

Retired Annuitant Hiring Questionnaire

Complete the following questionnaire prior to appointing a retired annuitant (RA) to assist with ensuring compliant hiring practices with the California Public Employees' Retirement Law (PERL). This form does not need to be returned to us but should be completed and retained in the employee's file. If you have questions related to compliance after reviewing this questionnaire, contact us at Working_After_Retirement@calpers.ca.gov.

Section 1: Retired Annuitant Information

Name (First, Middle Initial, Last)		Social Security Number or CalPERS ID
Date of Birth (mm/dd/yyyy)	Daytime Phone	Alternate Phone
Address		
City	State	ZIP Code
Retirement Date	Retirement Type (SR, IDR, DR)	180-Day Start Date
Appointment Start Date (mm/dd/yyyy)		Appointment End Date (mm/dd/yyyy)
Job Title (Do not abbreviate)		

Section 2: Employer Information

Employer Name		Business Partner CalPERS ID
Employer Phone	Employer Fax	Employer Email Address
Address		
City	State	ZIP Code

Section 3: Can a Retired Annuitant be Assigned to this Position?

RAs may only be assigned to a position if they have required, specialized skills for a limited duration or during an emergency to prevent the stoppage of public business.

Section 4: Elected Official

Was the RA appointed or elected to this position? ☐ Yes ☐ No, skip to Section 5

Has this RA previously been appointed or elected to this position? ☐ Yes ☐ No

If the RA has previously been appointed or elected to the position, review [Circular Letter 800-006-98 \(PDF\)](#) on our website to verify if the [Elective Officer – Retiree Certification Form \(CalPERS-6203\) \(PDF\)](#) needs to be completed.

Section 5: Bona Fide Separation

The bona fide separation in service requirement effects RAs who retired prior to their normal retirement age and is covered under Government Code sections 586.2 and 21220.5 in the PERL. This requirement is based on a federal tax law that CalPERS must comply with to maintain a tax-deferred status. Normal retirement age is based on the RA's highest age listed in their retirement benefit formula(s) as a regular employee. For example, the normal retirement age for a 2% at 55 retirement benefit formula is 55. If the member has more than one retirement benefit formula, then the normal retirement age is the maximum normal retirement age up to age 62.

Did the RA retire under their normal retirement age? ☐ Yes ☐ No, skip to Section 6

Retirees who retire under their normal retirement age, **cannot** be appointed to an RA appointment unless the following conditions are met:

- There was no verbal or written agreement to return to work between your organization and the RA prior to the retiree's retirement date.
- The retiree has been separated from employment for 60 calendar days between their retirement date and the start date of the RA appointment.

Was there a verbal or written agreement to return to work between your organization and the RA before the RA retired?

☐ Yes, do not move forward with the appointment as it can lead to a violation ☐ No

Did the RA complete the 60-day wait period?

☐ Yes ☐ No, do not move forward with the appointment as it can lead to a violation

Section 6: 180-Day Wait Period

All RAs must complete a 180-day wait period or have an allowable exception according to Gov. Code section 7522.56. This means a retiree cannot begin working until the **181st** day after the retiree's retirement date.

Did the RA complete the 180-day wait period?

☐ Yes, skip to Section 7 ☐ No, do not move forward with the appointment as it can lead to a violation

If an RA is needed before the 180-day wait period is complete, one of following conditions must be met:

- 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 is approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.
 - State employers must obtain approval from the Department of Human Resources (CalHR).
- The retiree qualifies to participate in the Faculty Early Retirement Program (FERP) through the California State University system.
- The retiree is a retired public safety officer or firefighter appointed to perform the functions of a public safety officer or firefighter.

Which exception was met for this RA position?

☐ Approved by governing body ☐ Qualified through FERP ☐ Public safety officer or firefighter

If you selected approved by governing body, continue to the next question. If you selected any other option, skip to Section 7.

Is there an approved resolution/memorandum completed by the governing body or CalHR?

☐ Yes ☐ No, do not move forward with the appointment as it can lead to a violation

Was the resolution approved during a public meeting as an action item and not on a consent calendar? (This question is only applicable to public agency and school employers. For state agencies, send certification to the California Department of Human Resources (CalHR) for approval. Refer to the Employment of a Retiree section of the [State Reference Guide \(PDF\)](#) for more information.)

