

Post-Retirement Employment Policy: CalPERS' Retirees
CSU Employment Eligibility for CalPERS Rehired Annuitants
Includes Discussion of Mid-Year Retirement
October 2011

Rehired annuitant employment eligibility is dependent on the retiree's timebase "during the last fiscal year prior to retirement." Specifically, the CalPERS employment limit for rehired annuitants states: "employment may not exceed 960 hours or **50 percent** of the hours the member was employed during the last fiscal year prior to retirement, whichever is less." 960 hours is the equivalent of 120 academic workdays. It is the retiree's responsibility to monitor hours of work. The penalties for exceeding employment eligibility restrictions can be serious and costly.

If CalPERS determines the employment of a rehired annuitant does not comply with the restrictions stated above, the rehired annuitant may be subject to penalties which may include reinstatement retroactive to when the employment began and must reimburse CalPERS for all retirement allowances received during the unlawful employment.

CSU has clarified with CalPERS that for the purpose of determining the hours a member may work post retirement, the member is to use the hours worked in the full fiscal year prior to retirement. In other words, if a faculty member is retiring in December 2011, the member is to use the hours employed during fiscal year 2010-11. If a faculty member worked full-time during the last academic year prior to retirement, s/he would be eligible for re-employment as a rehired annuitant up to 50 percent of full-time, or 15 weighted teaching units (WTUs) for each academic year following retirement.

If a faculty member has taken a leave without pay, the government code applying to academic employees references the fiscal year of service prior to retirement. This allows us to look for the last year in which service occurred. For example, FY 2010-11 would be the base for determining employment eligibility for faculty retiring during academic year 2011-12 (either at the start of the academic year or mid-year). If a faculty member were on leave for the entire previous fiscal year (FY 2010-11), then FY 2009-10 would be used to determine the rehired annuitant's employment eligibility.

However, if the faculty member was only on leave for part of the fiscal year prior to retirement, then the partial employment year would be used to calculate eligibility. For example, if a faculty member was on a leave without pay during fall semester 2010, then worked during spring semester 2011 prior to retiring, employment eligibility would be based solely on the spring semester service during 2010-11. Therefore, assuming the faculty member was employed full-time during spring semester 2011, s/he would be eligible for 50 percent of 15 WTUs, or a total of 7.5 WTUs for future academic years of rehired annuitant employment.

Because the fiscal year resets in July, a faculty member who retires mid-year (at the end of Fall semester) would be eligible to teach at their full employment eligibility in the spring semester

(e.g., 15 WTUs if fully employed the previous fiscal year). Employment eligibility during each academic year following retirement would continue to be 15 WTUs.

Employment eligibility can be spread over an academic year. If a retired annuitant has employment eligibility of 15 WTUs, the retired annuitant could teach up to 7.5 WTUs in fall semester and 7.5 WTUs in spring semester, or up to 15 WTUs in fall semester and 0 WTUs in spring semester, or any other combination of units that does not exceed the 15 WTU limit for the academic year.

Rehired annuitants have no teaching entitlement. If they apply to teach, they fall to the bottom of the Assignment Order for Available Work; that is, they are classified as new applicants for teaching assignments. Therefore, rehired annuitants may not be offered employment until all qualified and current temporary faculty are first offered available work. However, a rehired annuitant may build up entitlement once employed, just like any other temporary faculty member. The entitlement of a rehired annuitant may never exceed their CalPERS employment eligibility.

There are special restrictions for retirees under normal retirement age. A CalPERS member who retires prior to “normal retirement age” (55 for CSU retirees), must have a break in service for at least 60 calendar days prior to returning to employment as a rehired annuitant. Additionally, there must be no agreement (either verbal or written) to return to employment between the member and a CalPERS employer prior to retirement (GC 21220.5). These requirements do not apply to disability retirements.

Post retirement CSU compensation is subject to federal, state and Medicare taxation. Law excludes CSU compensation from Social Security taxation for rehired annuitants receiving retirement benefits through CalPERS.

The tech letter that specifies CalPERS employment limits for rehired annuitants is available online at: <http://www.calstate.edu/HRAdm/pdf2008/HR2008-23.pdf>.

The CalPERS publication “Employment after Retirement,” addressing employment-related issues for retirees, is at:

<http://www.calpers.ca.gov/eip-docs/employer/cir-ltrs/2004/200-181-04.pdf>.

*Colleen Mullery, AVP Faculty Affairs
October 2011*