

## FAQs for the FERP Program\*

\*Note that the FAQs provide answers to the FERP program outlined in the CFA-CSU Agreement of May 15, 2007-June 30, 2010. The conditions of the FERP program for AY 2012-2013 are subject to the outcome of collective bargaining. The FAQs will be updated when the new Agreement is ratified.

**Who May apply for FERP?** –Tenured instructional faculty and librarians, who have reached the age of 55 and have decided to retire, but have not yet done so, are eligible to apply for FERP upon finalizing their retirement. The program is not available to Counselor or Coaching faculty unit employees. Under the terms of the CFA-CSU Agreement of May 15, 2007 - June 30, 2010 the FERP program is an entitlement program, as long as the relevant procedures are followed and courses appropriate for the faculty member to teach are scheduled.

**When must a faculty member decide whether or not to FERP?** – A faculty member must decide whether to FERP before retiring. We encourage a prospective retiree to consult with his/her Chair or Library Dean as early as possible. After consultation, the “FERP Participation Request” form should be completed. The applicant must also obtain the three (3) required signatures (those of the candidate, the Chair and the Dean) and submit the completed form to the Office of Faculty Affairs **no later than February 29, 2012**. If a faculty member retires without indicating the desire to FERP, the privilege is lost.

**What is the duration of the FERP program?** - Under the CFA-CSU Agreement of May 15, 2007 - June 30, 2010, faculty members who entered into the FERP program may do so for up to five (5) academic years. A faculty member must have reached the age of 55 on or before the first day of the academic year in which s/he begins to FERP.

**When can or must a faculty member begin to FERP?** - Retirement must begin concurrently with or prior to the beginning of the “campus academic year” in which the FERP period begins. That is, a faculty member can FERP only if s/he is retired, and the faculty member must begin to FERP during the first full “campus academic year” of retirement. If the faculty member retires during a campus academic year, s/he must wait until the beginning of the following academic year to begin the FERP program.

**May a faculty member take a leave while in the FERP program and what is the effect of such a leave?** - A request for a leave of absence without pay will be considered only for reasons of personal illness (that is, illness by the FERP participant him or herself) and may extend up to a maximum of one full year within any one fiscal or academic year of FERP eligibility. Under the CFA-CSU Agreement of May 15, 2007 - June 30, 2010, a FERP participant is entitled to a single such leave during the entire period of FERP eligibility (note that Article 22 does not apply to FERP participants). Any leave time taken, regardless of type or duration, will not extend the total period of FERP eligibility. For example, if a FERP faculty member takes a one year leave without pay, that faculty member would then actively FERP for only the total number of years minus one. The year of leave may not be added to the end of the FERP period to extend the period of eligibility.

The University is committed to complying with both the Federal Family & Medical Leave Act (FMLA) and with the California Family Rights Act (CFRA) and does so under the terms of the Revised CSU Family Medical Leaves (FML) Policy (Technical Letter HR 99-05, dated 5-7-99). Under the terms of this CSU policy, FERP faculty, like all other faculty, are eligible for FML for any one of the following reasons:

1. To care for a child following the birth or placement with the employee for adoption or foster care;
2. To care for the employee’s spouse, registered domestic partner, child, or parent (not parent-in-law) who has serious health condition,
3. The employee is unable to perform the essential functions of his/her job due to a serious health condition.
4. Qualifying Military Exigency Leave (MEL) arising out of the fact that the employee’s spouse, registered domestic partner, son, daughter, or parent is on active military duty in the National Guard or Reserve, or has been called to active duty in the National Guard or Reserve in a “contingency” military operation.
5. Service Member Care Leave (SMCL) for a covered service member with a serious injury or illness, if the employee is the spouse, registered domestic partner, son, daughter, parent, or next of kin of the service member.

For numbers 1-4 above, the maximum leave without pay during any year under the FML policy is 12 weeks in a rolling 12 month period beginning with the date that FML commences. For number 5 above, the maximum leave without pay during any year under the FML policy is 26 weeks in a rolling 12 month period beginning with the date that FML commences.

FERP participants are also entitled to both carry-over up to 48 hours of sick leave into their FERP period and to accumulate new sick leave while in FERP. This paid sick leave may be used when ill, but it is counted against the twelve- (12) week entitlement of FML. So, if a FERP faculty member takes two weeks of paid sick leave, s/he may claim only 10 additional weeks of unpaid FML.

