

**FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION (FCERA)
POLICY REGARDING WORKING AFTER RETIREMENT**

I. Purpose

1. The purpose of this policy is to comply with relevant state and federal laws and to establish FCERA's requirements for retirees who wish to return to work for a FCERA Plan Sponsor.
2. This policy also defines Normal Retirement Ages for FCERA membership classifications to ensure compliance with IRS regulations.

II. Scope

1. This policy applies to all FCERA retirees.

III. Definitions

1. Bona Fide Break in Service: There has been a good faith and complete termination of the employment relationship for a period of 60 (sixty) days or more, and there is no agreement made prior to terminating employment status to continue providing services at a later date.
2. FCERA Plan Sponsors: County of Fresno; Fresno Madera Agency on Aging; Clovis Veterans Memorial District; Fresno Mosquito and Vector Control District; Fresno County Superior Court.
3. Work: "work" as used in this policy, means be employed by, or employed through a contract by, a FCERA Plan Sponsor.

IV. Policy Guidelines

1. Prearranged agreement

- a. A member who retires from a FCERA Plan Sponsor must not have a prearranged agreement, verbal or written, to return to work for the FCERA Plan Sponsor after retirement, regardless of the length of the break in service or there is no Bona Fide Break in Service.

2. Return to work

- a. A retiree cannot return to work as a regular full-time employee with a FCERA Plan Sponsor and concurrently receive a retirement allowance from FCERA.
- b. A retiree may return to work with a FCERA Plan Sponsor in an extra help, contractual, or temporary services position during an emergency to prevent stoppage of public business or because the member has skills needed to perform work of a limited duration, subject to the following limitations:
 - i. If a retiree was a "general" member, the retiree must have at least a 180-day break between the date of retirement and the date of hire in an extra help, contractual, or temporary services position.

- ii. In order to waive the 180-day requirement for a “general” member, the FCERA Plan Sponsor employer must certify the nature of the employment and that the appointment is necessary to fill a critically needed position. The appointment must be approved by the FCERA Plans Sponsor’s governing body, in a public meeting, and may not be on a consent agenda.
- c. If a retiree was a “safety” member who received a retirement incentive, the retiree must have a least a 180-day break between the member’s date of retirement and the date of hire in an extra help, contractual, or temporary services position; otherwise the 180-rule does not apply to “safety” members.
- d. A retiree will not earn any service credit for retirement rights while working in an extra-help, contractual or temporary services position.
- e. A retiree may not work more than 960 hours in a calendar year with any FCERA Plan Sponsor or any combination of multiple FCERA Plan Sponsors.
- f. The rate of pay for employment shall not be less than the minimum, nor exceed the maximum, paid by the FCERA Plan Sponsor to other employees performing comparable duties.
- g. The retiree may not have received any unemployment insurance compensation arising out of prior employment in an extra-help, contractual, or temporary employment with a public employer during the 12-month period prior to re-employment. The retiree must certify to the employer that the retiree has not received such unemployment insurance compensation.
- h. If the retiree was granted a disability retirement and is returning as an extra help, contractual, or temporary employee, the retiree may not return to the same position from which the retiree was granted a disability retirement. The position cannot include duties or activities that the retiree was restricted from performing as a result of the retiree’s disability.

3. Normal Retirement Age

- a. To comply with IRS regulations regarding in-service distributions and to protect FCERA’s tax-qualified status, a retiree who has not yet attained the applicable Normal Retirement Age, as defined herein, must have a Bona Fide Break in Service before returning to work for the same employer from which he or she retired.

Classification	Tier	Normal Retirement Age
General	I	55
General	II	55
General	III	55
General	IV	57.5
General	V	52

Classification	Tier	Normal Retirement Age
Safety	I	50
Safety	II	55
Safety	IV	50
Safety	V	50

b. Regardless of whether a retiree has reached Normal Retirement Age, all retirees returning to work are subject to the provisions of Section IV, subsection 2 hereof.

4. Suspension of Retirement Benefit for 960-Hour Limit Violations

- a. A retiree must terminate employment or reinstate to active employment status as of the date the retiree exceeded the 960-limit.
- b. If a retiree continues to work past the 960-hour limit, the retiree’s retirement benefit shall be suspended for the month in which limit was exceeded, and any additional month(s) the retiree continues to work, up to the end of the calendar year in which the 960-hour limit was exceeded.
- c. In the event that FCERA does not immediately suspend the retiree’s retirement benefit, the retiree shall repay all retirement benefits paid for the month(s) in which the retiree exceeded the 960-hour limit and continued to work.
- d. In the event that the retiree exceeds the limits by a *de minimus* amount, which is defined herein to be ten (10) hours or less during a calendar year, then the retiree may agree to a reduction in the next monthly retirement benefit payment by the amount of earnings in excess of the limit.

5. Suspension of Retirement Benefit for Bona Fide Break in Service Violations

- a. For retirees below the normal retirement age, if the bona fide break in service requirement is not met, the retirement benefit payment(s) will be suspended until the required break in service has elapsed or the retiree has stopped working, and the retiree must repay all benefits received during the violation period.
- b. For retirees at or above the normal retirement age, pension payments may be subject to Federal and State tax penalties for the period the requirement is not met. The retiree should seek tax advice and may be responsible for the reporting and payment of these possible penalties.

6. Suspension of Retirement Benefit for 180-day Break in Service Violations

- a. If the 180-day break in service requirement applies and is not met, the retirement benefit payment(s) will be suspended until the required break in service has elapsed or the retiree has stopped working, and the retiree must repay all benefits received during the violation period.
- b. In the event that the retiree violates the 180-day break in service by a *de minimus* amount then the retiree may agree to a reduction in the next monthly retirement benefit payment by the amount of earnings during the violation period.

7. Terms of Repayment

- a. Where the policy mandates repayment, the terms of repayment shall be as provided in the Overpayment or Underpayment of Retirement Benefits Policy.

8. Appeal of Suspension of Retirement Benefits

- a. A member may appeal an administrative decision related to this policy in accordance with the Administrative Proceedings and Appeals to the Board Policy.

V. Policy Review

1. The Board shall review this policy at least once every three years to ensure that it remains relevant and appropriate. This policy may be amended at any time by a Board majority.

VI. Policy History

1. This policy was adopted by the Board on September 16, 2020.

VII. Secretary's Certificate

I, Donald Kendig, the duly appointed Secretary of the Fresno County Employees' Retirement Association, hereby certify the adoption of this Policy.

September 16, 2020

Date of Action:



By: Retirement Administrator