

Mark-Up

REGULATION 220 - 2009- TERMINATION OF COVERED EMPLOYMENT REQUIRED FOR RETIREMENT (as amended in January 2011)

When used in the context of ACA 24-4-520, “terminate covered employment,” shall mean that the employee/employer relationship has been brought to an end and no longer exists in any form, currently or prospectively, between the APERS member and the APERS covered employer. In the case of elected public officials, in addition to the foregoing, they shall have complied with state-law requirements for vacating their office.

Any retiring elected official shall execute an affidavit, along with the local official responsible for certifying that the public office has been vacated, stipulating compliance with this regulation. This affidavit shall be filed with the System at least thirty (30) calendar days prior to the effective date of retirement.

In compliance with ACA 24-4-520(b)(1), when a member who does not have service credit under A.C.A. 24-4-521 at a rate of two (2) or more years credited service for each year of actual service (Act 774) terminates for retirement purposes, they are not eligible to return to employment in any position or capacity with an APERS covered employer within one hundred eighty (180) days of the person’s effective date of retirement, unless said position is covered by another retirement system or is an elected position that has never been covered by APERS. When a member who does have service credit under A.C.A. 24-4-521 at a rate of two (2) or more years credited service for each year of actual service terminates for retirement purposes, they are not eligible to return to employment in any position or capacity with an APERS covered employer within one year from the person’s effective date of retirement, unless said position is covered by another retirement system or is an elected position that has never been covered by APERS. Any prearranged agreement that the member will return to work for any participating employer in any capacity, full-time or part-time (including as a leased employee) before the expiration of the period mandated by A.C.A. 24-4-520(b)(1) shall create a rebuttable presumption that the member has not terminated covered employment.

When a member terminates in compliance with ACA 24-4-520(b)(2) and (3), they are not eligible to return to employment in any position or capacity with an APERS covered employer sooner than thirty (30) days from the commencement of his or her retirement, unless said position is covered by another retirement system or is an elected position that has never been covered by APERS. Any prearranged agreement that the member will return to work for any participating employer in any capacity, full-time or part-time (including as a leased employee) before the expiration of the 30 day period mandated by A.C.A. 24-4-520(b)(2) or (b)(3) shall create a rebuttable presumption that the member has not terminated covered employment.

Persons failing to terminate covered employment shall forfeit all APERS retirement benefits to the System until the requirements of A.C.A. 24-4-520 and this regulation are met. Failure to meet termination requirements shall not operate to revoke a members’ retirement election. However, those individuals returning to employment in a position covered by another retirement

system or having been elected to an office covered by this retirement system should be free to pursue said endeavors without unnecessary restriction.

Emergency. ~~It is found and determined by the APERS Board of Trustees that there may be members who have not terminated their employment properly yet are drawing retirement benefits. This Regulation is essential to the sound operation of this retirement system and delayed implementation of it could work irreparable harm upon the system's proper administration.~~ **However, those individuals returning to employment in a position covered by another retirement system or having been elected to an office never covered by this retirement system should be free to pursue said endeavors without unnecessary restriction. Therefore, an emergency is hereby declared to exist and this Regulation shall be in full force and effect as of January 12, 2011.**