

**PROCESSES AND PROCEDURES:
CALPERS RETIRED ANNUITANT
HIRING AND REPORTING
FOR
KENSINGTON POLICE PROTECTION AND
COMMUNITY SERVICES DISTRICT**

LAST UPDATED: XX/XX/XXXX

Kensington Police Department

Kensington PD Retired Annuitant Procedures

SUBJECT

Pre-hire and reporting procedure for retired annuitant appointments.

PURPOSE

The purpose of this document is to outline the pre-hire and post-hire processes for the Kensington Police Protection and Community Services District ("District") when appointing a retiree of the California Public Employees' Retirement System ("CalPERS") with the intention that they retain their retired status, in order to maintain compliance with the working after retirement rules contained in the Public Employees' Retirement Law and the Public Employees' Pension Reform Act.

DEFINITIONS

1. **Appointment Types:** The type of retired annuitant appointment, based on intent behind the appointment, whether the appointment is to: (a) provide extra-help under Government ("Gov.") Code §21224 and §7522.56, (b) fill a vacant position subject to Gov. Code §21221(h), or (c) fill a position during an employees' leave of absence under Gov. Code §21221(g).
 - a. **Extra Help:** An appointment during an emergency to prevent stoppage of public business or because the retiree has specialized skills needed to perform limited duration work.
 - b. **Leave of Absence:** An appointment approved by the District's Board through a resolution that specifies that the appointment requires specialized skills, that the position is available due to a permanent employee's leave of absence, and that the appointment shall not exceed 12 months, where the appointment immediately ends upon the permanent employee's return, if prior to the end of the 12 months.
 - c. **Vacancy:** An appointment to a position in order to prevent stoppage of public business or because the position requires specialized skills, when that position is vacant and only while active recruitment for a permanent appointment is ongoing.
2. **Hour Threshold:** The 960-hour per fiscal year threshold for retired annuitants, measured from July 1 to June 30 of each year. The 960 hour limitation aggregates all hours worked in retired annuitant appointments for all CalPERS employers during the fiscal year. The maximum hour threshold always applies, unless there is a documented connection to an active executive order from the California Governor, which only applies to related duties, hours, and dates.
3. **Limited Duration:** A period of up to 24 consecutive months, which may only be extended by 12 months twice if specified conditions are met, for a total of 48 consecutive months, applicable to Extra Help Appointments.
4. **Most Comparable Position:** The minimum and maximum compensation rate for a retired annuitant must be based on the minimum and maximum salary range for the most

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comparable position, as defined on a compliant publicly available pay schedule. The most comparable position is the position with duties that most closely align with the duties performed by the retired annuitant in practice. A determination of the most comparable position must be made for every retired annuitant appointment, before they begin work.

5. **my|CalPERS System:** CalPERS' online system and database used for reporting all employee data, including appointment details, compensation, and contributions.
6. **Publicly Available Pay Schedule:** The District's salary schedule or similar document, which is approved by the District's Board in open session and meets all requirements of Title 2 of the California Code of Regulations §570.5.
7. **Retired Annuitant ("RA"):** An individual who is currently a retiree from CalPERS and will be hired into, or is already engaged, in post-retirement employment with a CalPERS employer.

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PROCEDURES AT A GLANCE

1. Prior to Hiring:

1. Identify retirement status and relevant information.
2. Determine if the bona fide separation of service requirement applies.
3. Confirm if the 180-day post-retirement wait period applies.
4. Confirm if the individual has received unemployment insurance compensation arising out of prior employment subject to Gov. Code §7522.56 within the 12 months prior to the RA appointment start date.
 1. If not, have the RA complete and sign the unemployment insurance certification form, and retain in District records.
5. Identify RA appointment type: Extra-Help, Leave of Absence or Vacancy.
6. Ensure appointment details and any employment documentation complies with post-retirement employment requirements:
 1. Appointment type and intent
 2. Timeframe of appointment, based on appointment type
 3. 960-hour per fiscal year limitation
 4. Identify permanent position that is most comparable to the duties to be performed by the RA
 5. Limit RA appointment compensation to only base salary within approved salary range of most comparable position
 6. Ensure no other compensation or benefits are provided for the RA appointment beyond the base salary rate
7. Confirm whether a current and active Executive Order from the California Governor applies.