The combined effect of these two leave policies is that

- (1) no requests for leaves without pay will be accepted unless they are either for reasons of personal illness or for other purposes covered under the FMLA policy;
- (2) under the CFA-CSU Agreement of May 15, 2007 - June 30, 2010, only one leave of absence without pay will be granted during the entire FERP period and that leave may be for up to one academic year, but must be for reasons of personal illness only;
- (3) if a faculty member takes a leave without pay under (2), the first twelve weeks also satisfies the obligation under the FML policy in (3) for that year (12 month period);
- (4) If one takes sick leave with pay, that time also satisfies a portion of the twelve-week obligation under the FML policy for that year (12-month period).

**How much work may a faculty member do as a FERP participant?** – A faculty member may choose to FERP for up to 50% of his/her regular time base in the last full year of employment, preceding retirement, but no more in any given calendar year. For example, if the faculty member had a full-time appointment prior to retirement and entrance into FERP, s/he could either work **0.50 for both the Fall & Spring** semesters **or 1.00 for the Fall or Spring** semester.

**What is the effect on my FERP eligibility of being on leave during the last full year preceding my retirement?** - None. For a full-time tenured faculty member, being on leave, either professional or personal, either for pay or without pay, does not change the “regular time base” and, hence, does not reduce the eligibility to FERP, as described in the preceding paragraph. This includes sabbatical and difference-in-pay leaves.

**What is the effect on my FERP eligibility of doing a PRTB (Pre-Retirement Reduction in Time Base)?** - A pre-retirement reduction in time base is not a leave. Instead, it effects a permanent reduction in a faculty member's “regular time base,” and therefore establishes a less than full-time basis upon which the University must calculate the 50% work load allowed during the FERP eligibility period.

**How much do I earn if I FERP, and what is the effect on my retirement earnings?** - Employment under FERP is at the same rank and salary rate as the participant had in the academic or fiscal year immediately prior to retirement, with the total annual (10 month) salary pro-rated by the proportion of time (number of WTUs) spent in FERP. At the same time, a faculty member collects full retirement payments. Retirement deductions are no longer taken from the monthly FERP paycheck.

**But what if, in the year before I retire, I have a 12-month appointment?** - This is irrelevant as the FERP program is designed for teaching faculty and is based upon academic year employment. Most faculty are on a 10/12 salary basis; that is, they work for, and earn their salary in, 10 months – but that salary is spread into 12 equal monthly payments to guarantee year-round benefits and a steady monthly income. Some Department Chairs and others earn their salaries on a 12/12 basis; that is, they work for, and earn their salary in 12 months (less vacation time), and have their salary paid in 12-month installments. The 12-month salary schedule is 15% higher than the 10-month.

However, even if a faculty unit employee is employed on such a 12/12 basis, his/her FERP participation is based on the appropriate 10/12 payment rate or academic year appointment.

**What if the year before I retire I work in a special session through International and Extended Studies?** - Again, this is irrelevant. Special Sessions do not count toward establishing the “regular time base” (Article 29.6) used to establish the basis for FERP pay or units.

**May I choose to FERP for less than 50% time base? May I change my teaching from one semester to another?** - Yes, and yes, but this is a one-way decision. A request to reduce the time base below 50% (or to change the 1.0 semester from Spring to Fall or from Fall to Spring) needs to be processed via a memo from you through your Department Chair and Dean to the AVP of Faculty Affairs.

However, once approved, that reduced time base, and/or the semester change, shall continue for the duration of the FERP appointment. Once you have moved to a new, lower time base you will not be allowed to move back to a higher time base. More than one such request to reduce your time base can be made during the five-year period of FERP eligibility. The semester change can be made one time only.

**What priority do I have in course assignments?** – According to the CFA-CSU Agreement of May 15, 2007 - June 30, 2010, courses are assigned in the following priority order:

- Regular Full-Time (Probationary or Tenured) Faculty
- FERP Faculty
- Teaching Associates, Volunteers, Administrators
- Temporary Faculty following Article 12. 29

**What happens if in a given semester there are no courses scheduled which I am qualified to teach?** - If this is a short-term, one semester, situation then the expectation is that the faculty member in FERP and his/her Chair will work out a new schedule in which the faculty member can teach his/her full FERP load that academic year. That revised schedule would then need to be approved by the relevant Dean and then by the AVP of Faculty Affairs. If the Chair/Dean and the faculty member in FERP cannot reach agreement then the procedures described below, in the next question and answer, will be used.

