

**SAN DIEGO COUNTY EMPLOYEES RETIREMENT ASSOCIATION**  
**POST-RETIREMENT EMPLOYMENT POLICY**

**I. PURPOSE**

The purpose of this policy is to establish a post-retirement employment policy in accordance with Sections 7522.56 and 31485.21 of the California Government Code. This Policy establishes the parameters for the payment of benefits to a rehired retired employee of an eligible employer (the “Employer”).

**II. POLICY**

**A. Internal Revenue Service Requirements With Respect To “Bona Fide” Terminations of Employment**

The Internal Revenue Service (“IRS”) generally requires that any termination of employment<sup>1</sup> triggering a post-termination distribution right be “bona fide,” meaning that there must not be any intent on the part of the Employer and employee, as of the date of the employee’s termination, that the employee return to employment with the Employer.

**B. Internal Revenue Service and San Diego County Employees Retirement Association (“SDCERA”) Rule on In-Service Distributions.**

Notwithstanding the general rule described in II.A of this policy, under IRS guidance, a plan document may provide that an individual who has reached his or her Normal Retirement Age may commence his or her retirement benefits from a pension plan without having a “bona fide” termination of employment. SDCERA adopts this rule to allow benefit commencement in situations where the member satisfies all of the following requirements:

1. *Normal Retirement Age.* He or she has attained Normal Retirement Age prior to termination from employment with the Employer,
2. *Termination of Employment.* He or she has terminated employment with the Employer, and
3. *Submission of Retirement Application.* He or she has submitted a retirement application to SDCERA with a retirement date occurring after his or her termination of employment with the Employer; the application is received by SDCERA on or before the retirement date; and the retirement date has passed, and he or she is then rehired into a position ineligible for SDCERA membership by an Employer.

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<sup>1</sup> Consistent with Section 31485.21 of the California Government Code, “termination from employment” may also be referred to as a “separation from service”.

C. Rehire and Return to Work Requirements.

1. *Employees Who Are Public Safety Officers Prior to Termination from Employment*

a) Employees Who Are of Normal Retirement Age at Termination from Employment

(1) Public Safety Officer Rehired into a temporary Public Safety Position.

If rehired as a public safety officer, he or she may continue his or her benefits from SDCERA and is not required to have any minimum break in employment with the Employer prior to rehire.

(2) Public Safety Officer Rehired into a temporary General Position.

If rehired as a general employee, he or she may continue his or her benefits from SDCERA if he or she is (a) rehired 180 days or more after termination of employment, or (b) rehired into a critically needed position with approval by the governing body of the Employer.

b) Employees Who Are Not Normal Retirement Age at Termination from Employment

(1) Public Safety Officer Rehired into a temporary Public Safety Position.

If rehired as a public safety officer, he or she may continue his or her benefits from SDCERA if he or she is rehired 90 days or more after termination of employment.

(2) Public Safety Officer Rehired into a temporary General Position.

If rehired as a general employee, he or she may continue his or her benefits from SDCERA if he or she is (a) rehired 180 days or more after termination of employment, or (b) rehired into a critically needed position 90 days or more after termination of employment with approval by the governing body of the Employer.

2. *Employees Who Are General Employees Prior to Termination from Employment*

a) General Employees Who Are Normal Retirement Age at Termination from Employment.

If rehired, he or she may continue his or her benefits from SDCERA if he or she is (a) rehired 180 days or more after termination of employment, or (b) rehired into a critically needed position with approval by the governing body of the employer, in which case he or she may continue his or her benefits from SDCERA and is not required to have any minimum break in employment with the Employer prior to rehire.

b) General Employees Who Are Not Normal Retirement Age at Termination from Employment.

If rehired, he or she may continue his or her benefits from SDCERA if he or she is (a) rehired 180 days or more after termination of employment, or (b) rehired into a critically needed position 90 days or more after termination of employment with approval by the governing body of the Employer.

D. Retired Employees Who Have an Agreement or Understanding with the Employer to Be Rehired

Under this Policy, employees who do not satisfy the requirements of the rule described in Section II.B, a bona fide termination from employment will not have occurred, and the retired employee will not be eligible to receive immediately payable benefits from the Association, if, at the time of retirement, there was an agreement or understanding (whether or not in writing) between the retired employee and the Employer that the retired employee would be rehired regardless of the length of separation.

E. Normal Retirement Age.

Normal Retirement Age is defined using a combination of age and years of service credit for each tier, subject to future guidance from the Internal Revenue Service:

<u>Membership Classification/Tier</u>	<u>Normal Retirement Age</u>
General, Tier A:	Age 60 with 10 years of service credit
General, Tier B:	Age 62 with 10 years of service credit
General, Tier C:	Age 67 with 5 years of service credit
Safety, Tier A:	Age 50 with 10 years of service credit
Safety, Tier B:	Age 55 with 10 years of service credit
Safety, Tier C:	Age 57 with 5 years of service credit

**REVIEW**

This policy shall be reviewed by the Board at least every three (3) years and may be amended at any time.

**HISTORY**

February 5, 2015	Adopted
July 16, 2015	Revised, effective July 1, 2015