2. After Hiring and During Appointment:

1. Create new myCalPERS non-contributory appointment for the RA, with a start date as of the retiree's first day on payroll, within 30 days of the effective date of hire.
2. Monitor hours assigned and worked by RA to remain under 960-hour threshold.

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3. Monitor hourly rate to ensure RA remains within approved salary range of the most comparable position.
 4. Monitor Recruitment for Vacancy Appointments
 5. Monitor leave time for Leave of Absence Appointments
 6. Monitor Limited Term Duration of Extra-Help Appointments
 7. Confirm whether an applicable Executive Order from the Governor is still in effect
 8. Submit compensation and payroll report for the RA appointment in my|CalPERS within 30 days following the last day of the pay period in which the RA worked.
3. Post-Appointment:
1. Separate RA from District employment.
 2. Ensure appointment end-date is appropriately entered in the my|CalPERS system as the day after the last day on payroll.

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PROCEDURES

1. Pre-Hire Procedures

1.1	Identify retirement status and relevant information
During the hiring process, either within an application or during onboarding, confirm if the individual is a CalPERS retiree. If so, confirm the individual's retirement date.	
1.2	Confirm if the bona fide separation of service requirement applies.
<p>If the RA appointment is intended to begin within 60 days after the individual's retirement, confirm whether there was a bona fide separation of service.</p> <p>A bona fide separation in service requirements apply when a member has not attained normal retirement age. To determine if the member has attained normal retirement age, confirm the following with the retired person:</p> <ul style="list-style-type: none">i. The member's age at the anticipated start of the RA appointment, andii. All CalPERS pension formulas used to calculate their pension benefit. <p>If a member's age at the anticipated start of the RA appointment is lower than the highest age used among all applicable retirement formulas, then the member will not have attained normal retirement age and the <i>bona fide separation of service requirements apply</i>.</p> <p>A bona fide separation of service requires that the member have no pre-determined agreement to return to work after retirement, and that they do not begin any RA appointment until 61 days or more after their retirement date.</p> <p><u>Pre-determined Agreement:</u> If a member has not attained their normal retirement age, there cannot be an agreement between the member and the District made prior to retirement establishing that the member would return to work for the District after retirement as an RA. This can include any documentation or discussion of the member working in an RA appointment after retirement, and not necessarily a formal agreement. This also includes any agreement related to post-retirement disability employment under Gov. Code §21232.</p> <p><u>60-day Wait Period:</u> The begin date for a RA who has not attained their normal retirement age cannot be within 60 days after their retirement date.</p> <p>Move onto next step only if:</p> <p>The member has attained their normal retirement age,</p> <p>OR</p>	

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If they have not attained their normal retirement age, there is no pre-determined agreement to return to work for the District after retirement AND the begin date for the RA appointment is 61 calendar days or more after the prospective RA's retirement date.

1.3

Confirm if the 180-day post-retirement wait period applies.

If the RA appointment is intended to begin within 180 days after the individual's retirement, confirm whether the RA appointment is of a retiree that is a public safety officer or firefighter hired to perform a function regularly performed by a public safety officer or firefighter. If so, the 180 day waiting period does not apply ("Safety Exception"). This exception is not available if the retiree accepted a retirement incentive.

If not, the 180 day waiting period may be waived pursuant to an Exception Resolution so long as the retiree did not receive any retirement incentive.

Exception Resolution: If the appointment is to a nonsafety position and is intended to begin within less than 181 days after the individual's retirement date, the District Board must approve a resolution certifying that there is a *critical need* to fill the appointment before the 180-day waiting period has passed. The resolution must be approved in open session and not on consent calendar.

Retirement Incentive: If the individual received a retirement incentive *from their last employer where they retired*, the RA appointment cannot begin until the 181st day after their retirement date. This includes when the individual retired from an employer that was not the District and received a retirement incentive from that employer. A retirement incentive includes, but is not limited to, any golden handshake, additional compensation or any agreement terms that provide a benefit to the individual conditioned upon retirement.

