
According to CalPERS, School Districts May Not Hire Retired CalPERS Annuitants While Recruiting

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On December 18, 2024, CalPERS released a Circular Letter clarifying how school districts and community colleges may employ retired annuitants under the California Public Employees' Retirement Law (PERL) and Public Employees' Pension Reform Act of 2013 (PEPRA).

Previously, pursuant to Government Code section 21221(h) and according to guidance issued by CalPERS on January 1, 2013, school districts and community colleges were considered a "contracting agency" and were able to hire retirees into vacant positions while actively recruiting to hire a permanent employee. However, CalPERS has now changed its interpretation of the applicable law. The December 18, 2024 Circular Letter issued by CalPERS makes clear that retired annuitants may only be employed by school districts and community colleges in "temporary extra help positions during an emergency to prevent the stoppage of public business or because the retired person has specific skills needed to perform work for a limited period."

The change in CalPERS guidance indicates that CalPERS no longer considers school employers to be a "contracting agency" and therefore schools are limited to hiring retirees in temporary extra help appointments under Government Code sections 7522.56 and 21229. This means that school districts and community colleges may no longer hire retirees into vacant positions during recruitment, except under specified circumstances. Instead, the employer may hire an active member to fill in during the recruitment, or the employer may work an existing employee out of class in the vacant position. A retired annuitant can be hired to support the person hired into the vacancy if the retiree has special skills and otherwise meets the requirements for a temporary extra help position.

The Circular Letter reiterates that the hiring of retired annuitants should not be considered a permanent solution and must also comply with additional requirements including rate of pay, receipt of benefits, other forms of compensation, and applicable waiting periods. Several school employers have now received formal written notices from CalPERS that retirees have been hired in violation of the law. The consequences for this can be significant, for both the retiree and the school district.

Takeaways

School districts and community college districts who have hired retired CalPERS members in permanent positions should consult with counsel to determine what, if anything, they should do now in light of CalPERS new guidance. If you have any questions about whether your District can hire a CalPERS retired annuitant, please contact one of the authors of this Client News Brief or any attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [X \(formerly Twitter\)](#), and [LinkedIn](#), or download our [mobile app](#).

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