☐ Yes* ☐ No, do not move forward with the appointment as it can lead to a violation

*Approved resolutions must be uploaded when inputting the RA appointment in myCalPERS.

Resolution Date

Section 7: Limited Duration

A retired person may serve without reinstatement from retirement and maintain their CalPERS retirement benefits if they are appointed by a public employer either **during an emergency to prevent the stoppage of public business** or because the retired person **has specialized skills needed to perform work of limited duration** according to Gov. Code sections 21224, 21229, and 7522.56 in the PERL.

Limited duration work is intended to provide extra help to eliminate a backlog, perform a time limited special project, or assist with work that exceeds what regular staff can reasonably be expected to complete. Extra help assignments should have a projected completion date for specific assignments and/or project goals and deliverables.

Ultimately, work of limited duration is defined by a specific task, project, and/or organizational needs, as proposed by the employer. When the work is complete, the RA's employment must end. RAs should not be considered permanent solutions to business needs and their appointments cannot be indefinite, regardless of the nature of the RA's position and of the terms of the relevant employment agreement.

Before the RA is appointed to a position, you must establish an expectation for the duration of the appointment based upon your organization's needs. **RA appointments without an established end date can lead to a violation.**

Appointment Start Date (mm/dd/yyyy)

Appointment End Date (mm/dd/yyyy)

For more information on limited duration, refer to the Employment of a Retiree section in the [State Reference Guide \(PDF\)](#) or [Public Agency & Schools Reference Guide \(PDF\)](#).

Section 8: Compensation

The compensation for an RA appointment should not exceed the maximum or minimum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule per Gov. Code sections 21224, 21229, 21221, and 7522.56 in the PERL. The payrate listed on the publicly available pay schedule should be compliant with CalPERS compensation regulations. The hourly rate of pay is the monthly compensation divided by 173.333.

No additional benefits, incentives, compensation in lieu of benefits, or other form of compensation can be paid in addition to this hourly rate of pay.

Hourly Rate of Pay

Is this rate of pay listed on the publicly available salary schedule for this position?

☐ Yes ☐ No, do not move forward with the appointment as it can lead to a violation

Is the salary schedule publicly available on your website?

☐ Yes ☐ No, do not move forward with the appointment until the salary schedule is publicly available

Section 9: Retired Annuitant Appointment Type

Extra help and interim vacant are the two types of RA appointments. Under Gov. Code section 7522.56, RAs may only be employed by school and state agencies for temporary extra help. **Most school districts, county offices of education, and state employers are prohibited from appointing RAs to interim vacant positions.** If you are a County Office of Education, school district, or state employer, appointing an RA to an interim vacant position could lead to a violation of post-retirement employment.

Interim

Important: A CalPERS contracting agency is permitted to appoint an RA during a leave of absence or to an interim vacant position during the recruitment for a permanent position as specified under Gov. Code sections 21221(g) and (h). As defined by Gov. Code section 20022, a contracting agency is "... any 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 board for that purpose" and as "... any county office of education, school district, or community college district that has elected to have all or part of its employees participate in a risk pool and that has contracted with the board for that purpose." Ultimately, this means the use of RAs during a leave of absence or to an interim vacant position is **not permitted for state and most school employers.**

Interim Leave of Absence

Governing bodies of contracting agencies are authorized by Gov. Code section 21221(g) to appoint a retiree during a permanent employee's leave of absence. To be in compliance:

- The appointment must be approved by the governing body with a resolution in an open meeting, not on a consent calendar, that indicates the retiree is filling the position due to their specialized skills.
- The resolution must be filed with CalPERS **before** the first day of employment.
- The appointment must be due to a leave of absence that is granted to a person on payroll status.
- The employment must be terminated at the end of the leave of absence and is not to exceed one year.

Interim Vacant Position

Governing bodies of contracting agencies are authorized by Gov. Code section 21221(h) to appoint a retiree to fill a vacant position on an interim basis during recruitment to permanently fill the position. The vacancy is typically related to single/unique positions (e.g., interim city manager, police chief, director, other managerial/executive positions). To be in compliance:

- The position must be vacant with no additional employees working the same position/classification.
- The retiree can only be appointed to the position **once**. A retiree appointed more than once is subject to mandatory reinstatement. The employment terms must specify an end date and cannot be amended to extend the appointment.
- There **must** be an open recruitment to permanently fill the vacant position. A retiree placed in an interim appointment **without** an open recruitment could be subject to mandatory reinstatement. A retiree hired for a permanent appointment is subject to mandatory reinstatement.