Move onto next step only if:

RA appointment is intended to begin after 181 calendar days or more have passed after the prospective RA's retirement date

OR

If the RA appointment is intended to begin within 180 days after the prospective RA's retirement date that: (i) the appointment meets the Safety Exception AND the prospective RA did not receive any retirement incentive, or (ii) the appointment is to a nonsafety position, the District Board approved a complaint Exception Resolution, AND the prospective RA did not receive any retirement incentive.

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1.4	Confirm if the individual has received unemployment insurance compensation.
<p>After determining the expected RA appointment start date, confirm whether RA received unemployment insurance compensation arising from any prior employment subject to Gov. Code §7522.56 within the 12 months prior to the start date. If prospective RA did not receive unemployment insurance compensation, have them complete and sign an unemployment certification form. If they did, they cannot be appointed to an RA appointment until the 12 months have passed.</p> <p>Move onto next step only if:</p> <p>RA did not receive unemployment insurance compensation as described above AND has completed and signed an unemployment insurance certification form.</p>	
1.5	Identify RA appointment type: Extra-Help, Leave of Absence or Vacancy
<p>The appointment type will be based on the District's need, intent behind the appointment, and, if used to fill a specific position, the employment status of that position. Confirm intent and relevant information with District management.</p> <p><u>Extra-Help:</u> When the intent is for the RA to perform duties during an emergency to prevent stoppage of public business or because the retiree has specialized skills needed to perform limited duration work of less than 24 consecutive months, or with documented extensions, less than 48 consecutive months. Appointment must also NOT fall under the Leave of Absence or Vacancy Appointment types.</p> <p><u>Leave of Absence:</u> When the intent is for the RA to perform duties requiring specialized skills in a specified position while a permanent employee is on a leave of absence, the appointment will likely need to be identified as a Leave of Absence appointment. These appointments cannot exceed more than 12 months and require the District's Board to approve a resolution stating that the appointment requires specialized skills and is needed due to a permanent employee's leave of absence, where the appointment will not exceed 12 months.</p> <p>As noted in below, also consider whether anticipated employment changes will require a future appointment type transition <u>and</u> whether another Exception Resolution is needed to waive the 180 day waiting period:</p> <p>If the permanent employee returns from their leave of absence and the RA is still needed, the District will need to transition the RA appointment to an Extra-Help appointment type, and meet all relevant requirements. The end-date of the Leave of Absence appointment must be before the employee returns from their leave of absence.</p> <p>If the permanent employee separates from their position, leaving the position vacant and the RA is still needed, the District will need to transition the RA appointment to a Vacancy Appointment type, and meet all relevant requirements. The end-date of the</p>	

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Leave of Absence Appointment must be before the permanent employee's separation date and ongoing active recruitment **must begin before** the start date of the subsequent Vacancy Appointment. The RA cannot continue in the Vacancy appointment until the District Board has taken action to appoint the RA to the vacant position. This means that there might be a lapse of time between when the Leave of Absence appointment must end and the Vacancy appointment can begin.

If the RA is still within the 180 day period after their date of retirement, another Exception Resolution to waive the 180 day waiting period will be required before the RA can transition to the new appointment type.

Vacancy: When the intent is for the RA to perform duties during an emergency to prevent stoppage of public business or because the retiree has specialized skills, where those duties relate to a specified position that is currently vacant. An RA can only be appointed to a specific vacancy once. As such, the end of the appointment should be identified as the day prior to when the permanent appointee to the vacant position begins employment rather than a specific date, and ongoing active recruitment must be in effect during the entire appointment. Recruitment **must begin before** the start date of the Vacancy Appointment.

As noted in the procedures below, also consider whether anticipated employment changes will require a future appointment type transition and whether another Exception Resolution is needed to waive the 180 day waiting period:

If a permanent appointee to the vacant position begins employment, but the RA is still needed to ensure a smooth transition, the District will need to transition the RA appointment to an Extra-Help appointment type, and meet all relevant requirements. The end-date of the Vacancy appointment **must be before** the start date of the permanent hire.

