

California State Social Security Administrator Program

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Retired/Rehired Annuitants

Basic Rules:

- If a retired annuitant is rehired by the same employer or by another employer who maintains the same retirement system, the annuitant is exempt from mandatory Social Security coverage¹.
- However, annuitants hired on or after April 1, 1986, are subject to Medicare tax withholding.

Detailed Explanation:

There are basically two types of Social Security coverage:

1. **Voluntary:** Originally entered into pursuant to a “Section 218 Agreement.” In California, this includes the following groups:
 - Classified employees of most California school districts²: They have been covered for Social Security purposes since 1959 pursuant to Modification 315 of the original 1951 State Master Agreement between California and the Social Security Administration (SSA).
 - Employees of the State of California³ and the University of California: They have been covered for Social Security purposes since 1961, pursuant to Modification 414.
 - Local public agencies: They may be covered for Social Security purposes by an individual Modification. (The SSSAP unit conducts this process; contact us if interested.)
2. **Mandatory**⁴: Service performed after July 1, 1991 as an employee for a state or local government entity, **unless** the employee is covered by a qualified “retirement system,” or is **deemed** a “member of a retirement system” of such entity. (Retired annuitants **are** deemed to be such “members.”¹)

If an annuitant is hired in a position that is covered under a Section 218 Agreement, the rehired annuitant would be covered for Social Security and Medicare. However, **annuitants retired from CalPERS are not covered by a Section 218 Agreement**, since such agreements cover only “members” of CalPERS⁵. (Similarly, non-retired employees *not qualified for CalPERS membership*—e.g. working less than 20 hours a week, or less than 1,000 hours in a fiscal year—are not covered by the 218 Agreements above.)

Therefore, if the annuitant is rehired by the same employer or another employer who maintains the same retirement system the employee retired from, they are not subject to Social Security contributions—

¹ Pursuant to IRS regulations 26 CFR 31.3121(b)(7)-2(d)(4)(ii), under which such a person is “is **deemed** to be a qualified participant in the retirement system without regard to whether he or she continues to accrue a benefit.”

² Some “fiscally independent” County Offices of Education do not have Social Security coverage, unlike the districts they administer. **Certificated** employees (e.g., teachers, administrators) are not covered by this 218 Agreement.

³ Including “optional” members, such as Legislative employees, and exempt appointees of the Governor/and other state officials.

⁴ Internal Revenue Code (IRC) section 3121(b)(7)(F).

⁵ Modifications 315, 414, and individual modifications for local public agencies pertain to persons who are “**members** of such system”; under Government Code section 20340(a), a person ceases to be a “member” of CalPERS upon retirement—therefore, these Section 218 Agreements do not cover CalPERS retirees or other nonmembers of CalPERS.

although they will be subject to Medicare contributions⁶. (But they may be subject to Social Security if the new position is subject to a **different** retirement system other than the one the annuitant retired from.)

COMMON SCENARIOS:

1. A classified employee of a school district retired from CalPERS is reemployed in a temporary classified position by the **same school district**.

Since reemployed by a school district which maintains the same retirement system the worker is retired from, the annuitant will not contribute to Social Security (but will contribute to Medicare).

2. A classified employee of a school district retired from CalPERS is employed in a temporary classified position by a school district in a **different county**.

Similar to #1 above. Although employed in a different county (and thus by a different “employer” for CalPERS purposes), the classified position is nevertheless still subject to the same retirement system (CalPERS), so the annuitant will not contribute to Social Security (but will contribute to Medicare).

3. A city employee retired from CalPERS is employed in a temporary classified position with either a school district subject to CalPERS, or a state employer.

Since the annuitant position is subject to the same retirement system (CalPERS), the annuitant will not contribute to Social Security (but will contribute to Medicare).

4. A teacher retired from CalSTRS is employed in a temporary **classified** position (one qualified for CalPERS membership) in the same school district, or in a different school district (in the same, or in a different county).

Although the person is an annuitant from CalSTRS, the classified position is subject to a different retirement system (CalPERS), and thus the “retired/rehired annuitant” exception does not apply. Thus, the classified position is subject to the 218 Agreement, and the annuitant **will** contribute to Social Security and Medicare.

5. A classified employee of a school district who is retired from CalPERS is employed as a teacher in a position that qualifies for CalSTRS membership.

The teaching position is not subject to Social Security; due to the fact certificated (CalSTRS) positions are not covered by a 218 Agreement, and not due to the “retired/rehired annuitant” exception.

REFERENCES:

- [Internal Revenue Service - Rehired Annuitants](#)
- [Social Security – Rehired Annuitants](#)
- [Social Security Handbook §1017, 1017.1, 1017.2](#)

⁶ Government Code section 21221-21229 provides that, in order to work with a CalPERS-covered employer without reinstatement from retirement, the individual must be appointed to/employed in a “temporary” position. Therefore, the person is **not** deemed as a “continuation” of previous employment, but is considered a “new hire” after April 1986 in the position.