It is recommended to have the appointment approved by the governing body with a resolution in an open meeting, not on a consent calendar, that indicates the retiree is filling the position due to their specialized skills. This is required if the appointment is within 180 days of the retirement date. Additionally, the resolution must be filed with CalPERS **before** the first day of employment.

Extra Help

RAs can be employed in temporary appointments as extra help during an emergency to prevent the stoppage of public business or because the retired person has specialized skills needed to perform work of limited duration in accordance with Gov. Code sections 21224, 21229, and 7522.56. To be in compliance:

- Work performed should supplement regular staff efforts (e.g., elimination of backlog, special project work, or to assist with work that exceeds what regular staff can reasonably be expected to complete), or
- Be authorized “during an emergency to prevent stoppage of public business” such as in the event of floods, earthquakes, etc.

RAs should not be placed in vacant permanent positions. If a compliance review is conducted and an RA is found working in any capacity, be prepared to provide supporting documentation verifying the RA's appointment complies with these limitations.

Appointment Type

Appointment type: ☐ **Interim Vacant or Leave of Absence, continue to Section 10** ☐ **Extra Help, skip to Section 11**

To learn more about RA appointment types, refer to the Employment of a Retiree section in the [State Reference Guide \(PDF\)](#) or [Public Agency & Schools Reference Guide \(PDF\)](#).

Section 10: Interim Positions

Reason for vacancy: ☐ **Leave of Absence, skip to Section 12** ☐ **Vacated Position**

Is there an active recruitment? ☐ **Yes** ☐ **No, do not move forward with the appointment as it can lead to a violation**

Recruitment Start Date**Anticipated Recruitment End Date**

An RA can only be appointed once to the interim vacant position. If the RA term ends and a replacement has not been found, the RA must vacate the position.

Is this the first time the RA has been appointed to this position?

☐ **Yes** ☐ **No, do not move forward with the appointment as it can lead to a violation**

Section 11: Extra Help

Appointment Start Date**Anticipated Appointment End Date**

State the emergency the RA appointment is addressing:

List the required specialized skills the RA possesses and the need for this limited duration appointment:

Section 12: Additional Restrictions and Benefits

A retired person **should not** receive any benefits, incentives, compensation in lieu of benefits, or other forms of compensation in addition to the hourly rate, per Gov. Code sections 21221, 21224, 21229, and 7522.56 of the PERL.

The RA cannot receive:

- Sick pay
- Vacation pay
- Dental benefits
- Housing
- Special compensation
- Medical benefits

The RA can receive:

- Deferred compensation plans (e.g., 401k, 457b)¹
- Employer property (e.g., cell phones, vehicles)²
- Uniform cleaning (net zero)
- Travel reimbursement (must be work related and net zero)
- Mileage (must be work related)³

Additionally, an RA appointed pursuant to these sections **may not work more than 960 hours each fiscal year**. This limit includes all RA positions across all CalPERS employers. RA hours worked should be tracked to ensure the RA does not go over the 960-hour fiscal year limit. Hours worked are available for review by the employer and member in the myCalPERS system.

Section 13: Unemployment Benefits

California law prohibits the reappointment of an RA by a CalPERS employer if, during the 12-month period before their reappointment start date, the retiree received unemployment insurance compensation for prior RA employment with any public employer.

Has the RA provided written proof or certified they did not receive unemployment insurance for the previous 12 months?

☐ Yes* ☐ No, do not move forward with the appointment as it can lead to a violation

*Keep a record of this certification on file. If audited, evidence that you obtained this proof/certification from the RA will be required.

¹ Contributions may only be made by the RA. Employers cannot contribute to an RA's deferred compensation plan.

² The employer property must be required for their job duties/position.

³ There must be documented statements of miles driven (e.g., a map which shows the number of miles driven from location to location). The employer must have an established mileage payment policy in place prior to RAs use of said policy. The policy must pay per mile(s), a flat rate is not allowed. Commuting to and from home is not permissible.