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**From:** Lena Young-Gallardo  
**Sent:** Friday, September 17, 2021 4:33 PM  
**To:** BSD-CBO List; BSD-FinMgrsMeet List; persadmin; newpy  
**Cc:** BSD-ExecutiveStaffList  
**Subject:** Governor's Executive Order N-12-21 Suspending Limitations for CalPERS/CalSTRS Retirees  
**Attachments:** CalPERS Circular #200-056-21.pdf; Request for Separation-From-Service Requirement Exemption - SR1897 8\_2021.pdf

Good afternoon,

The latest Executive Order suspends the retiree 180 day wait period after retirement during the state of emergency for both CalPERS and CalSTRS. If a retirement incentive was received, retirees must wait 180 days before returning to work. Listed below are the specific procedures that must be followed for each retirement system. Retirees should not begin working until official approval has been received, to ensure no harm is done to the retirees' pension.

### CalPERS

All CalPERS covered employers need to email the following information to CalPERS at [ExecOrderReview@calpers.ca.gov](mailto:ExecOrderReview@calpers.ca.gov)

- Entity name
- Employee Name
- Employee Date of Birth
- Employee Last 4 SSN
- Class Title/Class Code
- Hourly Rate of Pay
- Tenure (temporary, limited-term, exempt, etc.)
- Retirement effective date
- Date 960-Hour Limit Exceeded (if applicable)

Please see the attached CalPERS Circular Letter 200-056-21 for further information.

### CalSTRS

Attached is the updated CalSTRS Request for Separation-From-Service Requirement Exemption form. The executive order waived the requirement that the districts' governing board adopt a resolution authorizing a retirement member to be exempt from the limitation under subdivision (a) of Ed Code section 24214.5. CalSTRS requires Section 5 to be signed by the County Superintendent. Once the form has been completed, please email it to Michelle Johnston at [Michelle.Johnston@sbcss.net](mailto:Michelle.Johnston@sbcss.net) to obtain this signature. It will then be forwarded to CalSTRS for processing. A separation-from-service requirement exemption is not an exemption from the fiscal year postretirement earnings limit which is \$48,428 for FY 2021-22.

If you have any questions, please contact Michelle Johnston at (909) 388-5731.

Have a great weekend!

Lena



***Transforming lives through education***

**Lena Young-Gallardo, Director**

**District Financial Services**

San Bernardino County Superintendent of Schools

760 E. Brier Drive, San Bernardino, CA 92408

P: 909.388.5701 | F: 909.388.5735

<http://www.sbcss.k12.ca.us>



California Public Employees' Retirement System  
P.O. Box 942715 | Sacramento, CA 94229-2715  
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

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## Announcements

# Circular Letter

September 13, 2021

Circular Letter: 200-056-21

Distribution: IV, V, VI, X, XII, XVI

**To:** All CalPERS Employers  
**Subject:** Governor's Executive Order N-12-21

### Purpose

The purpose of this Circular Letter is to inform you of Executive Order N-12-21, which suspends Government (Gov.) Code section 7522.56(f), the 180-day break in service requirement, for CalPERS retirees seeking employment as a retired annuitant with a CalPERS employer to ensure adequate staffing in response to COVID-19, until further notice.

### Background

On August 16, 2021, Governor Gavin Newsom issued Executive Order N-12-21, which amended some of the previously reinstated working after retirement rules for those retired annuitants employed to address the rising case rates caused by the COVID-19 delta variant to ensure adequate staffing.

### Summary of Impacts

Executive Order N-12-21 is the third Executive Order issued by the governor providing direction on the hiring of retired annuitants for ensuring adequate staffing for COVID-19. The following suspensions are in effect:

- 960-work hour per fiscal year limit
- Retirees employed in vacant positions under Gov. Code section 21221(h) can only be appointed to the position once
- 60-day bona fide separation in service

- 180-day wait period after retirement

However, note the following post-retirement employment requirement continues to be in effect (after being reinstated by Executive Order N-08-21, effective July 1, 2021):

- If a retirement incentive was received, retirees must wait 180 days before returning to work.

### **180-Day Wait Period Exception**

Under Executive Order N-25-20, the 180-day break in service requirement under Gov. Code section 7522.56(f) and (g) were suspended for retired annuitants hired to ensure adequate staffing during the state of emergency. Executive Order N-08-21 reinstated these requirements. The most recent Executive Order N-12-21 suspends the 180-day wait requirement again for appointments that begin on or after July 1, 2021. If a retiree is needed to return to work prior to waiting 180 days from their retirement date to ensure adequate staffing, then the retiree can return to work as part of Executive Order N-12-21.

