

City of Red Bluff
Administrative Policies & Procedures – Personnel Manual

Subject: Post Retirement Employment		Number: 22-23
		Effective Date: 6/18/2024
Departments Affected: All		Supersedes (Number/Date): 22-23 10/17/2023
Authority: Section 2.82-A. Red Bluff City Code	File References:	
	Approved: Approved by City Council on: 6/18/2024	

Overview: State and federal laws provide specific employment restrictions for retirees who return to work with an employer in the same public retirement system from which they receive a benefit. There are specific laws governing the type, timing, and amount of work retired annuitants can accept without affecting their pension.

Applicable to: Retired Annuitants

Guidelines: The City of Red Bluff and retired annuitants (RAs) have an equal responsibility to ensure employment after retirement is lawful by meeting the eligibility and requirements listed in this rule.

RAs must be identified as such on the Personnel Action Form (PAF) and must be enrolled in CalPERS within 30 days after the effective date of hire. Since a RA will not accrue service credit or retirement benefits during part-time/seasonal employment, the enrollment is solely for the purpose of tracking the RA's hours, pay, and duration of employment.

Retired Annuitant Eligibility and Requirements

The basic requirements include:

- If Extra Help, the position must be designated as part-time/seasonal. In some cases, RA's may also fill temporary vacancies (See Retired Annuitant Designated Positions below.)
- If the employee retires prior to the retirement formula benefit age, they can't agree verbally or in writing to post-retirement employment before they retire. If the employee has multiple retirement benefit formula ages, the highest benefit formula age applies, up to the maximum normal retirement age of 62.
- The employee must wait 180 days after the retirement date before they can return to work for a CalPERS employer unless otherwise authorized by law and approved by the City Council.
- A maximum of 960 hours can be worked within a fiscal year (July 1 – June 30). (See Hours Limit below.)
- The salary must be an hourly pay rate that falls within the Hourly Pay Schedule for the position. (See Salary below.)

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- RAs do not accrue service credit or any additional retirement rights or benefits, including health benefits, sick leave, or vacation.
- RAs cannot be appointed to positions if they have received unemployment insurance payments within 12 months of the appointment date.

Retired Annuitant Designated Positions

RAs that intend to remain retired and work for the City of Red Bluff may only work in positions designated as RA positions. RAs cannot fill long-term, open-ended, or vacant positions, except as interim appointments. Appointment to any permanent or regular staff position requires reinstatement from retirement.

No recruitment process is required to hire RAs that retired from the City of Red Bluff in positions that were similar in scope to the RA position, however, RA's that retired from another agency will need to submit an application showing work history that they had previous experience and the skill set needed to perform the desired work.

Extra Help RAs may work as part-time/seasonal for a limited duration (Extra-Help), which is defined by a start and end date. Employment should be terminated when the limited duration work is completed. Examples of work of limited duration include, but are not limited to; work to eliminate a backlog, work on a special project, excess of what regular staff can do, or during an emergency (earthquake, flood, etc.)

- Vacant Positions

RAs may be appointed to an interim position if they meet the basic requirements and the following:

- The governing body must determine that the appointment is necessary to prevent work stoppage of public business or requires specialized skills. This means these placements must be made with the approval of the City Council.
- Before an RA is appointed to an interim position, the City of Red Bluff must have in place an active recruitment for a permanent replacement for the vacant position.
- The RA may be hired as an interim only during the period of recruitment. They cannot work in a permanent capacity or for an indefinite period of time.
- RAs may only be appointed once to the vacant position.

Hours Limit

Only a maximum of 960 hours can be worked within a fiscal year (July 1 –June 30). Nonpaid or volunteer hours cannot be used in order to exceed 960 hours in a fiscal year. (See Volunteering below). The only exception to this rule is in regards to safety officers during a declared state of emergency and authorization from CalPERS is granted to exceed the maximum hours.

Once the 960 hour limit has been reached, the RA is not permitted to receive any additional compensation from the employer for the remainder of the fiscal year. Should a RA work more than 960 hours, any compensation received for work performed in excess of 960 hours must be returned to the employer or the RA risks having their retirement benefit suspended and being reinstated to active employment.

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Salary

The RA may not receive any other compensation (pay incentives, special pay) or benefits in addition to the hourly pay rate, with the exception of mileage reimbursement. The salary rate for RAs will be determined by the Department Head using the approved Hourly Pay Schedule.

RAs are not eligible for overtime. Should a RA work an overtime hour, it will count as one hour toward the 960-hour limit.

Working After Disability/Industrial Disability Retirement

A person who has retired for disability is prohibited from being employed without reinstatement from retirement if the position is the position from which the person retired, or if the position includes duties or activities the person was previously restricted from performing at the time of the disability retirement. (Government Code 21233) If a person retired for disability is employed without reinstatement from retirement, the City shall provide to CalPERS the nature of the employment and the duties/activities the person will perform.

A limit may be placed on the retirement allowance relative to their post-retirement earnings.

Required Annuitant Agreements

Each retired annuitant hired must sign an agreement with the City outlining:

- Whether they are filling an Extra Help or temporary Vacancy.
- The anticipated length of employment.
- The work they will be performing, including special projects.
- The anticipated schedule, hours, and annual limits.
- Their hourly compensation and what full-time position this compensation is based upon.
- General terms & conditions.

Volunteering

RAs may serve as volunteers for the City of Red Bluff after retirement in a non-paid position. RAs cannot “volunteer” to work in any compensated position. In addition, they cannot “volunteer” to avoid meeting any of the restrictions of working after retirement.

Penalties for Unlawful Employment

Eligibility and requirements for post-retirement employment are based on the PERL and federal tax law. An unlawfully employed retiree is subject to mandatory reinstatement from retirement as follows:

- The retiree is reinstated from retirement by CalPERS. Upon appointment by the employer, they become the active employee and contributing CalPERS member of that employer, in the position in which unlawfully employed, and as of the date the unlawful employment began.
- The now active employee must pay retroactive member contributions, plus interest for the period of unlawful employment. Likewise, the employer will pay employer contributions plus interest on the employee’s behalf for the period of unlawful employment via retroactive payroll reporting.
- The now active employee must reimburse CalPERS the entire amount of

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retirement allowance they received during the period of unlawful employment.

- The member and the employer, to the extent each is determined to be at fault, may be required to reimburse CalPERS for administrative expenses incurred in responding to the investigation and resolution of the unlawful employment.

If a RA is working in violation of the law, CalPERS must terminate the employee's retirement and collect all of the retirement allowance paid to the employee during the period of unlawful employment. The City is also subject to fines and reimbursement to CalPERS, compounded monthly, for non-compliance.

Elected Officials

RAs may serve as elected officials or on governing boards under additional regulations.

References: Government Code §7522.56, §21221, §21224, §21227, §21229, §21233; Public Employees Pension Reform Act of 2013; CalPERS Publication #33: Employment After Retirement; CalPERS Circular Letter #200-002-14; www.calpers.ca.gov