



BONA-FIDE SEPARATION POLICY

Purpose

1. This Board Policy is intended to set out the manner in which the Retirement System will administer bona-fide separations for the purpose of complying with Internal Revenue Service tax regulations prohibiting in-service distributions of pension benefits when a retired member returns to work under San Francisco Charter Section A8.511(c)(2).
2. The Retirement Board of the City and County of San Francisco shall exercise its authority, functions, powers, and duties in accordance with Charter Sections 4.100 — 4.104 and 12.100 through 12.103 and with applicable provisions of the Administrative Code of the City and County of San Francisco as enacted by ordinances of the Board of Supervisors, and in accordance with board rules, resolutions, and policies as it may adopt from time to time.

Board Authority

3. Authority for administering tax compliance issues related to bona-fide separations shall be as provided in Charter Section 12.100 and California Constitution Article)(VI, Section 17.

Requirements for a Bona-fide Separation

4. This policy shall only apply to members of *the SFERS Police and Firefighter Plans who retire for service or disability prior to attaining the age of 50 and to members of the SFERS Miscellaneous Plan who retire for service or disability prior to attaining the age of 62.*
5. A retired member may not return to work for the City and County of San Francisco, the San Francisco Unified School District, the San Francisco Community College District, or the Courts Except under the provisions of Charter Section A8.511(c)(2) unless both of the following conditions are met:
 - a) There was no agreement (written or verbal) to return to work as a retiree between the member and the employer before the member retired, and
 - b) There is a bona-fide break in service of sixty (60) days between the member's retirement date and the date the retiree's employment begins,

Administrative Penalties

6. Any retired member who is employed in violation of this policy shall not be eligible to receive his or her retirement allowance while receiving compensation for such position.

For members retired for service or disability under Charter Sections A8.587, A8.597 or A8.598 who are employed without a bona-fide separation. The retired member shall re-enter active membership in the

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plan from which he or she was retired as of the date the prohibited employment began and his or her retirement allowance shall be cancelled immediately upon his or her re-entry.

Upon re-entry, the member will be required to reimburse the Retirement System for any retirement allowance received during the period of prohibited employment and pay employee contributions that should have been paid during the period of prohibited employment, plus interest.

Upon the members' re-entry, the employer who employs a retired person in violation of this policy will be required to pay employer contributions that should have been paid during the period of prohibited employment, plus interest.

For members retired for service or disability under Charter Sections A8.509, A8.559, A8.585, A8.595 or A8.596 who are employed without a bona-fide separation: The retirement member's retirement allowance shall be suspended during the period of prohibited employment.

Severability

7. If any policy, section, paragraph, sentence, clause, or phrase of this policy is declared unconstitutional or void for any reason, such declaration shall not affect the validity of the remaining portions of the policy. The Board hereby declares that it would have prescribed and adopted this policy, and each section, paragraph, sentence, clause and phrases hereof, irrespective of the fact that one or more sections, paragraphs, sentences clauses, or phrases shall be declared unconstitutional or void. The titles assigned to policies and sections are for reference purposes only, and shall not be considered a substantive part of this policy. If there is any conflict between the provisions if this policy and the Charter, or the Administrative Code of the City and County of San Francisco, the Charter or the Administrative Code language shall govern.
8. For purposes of Charter Section 4.104(1), this Bona-fide Separation Policy shall be deemed to constitute a board rule. The Board may amend this policy at any time. Any proposed amendment shall be posted for at least ten (10) days and calendared for board hearing at least one week prior to a board meeting in accordance with Charter Section 4.104.

Policy Review

9. The Board shall review this policy at least every three years to ensure that it remains relevant and appropriate.

Policy History

10. This policy was adopted by the Board on March 10, 2009.