is for CalPERS retirees hired to work in a vacant position while the employer recruits for a permanent replacement, such as an interim city manager, interim police or fire chief, interim department head, or any other unique managerial or executive position. An open recruitment to fill the vacancy with a permanent replacement is required to appoint a retiree. A retiree can only be appointed once to a vacant position. A retiree must reinstate from retirement to be employed in any regular staff position which includes any permanent positions including full time, part time, seasonal, limited term, permanent intermittent, exempt from membership, or any other type of temporary or periodic regular staff position.

Submit the following documents to CalPERS **before** the retiree begins working to ensure the

exception is valid and the employment is compliant:

- Executed and signed resolution
- Copy of the employment agreement or personnel appointment paperwork
- Copy of the publicly available pay schedule listing the comparable or vacant position
- Recruitment status for a vacant position section 21221(h) appointment including a copy of, or web link to, the activated recruitment

These documents can be submitted to CalPERS via:

1. Email: Working_After_Retirement@calpers.ca.gov using the following subject line:

180-Day Exception [Agency Name], [Retiree Name], [Retiree CalPERS ID]

2. Fax: (916) 795-9540

3. Mail:

CalPERS

Membership & Post-Retirement Employment Services

Employer Account Management Division

PO Box 942709

Sacramento, CA 94229-2709

SAMPLE RESOLUTION FOR 180-DAY WAIT PERIOD EXCEPTION

Gov. Code sections 7522.56 & 21224

[Resolution Number]

[Date of Resolution]

WHEREAS, in compliance with Government (Gov.) Code section 7522.56, the [governing body name] must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since their retirement date; and

WHEREAS, [retiree name, CalPERS ID or last four digits of the social security number] retired from [employer from which retired] in the position of [position title from which retired], effective [CalPERS retirement date]; and

WHEREAS, Gov. Code section 7522.56 requires post-retirement employment commence no earlier than 180 days after the retirement date, which is [date of 181st day after retirement] without this certification resolution; and

WHEREAS, Gov. Code section 7522.56 provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the [governing body name], the [employer name] and [retiree name] certify [retiree name] has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the [governing body name] hereby appoints [retiree name] as an extra help retired annuitant to perform the duties of the [position title] for the [employer name] under Gov. Code section [21224, or 21227¹, or 21229²] effective [date of appointment]; and

WHEREAS, the entire employment agreement, contract or appointment document between [retiree name] and the [employer name] has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year for all CalPERS employers; and

¹ For California State University (CSU) academic retirees

² For California State University (CSU) classified retirees

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is [monthly salary] and the hourly equivalent is [hourly rate], and the minimum base salary for this position is [monthly salary] and the hourly equivalent is [hourly rate]; and

WHEREAS, the hourly rate paid to [retiree name] will be [hourly rate]; and

WHEREAS, [retiree name] has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate; and

THEREFORE, BE IT RESOLVED THAT the [governing body name] hereby certifies the nature of the appointment of [retiree name] as described herein and detailed in the attached employment agreement/contract/appointment document and that this appointment is necessary to fill the critically needed position of [position title] for the [employer name] by [date employment begins] because [describe the reasons and conditions that require this position be filled by the listed date].

[Signatures and other notations as per usual for resolution by governing body name including vote count]

SAMPLE RESOLUTION FOR 180-DAY WAIT PERIOD EXCEPTION

Gov. Code sections 7522.56 & 21221(h)

[Resolution Number]

[Date of Resolution]

WHEREAS, in compliance with Government (Gov.) Code section 7522.56 of the Public Employees' Retirement Law, the [governing body name] must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since their retirement date; and

WHEREAS, [retiree name, CalPERS ID or last 4 digits of the social security number] retired from [employer from which retired] in the position of [position title from which retired], effective [CalPERS retirement date]; and

WHEREAS, Gov. Code section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is [date of 181st day after retirement] without this certification resolution; and

WHEREAS, Gov. Code section 7522.56 provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the [governing body name], the [employer name] and [retiree name] certify that [retiree name] has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, an appointment under Gov. Code section 21221(h) requires the retiree is appointed into the interim appointment during recruitment for a permanent appointment; and

WHEREAS, the governing body has authorized the search for a permanent appointment on [date]; and

WHEREAS, the [governing body name] hereby appoints [retiree name] as an interim appointment retired annuitant to the vacant position of [position title] for the [employer name] under Gov. Code section 21221(h), effective [date of appointment]; and

WHEREAS, this Gov. Code section 21221(h) appointment shall only be made once and therefore will end on [termination date of appointment]; and

WHEREAS, the entire employment agreement, contract or appointment document between [retiree name] and the [employer name] has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year for all CalPERS employers; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is [monthly salary] and the hourly equivalent is [hourly rate], and the minimum base salary for this position is [monthly salary] and the hourly equivalent is [hourly rate]; and

WHEREAS, the hourly rate paid to [retiree name] will be [hourly rate]; and

WHEREAS, [retiree name] has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate; and

THEREFORE, BE IT RESOLVED THAT the [governing body name] hereby certifies the nature of the employment of [retiree name] as described herein and detailed in the attached employment agreement/contract/appointment document and that this appointment is necessary to fill the critically needed position of [position name] for the [employer name] by [date employment begins] because [describe the reasons and conditions that require this position be filled by the listed date].

[Signatures and other notations as per usual for resolution by governing body name including vote count]