If the RA is still within the 180 day period after their date of retirement, another Exception Resolution to waive the 180 day waiting period will be required before the RA can transition to the Extra Help appointment.

Move onto next step only if:

Each appointment type is considered, and the appropriate appointment type has been chosen.

1.6	Ensure appointment details and any employment documentation complies with post-retirement employment requirements.
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1. Appointment type and intent

Employment agreement and any documentation must identify the appointment type and justification related to the need for an RA, which supports the appointment type.

If the appointment is based on specialized skills or an appointment to a specified position, the employment documentation should outline those skills and the experience possessed by the RA

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that aligns with those skills or the duties of the specified position that the RA will be temporarily filling.

For each appointment type, employment documentation should explicitly state:

Extra-Help: Justification for needing an RA to perform the specific duties, and the RA's experience, education, or other factors which identify the RA has the skills necessary to address the emergency or specialized skills needed for the appointment.

Leave of Absence: Justification for needing an RA to perform the specific duties while an employee is on a leave of absence, and the RA's experience, education, or other factors which identify the RA can perform the duties of the related position.

Vacancy: Justification for needing an RA to perform the specific duties while recruiting for a permanent appointment, and the RA's experience, education, or other factors which identify the RA can perform the duties of the related position.

2. Timeframe of appointment, based on appointment type

Employment documentation must outline the timeframe based on appointment type.

Extra-Help appointments should specify a timeframe of an initial 12 months, but no more than 24 months, with up to two 12-month extensions, such that the appointment never exceeds 48 consecutive months.

Leave of Absence appointments should specify that the RA appointment will last no more than 12 months, identify the date of the 12-month threshold, and state that the RA appointment shall end on the day before the permanent employee on a leave of absence returns to work or terminates employment.

Vacancy appointments should not specify a specific end-date, but identify that the RA appointment shall end the day before the start date of any permanent hire into the vacant position.

3. 960-hour per fiscal year limitation

Employment documentation must state that the RA appointment shall not exceed 960 hours within any fiscal year, from July 1 to June 30, among all CalPERS employers and that monitoring hours are the responsibility of the RA.

Include notification to RA in employment documentation that the 960-hour threshold applies to all RA work across all CalPERS employers, and that the District cannot monitor hours worked at other CalPERS employers.

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4. Identify permanent position that is most comparable to the duties to be performed by the retiree

Employment documentation must identify the most comparable position. To determine the most comparable position, identify the position with defined duties that most closely align with those to be performed by the RA.

5. Limit RA appointment compensation to only hourly rate within approved salary range of most comparable position

Employment documentation must identify the hourly rate of compensation to be paid to the RA, which must fall within the defined minimum and maximum salary of the position with duties that are most comparable to those being performed by the RA.

The defined minimum and maximum salary for the most comparable position is that which is listed on an approved and compliant publicly available pay schedule.

If the payrate is listed as a monthly amount, divided by 173.333 to obtain the hourly rate.

6. Ensure no other compensation or benefits are provided for the RA appointment beyond the compliant hourly rate, and

No additional compensation or benefits beyond the compliant hourly rate should be provided to the RA. Employment documentation should explicitly state that no additional compensation or benefits are being provided to the RA, unless required by state or federal law.

Impermissible additional compensation or benefits include, but are not limited to special compensation, paid leave, travel reimbursements, incentive pay, health benefits. Overtime pay is permitted only if required by state or federal law.

Move onto next step only if:

All relevant and required information is documented within relevant employment documentation such as an employment agreement.

1.7

Confirm whether a current and active executive order from the California Governor applies

If the RA appointment is being made due to an ongoing emergency where an Executive Order from the California Governor has paused specific RA appointment requirements or otherwise exempted certain RA appointments from specific requirements, those considerations should be identified within the employment documentation.

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When the RA appointment is intended to assist in addressing an ongoing emergency which impacts the District, the emergency should be identified in employment documentation and an explicit connection between the RAs duties and the emergency should be outlined.