For state agencies, the director of the California Department of Human Resources (CalHR) must be notified of any individual employed pursuant to these waivers. Notification should be emailed to [CalHR's California State of Emergency mailbox](#). Public agencies and schools must notify CalPERS of any individual employed pursuant to these waivers. Notification should be emailed to [CalPERS' Executive Order Review mailbox](#).

For retired annuitant appointments that begin on or after July 1, 2021, retirees that received a retirement incentive must wait 180 days prior to returning to work as a retired annuitant with no exceptions. Executive Order N-12-21 did not lift this requirement.

### **Work Hour Limitation**

On March 4, 2020, the governor declared a statewide state of emergency due to the COVID-19 pandemic. The governor issued Executive Order N-25-20 to further enhance California's ability to respond to COVID-19. Consistent with applicable federal law, and to ensure adequate state staffing to expedite emergency response and recovery, the work hour limitations under Gov. Code section 7522.56(d) were suspended.

The suspension of the work hour limitation is still in effect. Any hours worked by a retired annuitant to ensure adequate staffing during the state of emergency will not be counted toward the 960-hour limit for the fiscal year. The work hour limitations for retired annuitants are suspended from the date the state of emergency was declared until further notice.

## **Appointment to Vacant Positions**

On December 14, 2020, the governor signed into effect Executive Order N-84-20. Paragraph four of this order allowed for the suspension of the 960-hour limitation under Gov. Code section 21221(h). Along with the suspension of the hours, this order also allows for retirees to be appointed more than once to the same vacancy under Gov. Code section 21221(h). This portion of the order will remain in effect until further notice.

## **Bona Fide Separation**

The suspension of the 60-day separation in service is still in effect. Under subdivision (c) of section 586.2 of Title 2 of the California Code of Regulations (CCR), the declaration of a state of emergency exempts retired annuitants from the 60-day separation in service requirement under subdivision (a)(2) of CCR section 586.2. However, the prohibition under subdivision (a)(1) of CCR section 586.2 on any predetermined agreement between an employer and an impending retiree who has not attained normal retirement age continues to remain in effect consistent with federal law.

## **Continued Compliance**

Agencies must continue to enroll and report retired annuitants to CalPERS. The remaining working after retirement provisions in Gov. Code sections 21221(h), 21224(a), and 7522.56(e) will continue to apply:

- Compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate.
- A retired annuitant shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate.

CalPERS will continue to monitor the work hours for retired annuitants and send communication to confirm when a violation is found and whether it complies with working after retirement policies.

## **Questions**

If you have any questions, call our CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Renee Ostrander, Chief  
Employer Account Management Division

# Request for Separation-From-Service Requirement Exemption—Information and Instructions

This form has been updated in accordance with Executive Order N-12-21 waiving the requirement that the governing board adopt a resolution authorizing a retired member to be exempt from the limitation under subdivision (a) of Education Code section 24214.5. The Executive Order does not apply to Education Code section 26812, regarding retired participants under the Cash Balance Benefit Program. Unless the provision in the Executive Order is withdrawn, it remains in effect through the duration of the Governor's COVID-19 State of Emergency or until canceled, revoked, withdrawn, superseded or adjudicated unlawful.

Read the instructions carefully before completing the form.

**NOTE:** The retired member will be subject to the separation-from-service requirement unless all sections of this form are completed, the minimum requirements for an exemption are met, and CalSTRS approves the exemption.

Use this form to request an exemption from the separation-from-service requirement, also known as the zero-dollar earnings limit, for an eligible CalSTRS retired member who has reached normal retirement age (age 60 for CalSTRS 2% at 60 members; age 62 for CalSTRS 2% at 62 members).

## MINIMUM REQUIREMENTS

- CalSTRS must receive the exemption form prior to the retired member performing retired member activities.
- The retired member must be of normal retirement age when the compensation is earned.
- The appointment is necessary to fill a critically needed position and must be filled before the retired member's 180-calendar day separation-from-service period has passed since the member's most recent retirement date.
- The retired member did not receive any financial inducement to retire from any public employer, including, but not limited to, receiving additional service credit through the CalSTRS Retirement Incentive Program. "Financial inducement to retire" includes, but is not limited to, any form of compensation or other payment that is paid directly or indirectly by a public employer to the member, even if not in cash, either before or after retirement, if the participant retires for service on or before a specific date or specific range of dates established by a public employer on or before the date the inducement is offered.
- The retired member's termination of employment is not the basis for the need to acquire the services of the member.

## EXEMPTION START AND END DATE

The exemption start date is the first day of employment in the position, no earlier than the date CalSTRS receives this form. The exemption end date is no later than 180 calendar days after the member's most recent retirement date.

## COMPLETING THIS FORM

This form should be completed by the appointing authority unless otherwise stated. Print clearly in dark ink or type all information requested. Initial all corrections and sign on the last page.

