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Status **Pending** PolicyStat ID **18890222**



San Bernardino County Employees'
Retirement Association

Origination	8/6/2015
Last Approved	N/A
Effective	Upon Approval
Last Revised	9/9/2025
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Area	Benefits
Applicability	SBCERA systemwide

Distribution Restrictions

POLICY NO. 021

Internal Revenue Code Section 401(a) Return To Work And Separation From Service

I. PURPOSE AND SCOPE

In accordance with California Government Code section 31485, the rules set forth in this Policy are restated effective August 1, 2019, and reaffirm, clarify, and update the existing practices of the San Bernardino County Employees' Retirement Association ("SBCERA") with respect to the return to work of retired Members in accordance with the Internal Revenue Code (the "Code") and the applicable underlying Treasury Regulations.

To the extent there is a conflict between this Policy and the Code, the applicable federal law will govern. Terms defined in the County Employees Retirement Law of 1937 (the "CERL") apply here unless otherwise stated.

II. RETURN TO WORK AND BONA FIDE SEPARATION FROM SERVICE

In compliance with Government Code sections 31485.20 and 31485.21, ~~for purposes of employment with the County of San Bernardino or a participating employer under the Code and applicable underlying Treasury Regulations regarding in-service distributions and to protect SBCERA after retirement for service's tax-qualified status,~~ a Member who has not attained Normal Retirement Age (as established by SBCERA) ~~must have~~ may not return to work for an SBCERA participating employer unless the Member

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~~has had~~ a bona fide separation from service as defined by Code section 401(a) prior to returning to work. If a ~~member~~ Member who has not attained ~~normal~~ Normal Retirement Age returns to work after retirement ~~age returns to work~~ without ~~first~~ having ~~had~~ a bona fide separation from service, ~~his or her~~ the Member's SBCERA retirement allowance shall be suspended and active participation in the retirement system shall be reinstated until ~~the Member has~~ a bona fide separation from service ~~or reaches Normal Retirement Age, whichever~~ occurs ~~first~~. ~~A~~ For this purpose, a bona fide separation from service is defined as follows:

1. Regardless of the length of ~~the~~ Member's separation from service, ~~prior to retirement~~, the Member has not entered into any predetermined agreement ~~with an SBCERA participating employer~~ (either written or ~~unwritten~~ oral) ~~prior to retirement with the County or a participating employer under SBCERA~~ to return to work after retirement.
2. Prior to entering into an agreement to return to ~~employment~~ work with ~~the County or a an~~ SBCERA participating employer ~~under SBCERA~~ while retired, the Member must have ~~had~~ a separation from service of ~~at least~~ the greater of (a) any ~~separation from service period~~ required ~~separation from service period required~~ under the California Public Employees' Pension Reform Act of 2013 ("PEPRA") or (b) 60 calendar days.
3. ~~The~~ Notwithstanding the limitations set forth in section 2 above, a Member may ~~be employed by the County or a return to work for an SBCERA participating employer if the employer certifies both the nature of the work and that the employment is necessary due to emergency situations, as outlined in California Government Code section 8558, and under SBCERA prior to the time in sections 1 and 2 for emergency situations as defined in California Government Code section 8558 and under~~ the PEPRA return to work restrictions. ~~A Member may also return if serving as a public safety officer or firefighter hired to perform a function or functions regularly performed by a public safety officer or firefighter.~~
4. The Member must ~~acknowledge in writing~~ provide written acknowledgment to SBCERA at the time of retirement ~~confirming~~ that ~~the Member has~~ they have been informed of the requirements set forth in this Policy ~~imposing, which impose~~ limitations on post-retirement employment, and that no ~~prearrangement to be reemployed while retired~~ pre-existing arrangement with the employer to return to work after retirement exists. The Member must also agree that, if any of the provisions of this Policy regarding bona fide separation from service are violated, as determined by the Board of Retirement, the Member's retirement allowance shall be suspended immediately and shall not be reinstated until the Member has a bona fide separation from service or reaches Normal Retirement Age, as established by SBCERA, whichever occurs first.
5. This Policy is intended to supplement and be consistent with SBCERA Benefits Policy No. 032 (Retirees Returning to Work), and shall be construed ~~in such a manner as is to remain~~ consistent with that intention.

Approval Signatures

Step Description

Approver

Date

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Chief Counsel Review

Barbara Hannah: Chief Counsel

Pending

Christina Cintron: Chief of
Member Services

9/9/2025

Applicability

SBCERA, SBCERA Internal

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