Further, the employment documentation should identify whether any RA appointment exemptions made through an Executive Order apply, and if so, that the RA appointment shall revert to regular RA requirements when the Executive Order is no longer in effect. For example, Executive Orders related to the COVID-19 pandemic lifted the 960-hour per fiscal year threshold requirement. If an RA was hired in an Extra-Help appointment during that time to assist with preventing the stoppage of public business due to the pandemic, employment documentation should have identified that the 960-hour limitation did not apply while the Executive Order was in effect, but that the limitation would immediately apply upon the Executive Order no longer being in effect.

Move onto next step only if:

No Executive Order applies, or language for any applicable Executive Order has been incorporated into employment documentation.

1.8

Hiring

When all steps above have been completed and the RA appointment complies with all requirements, then proceed with hiring the RA.

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2. Procedures After Hiring and During Appointment

2.1	Create new my CalPERS non-contributory appointment for the RA, with a start date as of the retiree's first day on payroll
<p>Begin once appointment offer has been accepted by RA, employee and District have agreed on a start date, and personnel action forms have been completed.</p> <p>Within 30 days of an RA's first day on payroll, the District will need to add a non-contributory appointment in the my CalPERS system for the RA. The start date for the appointment must be the RA's first day on payroll, and must be entered before any payroll can be reported in the my CalPERS system.</p>	
2.2	Monitor hours assigned and worked by RA to remain under 960-hour threshold.
<p>Ensure RA hours are reported and paid as follows:</p> <ol style="list-style-type: none">1. RA shall enter work hours into the inTime software each pay period, based on assigned duties and hours, or relevant scope of work for the RA appointment.2. Direct Supervisor of RA approves timesheets after the 15th of each month and end of each month. Worked hours are then sent to Finance for processing.3. Approved timesheets are then imported or manually entered into PayloCity for scheduled payroll processing.4. Prior to payroll process, Pre-Process Payroll Register is submitted to General Manager for review, then approved for payment.5. Once approved, Finance schedules/submits the payroll for processing6. RA was appropriately paid for hours worked. <p>Then, ensure hours for all RA appointments are monitored each pay period to ensure no RA exceeds the 960-hour per fiscal year threshold, from July 1 to June 30.</p> <ol style="list-style-type: none">7. Once an RA reaches 900 hours within a fiscal year, notify the RA and their direct supervisor, and/or the General Manager to inform them that they cannot exceed 960 hours, unless an Executive Order exception applies.	
2.3	Monitor hourly rate to ensure RA remains within approved salary range of the most comparable position.
<p>Ensure the hourly rate paid to the RA for the first pay period worked aligns with the equivalent rate of the most comparable position identified before they were hired, as listed on the District's publicly available pay schedule.</p>	

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Anytime a salary range modification is approved for any position, such as a cost of living adjustment, general salary increase, or compensation study adjustment, that modification should be reflected on the District's publicly available pay schedule. When this occurs, verify whether that increase impacts any current RA appointments.

Anytime an RA is provided an increase to their hourly rate, ensure that the rate remains within the salary range of the most comparable position, as defined on the District's publicly available pay schedule.

2.4

Monitor Recruitment for Vacancy Appointments

Monitor ongoing recruitment regularly and ensure recruitment is ongoing and active throughout entire RA appointment.

Add relevant recruitment documentation to the RA appointment file, or further document actions taken towards recruitment within the month, then file that documentation within the RA appointment file.

Documentation examples:

- Posting the recruitment and opening to a website, or to a new website.
- Reviewing applications, performing interviews, internal discussions or meetings concerning applicants, and all general actions associated with recruitment.
- For internal recruitment, document which employees are being considered and how the District has made contact concerning the vacant position.
- If the District has reached out to individual candidates for a hard-to-recruit position, document any related research performed and the outreach to possible candidates.

Once a permanent employee begins employment in the vacant position, the RA appointment must cease.

If a permanent employee is hired and RA duties are still needed temporarily, RA must transition to an Extra-Help appointment. If the RA is still within the 180 day period after their date of retirement, another Exception Resolution to waive the 180 day waiting period will be required before the RA can transition to the Extra-Help appointment.

