

SEPARATION FROM SERVICE FOLLOWING RETIREMENT SUMMARY



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If you return to work, either as an employee or an independent contractor, for a SCERA employer following your retirement from SCERA, you and the employer need to ensure your return to work complies with retirement and tax law during the entire course of your employment. California retirement law and federal tax law provide specific return to work restrictions and consequences for retirees who return to work in the same public retirement system from which they receive a benefit. Strict penalties may be imposed on a retiree who does not satisfy these requirements. The following is a summary of those restrictions.

All Members

- **960 Hour Limit:** Following any required break in service,¹ retirees may continue to receive their retirement benefit if their extra help employment with a SCERA employer is limited to 960 hours per fiscal year (July 1 to June 30).
- **Return to Work after Receiving Unemployment Insurance:** A California public agency is prohibited from appointing a retiree if, during the 12-month period before an appointment, the retiree received unemployment arising out of California public employment.

All General Members

- There can be no agreement or understanding prior to retirement regarding your return to work.
- All General members must have a **180-day**² break in service. This restriction may be waived by the Board of Supervisors (or governing body) following your retirement date if you have special skills needed to perform work of a limited duration.
- If this requirement is not met, there is a plan violation and your retirement benefit payment will be suspended, and benefits already paid must be repaid, until there is a 180-day break in service.

General members with a retirement age of 58 to 59½

- **180-day** break in service as described above.
- **60-day**³ break in service following retirement, which cannot be waived.
- If the **60-day** requirement is not met, pension payments are subject to a 10% early distribution penalty by the Internal Revenue Service (IRS) and are subject to state tax penalties until the requirement is met. The retiree is responsible for paying these penalties.

General members with a retirement age less than 58

- **180-day** break in service as described above.
- **60-day** break in service, which cannot be waived.
- If the **60-day** requirement is not met pension payments are subject to early distribution tax penalties, as noted above, and there is a plan violation and benefits will be suspended, and benefits already paid must be repaid, until there is a 60-day break in service.

¹ A "break in service" as used throughout this Summary includes the employee terminating employment with no agreement or understanding between the employer and employee that the employee will return to work, either as an employee or an independent contractor, for the employer for the appropriate number of continuous days.

² For the **180-day** break in service, the following classifications are considered **Safety**: Firefighter or positions that qualify as a "Public Safety Officer" pursuant to Government Code section 3301 (which includes Deputy Sheriff, Correctional Deputy, Welfare Fraud Investigator, DA Investigator, Probation Officer, and Park Ranger). All other classifications, including Human Services Juvenile Correctional Counselors, are considered **General**. Note: this is different than the SCERA plan classifications.

³ For the **60-day** break in service, General and Safety designations follow SCERA's plan classifications.

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All Safety Members

- There can be no agreement or understanding prior to retirement regarding your return to work.
- All Safety⁴ members may return to a Safety service position without a 180-day break in service.⁵
- Safety members returning to a General position must have a **180-day** break in service. This restriction may be waived by the Board of Supervisors (or governing body) following your retirement date if you have special skills needed to perform work of a limited duration.
- If this requirement is not met, there is a plan violation and benefits will be suspended, and benefits already paid must be repaid, until there is a 180-day break in service.

Safety members with a retirement age of 50 to 59½

- **180-day** break in service as described above.
- **60-day**⁶ break in service following retirement, which cannot be waived.
- If the **60-day** requirement is not met, pension payments are subject to a 10% early distribution penalty by the Internal Revenue Service (IRS) and are subject to state tax penalties until the requirement is met. The retiree is responsible for paying these penalties.

Safety members with a retirement age less than 50

- **180-day** break in service as described above.
- **60-day** break in service, which cannot be waived.
- If the **60-day** requirement is not met pension payments are subject to early distribution tax penalties, as noted above, and there is a plan violation and benefits will be suspended, and benefits already paid must be repaid, until there is a 60-day break in service.

This Summary was prepared to help retirees understand issues surrounding return to work for a SCERA employer. The information is necessarily general and not exhaustive and SCERA encourages any retiree seeking to return to work as an independent contractor or employee of a SCERA employer to discuss these requirements with the proposed employer. You should not rely solely on the information contained in this Summary. SCERA cannot provide tax advice. If you have tax questions, you may want to seek the advice of a tax professional. If there is any discrepancy between information in this Summary and legal requirements under State or Federal law, the law will govern.

⁴ For the **180-day** break in service, the following classifications are considered **Safety**: Firefighter or positions that qualify as a “Public Safety Officer” pursuant to Government Code section 3301 (which includes Deputy Sheriff, Correctional Deputy, Welfare Fraud Investigator, DA Investigator, Probation Officer, and Park Ranger). All other classifications, including Human Services Juvenile Correctional Counselors, are considered **General**. Note: this is different than the SCERA plan classifications.

⁵ A “break in service” as used throughout this Summary includes the employee terminating employment with no agreement or understanding between the employer and employee that the employee will return to work, either as an employee or an independent contractor, for the employer for the appropriate number of continuous days.

⁶ For the **60-day** break in service, General and Safety designations follow SCERA’s plan classifications.