

POST-RETIREMENT EMPLOYMENT POLICY

PURPOSE

The purpose of this policy is to provide guidance on how Government Code Sections 31553, 31680.15, 31680.4, 31680.5, 31680.7 and Section 7522.56 apply to Merced County Employees' Retirement Association (MercedCERA) member's post-retirement employment.

SCOPE

This policy is applicable to all MercedCERA retired members returning to work for a MercedCERA participating employer in a temporary part-time/extra-help position, in a full-time position requiring reinstatement, or if the member becomes disabled or passes away during full-time reinstatement. This policy is also applicable to a retired member who engages in a personal services contract with a participating employer, a retired member working through a private third-party employer providing contract services to a participating employer and to an independent contractor of a participating employer.

This policy does not apply to a retired MercedCERA member working in private industry or for any other Non-MercedCERA participating employer, as long as the employer is not providing contract services to a MercedCERA participating employer.

POLICY

Employment Without Reinstatement (Part-Time / Extra-Help Employment)

Government Code section 7522.56 defines how quickly the retiree can return to work, how much the retiree can be paid, and how many hours the retiree can work annually without reinstatement from retirement, or loss or interruption of benefits.

Hour Limit

Retired members may return to work for a MercedCERA participating employer as an extra-help employee and continue to receive their retirement benefits, but are limited to a maximum of 960 hours during each fiscal year (July 1-June 30). It is the responsibility of the retiree to ensure compliance with all MercedCERA plan documents regarding their re-employment. Retirees should carefully monitor hours worked to ensure they do not exceed the maximum allowed.

Rate of Pay

The rate of pay shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal the hourly rate.

Unemployment Compensation

A retired member is ineligible for post-retirement employment with a MercedCERA participating employer if, during the 12-month period prior to the appointment, the retiree received any unemployment insurance compensation arising out of prior employment with a

MercedCERA participating employer. The retiree is to provide written certification to the employer that they are in compliance with this requirement.

Bona-fide Separation / Break in Service

There can be no agreement or understanding between a member and an employer prior to retirement regarding the member returning to work after retirement. MercedCERA members who retire younger than Normal Retirement Age (NRA) must have a bona-fide separation from service. The NRA for Safety members is 50 years of age and 60 years of age for General members.

General members returning to any position must have a break in service of at least 180 days. Different waiting requirements apply to Safety members. If a Safety member is returning to a non-safety position, they must wait a period of 180 days. If the Safety member is returning to a safety position, and the member is at least 50 years of age, there is no separation period. Safety members younger than 50 years of age, returning to another safety position are not eligible to be reemployed for a period of 60 days following the date of retirement. The 180-day waiting period for a general member, or a safety member returning to a non-safety position, does not apply if the employer certifies that the appointment is necessary to fill a critically needed position, and the employer's governing body (i.e., Board of Supervisors) approves the appointment in a public meeting in an item not on its consent calendar.

Retirement Incentive

A retired member who accepted a retirement incentive upon MercedCERA retirement **must** wait 180 days following the date of retirement before being eligible for employment.

Employment Requiring Reinstatement (Full-Time Employment)

Government Code Sections 31680.4, 31680.5 and 31680.7 govern the reinstatement of any person who has retired for service from a MercedCERA participating employer. The referenced code sections were adopted by the Merced County Board of Supervisors in Resolution Numbers 91-55 and 97-192. If there is any discrepancy between information in this policy and legal requirements under State or Federal law, the law will govern.

A member retired for service and reemployed by a MercedCERA participating employer shall become an active member again when their application to the Board of Retirement for reinstatement is approved. Elective officers are not required to apply for reinstatement.

The application must include certification from a physician licensed by the California Medical Board that the retiree is not incapacitated for the duties of the new job. MercedCERA and the employer are not responsible for the costs related to the completion of any medical certifications.

The effective date of the member's reinstatement to active membership shall be the first day of the month following the date of reemployment. The retirement allowance of the member shall be effective up to the member's reemployment date and shall be resumed only upon the subsequent termination of the member's period of reemployment.

Under Government Code section 31680.7, during the period of reemployment, the member shall accrue retirement service credit at the same tier or benefit level which was applicable to the member during their original period of employment. The member's contribution rate will be based on the same age at entry, and the same statutory formula, which was used in calculating the member's contribution rate during their original period of employment. This applies to members who did not retire under the Early Incentive to Retire program.