2.5

Monitor leave time for Leave of Absence Appointments

At the beginning of the appointment, notify the direct supervisor of the permanent employee on a leave of absence and responsible parties in human resources to coordinate any return date of the permanent employee from the leave of absence.

Monitor permanent employee's leave of absence, and end Leave of Absence appointment before the permanent employee returns to work or terminates employment.

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Monitor RA appointment monthly to ensure RA appointment lasts no longer than 12 months. Once the RA appointment reaches 11 months, notify the direct supervisor of the RA, and if different, the direct supervisor of the permanent employee on a leave of absence, and the General Manager.

If the permanent employee returns and RA is still needed, transition to an Extra-Help appointment. The Leave of Absence appointment must end before the permanent employee returns.

If permanent employee separates, position becomes vacant, and RA is still needed, transition to Vacancy appointment or Extra-Help appointment, depending on the position. The Leave of Absence appointment must end before the permanent employee's last day on payroll.

If the RA is still within the 180 day period after their date of retirement, another Exception Resolution to waive the 180 day waiting period will be required before the RA can transition to the new appointment type.

2.6

Monitor Limited Term Duration of Extra-Help Appointments

Monitor the duration of the Extra-Help Appointment monthly. An RA appointment should not exceed 24 months without documenting the need for an extension, and should not exceed more than 48 months in any circumstances.

Whenever possible, RA appointments should specify 12-month terms, up to the maximum 48 months.

When the initial term for an RA appointment is less than 24 months and shall end in two months, notify the direct supervisor of the RA and General Manager that the term will end in 2 months. If the RA appointment is still needed, extend appointment term up to the date that is no more than 24 months from the start date of the RA appointment.

Extensions

If the initial term for the RA appointment was identified as 12-months, follow normal human resources procedures to extend the appointment for an additional period not to exceed an additional 12-months.

If an RA is needed beyond 24 months, justification for up to two 12-month extensions should be documented, i.e., an extension for months 25-36 and a separate extension, for months 37-48. The extension and justification should only be made if the following findings are made before the extensions and identified in a memo that's placed in the RA's personnel file:

- An explanation of why the appointment must be extended,
- An explanation why active employees cannot be used for the functions performed by the retiree, and

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<ul style="list-style-type: none">• A description of a plan to transfer duties and/or knowledge to active employees or other retirees.	
2.7	Confirm whether an applicable Executive Order from the Governor is still in effect
<p>Monitor any applicable Executive Order from the California Governor that impacts RA appointments <i>monthly</i>.</p> <p>If an Executive Order impacts any active RA appointments, check: (i) CalPERS' circular letter publications, and (ii) the Governor's Executive Order publications.</p> <p>If an Executive Order applies to an RA appointment and an applicable RA exemption has been rescinded, notify the direct supervisor of the RA and the General Manager, in order to modify RA appointment according to any applicable RA requirements.</p>	
2.8	Submit compensation and payroll report for the RA appointment in my CalPERS.
<p>Monitor all RA payroll each pay period. Confirm Finance has approved RA payroll and confirm that the RA payroll identifies the correct number of hours and correct hourly rate.</p> <p>Confirm that the RA received no additional compensation or benefits on their payroll unless required by state or federal law.</p> <p>Ensure relevant payroll is reported in the my CalPERS system as "Earned Period No Contribution No Service" within 30 days of the last day of each pay period.</p>	

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3. Post-Appointment Procedures

3.1	Separate RA from District employment
Confirm formal separation notice has been provided to RA with a separation date, and any personnel actions forms have been completed for the separation.	
3.2	Ensure appointment end-date is appropriately entered in the my CalPERS system as the day after the last day on payroll.
Enter the RA appointment end date in the my CalPERS system as the day after the RA's last day on payroll.	

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AUTHORITY

180-Day Wait Period (all appointments): Gov. Code §§7522.56(f) & (g)

Bona Fide Separation of Service: Gov. Code §21220.5 & Title 2 of California Code of Regulations §586.2

Extra-¹

By:

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This was written by BB+k

¹ See webpage at <https://www.calpers.ca.gov/documents/pas-ref-guide/download> (last accessed July 30, 2025).