



## SCERS POLICY ON POST-RETIREMENT EMPLOYMENT

May 2019

### Frequently Asked Questions

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**1.Q. Who does this effect?**

Retired SCERS members who return to work for a SCERS participating employer (i.e. Sacramento County, Sacramento Superior Court, and other special districts).

**2.Q. Why is the policy being amended?**

SCERS is clarifying several provisions of the current policy to ensure more consistent application with the law.

**3.Q. Does SCERS decide who can be a retired annuitant?**

No. It is the employer's responsibility to determine who should work as a retired annuitant to meet public business needs. SCERS' role is to ensure proper oversight of the retired annuitant process.

**4.Q. What is being changed?**

Major amendments to the policy include the following:

- Clarifying that retired annuitant limits apply to all types of contractors. The current policy exempts "Independent Contractor" from the retired annuitant restrictions. However, the governing statute does not differentiate between independent contractors or third-party contractors. Subdivision (b) of Section 7522.56 of the Government Code states that the return-to-work rules apply to retired members who are "employed through a contract directly by" the employer. SCERS advises retired

employers and members to adhere to the 180-day wait period before returning to work and to the 960-hour cap on hours, regardless of a member's designation as a contractor.

- Clarifying which hours apply toward the 960-hour annual cap. This policy clarifies that hours worked or taken, including overtime hours, are counted towards the maximum annual limit of 960 hours. However, earned credit for vacation, sick leave, or compensatory time off (CTO) if not actually worked or taken, do not apply to the 960-hour maximum limit. SCERS does not consider the hour equivalent of leave balances that are paid out upon termination as part of the 960-hour cap.
- Defining limited duration. Retired members can return to work only during an emergency to prevent a stoppage of public business or because the retired person has the skills needed to perform work of a limited duration. However, section 7522.56 does not define the term limited duration. This policy defines limited duration as a 36-month period.
- Establishing a process to extend the duration of retired annuitant service. This policy directs participating employers to establish an administrative approval process to grant 12-month extensions to the 36-month limited duration period. However, the policy limits the extensions to a total of an additional 24-months beyond the original 36-month period.

The policy allows the employer to provide additional 12-month extensions on an annual basis to retired annuitants working in a public safety capacity, upon approval of the employer's chief executive.

- Requiring semi-annual reports from employers. This policy requires participating employers to provide SCERS a report no less than semi-annually (by January 31 and July 31 of each year) disclosing the names of the retired annuitants who have been employed, their hours worked, their duration of retired annuitant service, and any extension to the 36-month period approved by their chief executive.

**5.Q. When is the policy effective?**

The policy is effective July 1, 2019.

**6.Q. What happens if I am currently working as a retired annuitant?**

The limited-duration period applies prospectively to members who were serving as retired annuitants on July 1, 2019, or who previously served as retired annuitants before July 1, 2019. The time spent

previously working as a retired annuitant will not count against the limited-duration period.

**6.Q. Is the 36-month limited-duration period continuous?**

Yes. The 36-month period starts when the retired annuitant begins working actual hours, not when hired. However, the 12-month extensions do not need to be contiguous to the 36-month period.

For example, if a retired annuitant begins working actual hours on March 1, 2019, the 36-month clock begins on March 1, 2019 and ends 36 months later, on February 28, 2022. To continue working beyond the 36 months, the employer needs to approve a 12-month extension for the retired annuitant. The extension can be granted for a 12-month period at any time; it does not need to be for worked performed immediately after the initial 36 months.

**7.Q. Where can I review the policy?**

The policy is posted on the SCERS website ([www.scers.org](http://www.scers.org)) here: <https://www.scers.org/post/post-retirement-employment-policy-0>