



RETIREMENT BOARD POLICY AND REFERENCE MANUAL

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| SUBJECT: FAILURE TO REDEPOSIT PREVIOUSLY WITHDRAWN EMPLOYEE CONTRIBUTIONS AND INTEREST | Section: 2-46 Date Adopted/Revised: 7/22/2016 |
| SYSTEM(S): FIRE AND POLICE | Approved:  Retirement Administrator |

POLICY

It is the policy of the Board to insure administrative compliance with Fresno Municipal Code Section 3-327(b) which provides that a returning Fire and Police Retirement System employee who withdrew his or her employee contributions and interest at separation from City service “shall” redeposit the previously withdrawn contributions and interest within six months of returning to city service. This policy is in accord with a legal opinion issued by Board counsel, dated January 6, 2016. This policy is applicable to both tiers of the Fire and Policy Retirement System. This policy is not applicable to the Employees Retirement System.

PROCEDURE

Retirement staff shall take the following steps to implement this policy.

Involuntary and Voluntary Withdrawals of Employee Contributions and Interest

1. An individual requesting a withdrawal of employee contributions and interest or an individual who is required to receive a withdrawal of employee contributions and interest shall be provided with oral and written notice of the obligation to redeposit withdrawn employee contributions upon reemployment, the time period for redeposit, and the consequences of a failure to redeposit.
2. Staff shall request the individual to initial the copy of the notice being retained by staff and shall note the date, time, and place at which this information was provided to the individual.

Individuals Reentering the System

1. Upon an individual’s reentry into the system, staff shall determine if the individual had previously been a member of the system and, if so, whether the individual had withdrawn his or her employee contributions and interest upon separation from city service.
2. If the individual had not withdrawn his or her contributions and interest, no further action under this policy is required.
3. If the individual had withdrawn his or her contributions and interest, staff shall provide written and oral notice to the individual of the requirement to redeposit, the amount of the redeposit, the time limit within which to make the redeposit, the consequences of a failure to redeposit, and the option of making periodic payments, including through payroll deduction, within the six month period.

4. Staff shall provide the individual with a written calculation of the amount to be repaid, including the amount withdrawn, interest on that amount, and an additional amount equal to the additional interest that would have been credited to the individual's account if the funds had not previously been withdrawn.
5. Initial written and oral notice shall be provided to the individual within twenty business days after re-entry into the Fire and Police Retirement System.
6. The notice shall indicate that, if litigation is required, the individual agrees that the Board is entitled to obtain an award of reasonable attorney's fees, and staff shall exercise its best efforts to obtain the individual's signature on the notice.
7. If the individual has failed to contact staff about redeposit or has failed to make the redeposit within four months after rehire, a second and final written notice shall be sent to the individual.

Consequences of a Failure to Redeposit Within the Six-Month Period

Tier I

1. If the individual fails to redeposit the previously withdrawn contributions and interest within the six-month period, the member will be subject to the provisions of Article 4 as of the date the member reentered service in the Fire and Police Retirement System.

Tier II

1. If the individual fails to redeposit the previously withdrawn contributions and interest within the six-month period, litigation shall be initiated by the Board to obtain payment.
2. If the amount that has not been redeposited is below the jurisdictional limit of small claims court, the Board's claim shall be pursued in that venue.
3. If the amount that has not been redeposited is above the jurisdictional limit of small claims court, the Board shall initiate litigation in Superior Court.

1. *Adopted 7/22/2016*