Upon their termination from reemployment (excluding terminations due to death or disability), the member's retirement allowance will consist of the monthly retirement allowance previously received immediately before reemployment and, for Tier 1 members, the cost-of-living increases (COLA) that would have been added to the monthly retirement allowance had the member not been reemployed. This will be combined with the additional service credit accrued during reemployment. As stated previously, the additional retirement allowance will consist of the same benefit formula and tier upon which the member's original retirement allowance was calculated, but shall be based on the member's age upon termination of the reemployment time period and the member's final compensation.

For members who retired under the Early Incentive to Retire program, upon reinstatement, the member's rate of contributions and retirement allowance shall be determined as if the member was first entering the system. The member's allowance upon the termination of their period of reemployment will be the sum of their credited service during reemployment in accordance with the formula applicable to them at the time of reinstatement plus their original retirement, adjusted by any COLAs for Tier 1 members.

For elective officers whose retirement allowance is based on service while in that elective office, the portion of retirement benefits based on service in that elective office shall be suspended during incumbency in that elective office. The full retirement benefit shall be paid for time on and after the member leaves the elective office in the monthly amount payable had the benefit not been suspended.

The retirement allowance payable to a member whose allowance prior to reinstatement was paid pursuant to an election under Section 31810 will have their allowance reduced as provided in that section. However, for a member who reinstates to active membership prior to attaining age 62, the reduction required by Section 31810 shall be the amount that is the actuarial value of the increase in the allowance from the date of retirement to the date of reinstatement.

Death or Disability During Reinstatement

If, after reemployment a member becomes disabled and is granted a service-connected or non-service connected disability retirement by the Board of Retirement, the member's disability retirement allowance shall be the greater of either of the following:

- 1) The disability retirement allowance the member would have been entitled to receive if all of the member's service during his or her original period of employment and subsequent period of reemployment had been continuous.
- 2) The service retirement allowance the member would have been entitled to receive if the

member had not become disabled and had voluntarily terminated his or her period of reemployment.

If the member dies during reemployment and leaves an eligible survivor or survivors entitled to receive a survivor's allowance, the allowance shall be the same amount that it would have been if all of the member's service during his or her original period of employment and subsequent period of reemployment had been continuous. If a lump sum death benefit is payable to the member's designated beneficiary instead of a survivor's allowance, the member's accumulated retirement contributions for purposes of computing the death benefit shall be the sum of the contributions made by the member during the period of reemployment, plus interest credited thereon, and the excess, if any, of the member's total contributions during the original period of employment, including interest credited thereon, over the total amount of retirement benefits paid to the member between the member's original retirement from employment and the member's reemployment.

Upon or after service retirement, the continuance shall be paid upon the member's death to the respective elected beneficiaries from each of the separate retirement period elections.

APPLICATION

It is the employer's responsibility to determine the appropriate use of retired members to meet public business needs in accordance with Government Code sections 31680.4, 31680.5, 31680.7 and 7522.56.

MercedCERA and participating employers shall establish an administrative process to monitor and track MercedCERA retired members returning to Extra-Help employment. Participating employers shall provide MercedCERA a report, no less than semi-annually (by January 31 and July 31 of each year), disclosing the names of the Extra-Help retired members who have been employed, their hours worked, and their duration of service.

MercedCERA shall notify the retired member and the Department Head or Personnel when retired members have worked 800 and 880 hours. It is the responsibility of the retired member to ensure compliance with all MercedCERA plan documents regarding their employment. Retired members should carefully monitor their hours worked to ensure they do not exceed the limit.

Extra-Help retired members who work more than the maximum number of hours allowed in Government Code section 7522.56 (960 hours in a fiscal year) may be reinstated into full membership, and MercedCERA may suspend the retired member's retirement benefit as provided in Government Code section 7522.56.

A reinstated member's retirement benefit will be suspended until the discontinuance of the reinstated member's reemployment. Upon reinstatement, the employee and employer will both be required to pay contributions (including interest) for the period of unlawful employment. The retirement benefits received during the reinstated member's reemployment



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will also need to be repaid to MercedCERA. Upon reinstatement, should the reinstated member wish to return as a retired member to work for a MercedCERA participating employer, the return-to-work rules of Government Code section 7522.56 apply.