## SECTION 1 – MEMBER INFORMATION

Enter the member's full name and Client ID or Social Security number. Include the member's mailing address, work telephone number and email address so we may contact them if we have any questions.

## SECTION 2 – POSITION INFORMATION

Enter the title and salary for the position. Enter the exemption period start and end date for the position.

## SECTION 3 – EMPLOYER INFORMATION

Enter the information related to the school district, county office of education or community college district employing the member. Include the mailing address, work telephone number and email address so we may contact you if we have any questions. Enter the appropriate five-digit county and district codes. Example: Kern County, Edison, would be 15-012. Contact your CalSTRS liaison if you are unsure of your code.

## SECTION 4 – CERTIFICATION

Fully read each statement and enter your initials as the appointing authority next to each statement to certify you met the minimum requirements for the exemption.

## SECTION 5 – REQUIRED SIGNATURES

Have the retired member sign and date the Member's Signature line. Sign and date as the appointing authority on the form. The appointing authority's signature must be signed and dated by the superintendent, the county superintendent of schools or the chief executive officer of a community college.

**CalSTRS must notify the employer and the retired DB member within 30 days of receiving the required documentation whether the activities performed will be subject to or exempt from the 180-calendar day separation-from-service requirement. Submission of this form does not guarantee application of the exemption.**

A separation-from-service requirement exemption is not an exemption from the fiscal year postretirement earnings limit. Visit [CalSTRS.com](http://CalSTRS.com) for more information about working after retirement restrictions and limits.

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# Request for Separation-From-Service Requirement Exemption

SR 1897 rev 08/21

# CALSTRS®

California State Teachers' Retirement System  
 P.O. Box 15275, MS 60  
 Sacramento, CA 95851-0275  
 800-228-5453  
 CalSTRS.com

<b>For CalSTRS Use Only</b> CalSTRS Representative	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
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<b>Section 1: Member Information</b> – This section is to be completed by the retired member or the appointing authority.			
NAME (LAST, FIRST, INITIAL)		CLIENT ID OR SOCIAL SECURITY NUMBER	
MAILING ADDRESS			
CITY		STATE	ZIP CODE
EMAIL ADDRESS			WORK TELEPHONE

<b>Section 2: Position Information</b> – This section is to be completed by the appointing authority.		
Position Title: <hr/>	<b>Exemption Start Date</b> No earlier than the date CalSTRS receives this form (MM/DD/YYYY):  / /	<b>Exemption End Date</b> No later than 180 calendar days after the member's most recent retirement date (MM/DD/YYYY):  / /
Position Salary (Annual):		

<b>Section 3: Employer Information</b> – This section is to be completed by the appointing authority.			
<input type="checkbox"/> <input type="checkbox"/> - <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			
COUNTY AND DISTRICT CODE (FIVE DIGITS)		EMPLOYING AGENCY'S NAME	
EMPLOYER ADDRESS	CITY	STATE	ZIP CODE
EMPLOYER CONTACT NAME		( )	ext.
EMPLOYER TELEPHONE			
EMPLOYER EMAIL ADDRESS		COUNTY WHERE EMPLOYER IS LOCATED	

*Continued on next page*





**Section 4: Certification** – This section is to be completed by the appointing authority.

I have read and fully understand the instructions for the exemption certification for separation-from-service requirement of a retired member as outlined in Education Code section 24214.5. I fully certify that (please initial each):

- The retired member is of normal retirement age when the compensation is earned.
- The appointment is necessary to fill a critically needed position and must be filled before the retired member's 180-calendar day separation-from-service period has passed since the member's most recent retirement date.
- The retired member did not receive any financial inducement to retire from any public employer, including, but not limited to, receiving additional service credit through the CalSTRS Retirement Incentive Program.
- The retired member's termination of employment is not the basis for the need to acquire the services of the member.

**Section 5: Required Signatures** – This section is to be completed by the member and the appointing authority.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I understand that perjury is punishable by imprisonment for up to four years (Penal Code section 126).

I understand it is a crime to fail to disclose a material fact or to make any knowingly false material statements for the purpose of altering a benefit administered by CalSTRS and it may result in penalties, including restitution, up to one year in jail and/or a fine of up to \$5,000 (Education Code section 22010).

I understand if CalSTRS does not approve this exemption that I, the member, will be subject to the earnings limit outlined in Education Code section 24214.5.



MEMBER'S SIGNATURE

SIGNATURE DATE (MM/DD/YYYY)



APPOINTING AUTHORITY'S SIGNATURE

SIGNATURE DATE (MM/DD/YYYY)

(To be signed by the superintendent, the county superintendent of schools or the chief executive officer of a community college.)

**CalSTRS must notify the employer and the retired DB member within 30 days of receiving the required documentation whether the activities performed will be subject to or exempt from the 180-calendar day separation-from-service requirement. Submission of this form does not guarantee application of the exemption.**