**What happens if, for budgetary or programmatic reasons my Department decides it will not offer during a given academic year a sufficient number of classes which I am qualified to teach to permit me to teach my full FERP load? Might I be laid off?** - The simple answer is, yes – but only after all other possibilities are explored and exhausted, only in accord with detailed procedures described below, and only as the last available option.

If, for programmatic or budgetary reasons, the Department to which the faculty member in FERP belongs decides that it will not offer a sufficient selection of classes during an academic year in the areas of expertise of the faculty member in FERP to employ the faculty member to the extent to which s/he is otherwise entitled, we would have to consider the possibility of a layoff of the faculty member in FERP.

If layoffs become necessary, Article 38 of the CFA-CSU Agreement of May 15, 2007 - June 30, 2010 would prevail, and Article 38.11 determines the order of layoff – namely a faculty member in FERP could not be laid off if there were Part-Time or Full-Time Temporary faculty in the Department scheduled to teach courses for which the faculty member in FERP was qualified. But, according to the same article, faculty members in FERP do not have a priority over full-time Tenured or Probationary faculty.

**Am I expected to serve on committees while FERPing? Are there any limitations as to the committees upon which I may be asked to serve?** - Yes, and yes. You are expected to serve on Department, College and University Committees, and, by permission of the Chair, Dean and AVP for Faculty Affairs you may be elected to a department RTP Committee or to a recruitment committee. Faculty members in the FERP program are considered tenured faculty and are expected to perform regular advising and other normal duties. When serving on a committee, you have the same voting or other rights as any tenured faculty member.

**Does this mean that faculty members in FERP may serve on appointment or search committees, and the faculty hearing panel?** – Yes (see answer above for procedures).

**On what schedule may I work while in FERP?** - Past practice at San José State University is to allow an appointment that is mutually agreeable to the faculty member and his/her Chair and Dean. Changes in the initially approved appointment (e.g. 50% over 2 semesters or 1.00 in one semester) must be recommended by the Chair and the Dean and approved by the AVP of Faculty Affairs.

If it is not possible to reach mutual agreement about the change of appointment that is deemed by the President to be pragmatically necessary, the President, or his designee (usually the Dean), may alter the schedule upon notice to the faculty member in FERP one hundred twenty (120) days in advance.

Note: This means that no change in appointment – which means no change in the number of units to be taught, in the semesters during which teaching is to take place, can be imposed upon the faculty member in FERP without 120 days notice. The term appointment as it is used here does not refer to the issue of which courses are to be taught or at what time of day or day of the week they are to be taught. It only refers to the number of units per semester. Work assignments as to courses and times within a semester, and as to assignments to advising and committee work within a semester, remain the prerogative of the administration, delegated to the “appropriate administrator,” usually the Dean, although the usual consultative procedures are to be followed.

**Other than a layoff due to insufficient course availability, are the other circumstances under which a faculty member in FERP can be terminated?** - There are special circumstances when there may be exceptions to the “Order of Layoff” and these are described in detail in Article 38.20 of the CFA-CSU Agreement of May 15, 2007 - June 30, 2010. In brief, the exceptions could result from a faculty member having an academic/professional specialization that is needed and non-interchangeable.

While the “Unit of Layoff” is the academic Department (or its equivalent), and while being in the FERP program is a Departmental-specific appointment, at San José State University, efforts would be made to explore whether teaching in another Department/Division/Program might be substituted for work in the home Department. However, it must be understood that this is not entitlement, but rather something that must be mutually acceptable to the faculty member in FERP, to all Department/Program Chairs/Directors, Deans involved, and to the AVP of Faculty Affairs.

In any event, it should be understood that, as stated above, layoffs would be the last option chosen and that, ultimately, all layoffs must be approved by the President.

In addition, as with any faculty member, a faculty member in FERP may be terminated for cause or for failure to meet the employment commitment.

**May I have Social Security contributions continue if I wish?** - No. Some faculty retire under CalPERS and enter the FERP program, but choose to delay receiving their Social Security until they are older to avoid reductions in those payments. In that case, they might wish to have Social Security contributions continue from their FERP salary, but that is not possible. Under the agreement between the State of California and the Federal Government, once a faculty member retires under CalPERS, the State may not withdraw Social Security from your check and it will not make contributions on your behalf.

**Can someone who is now, has been, or will be involved in the FERP, be hired as a part-time lecturer and also receive the FERP salary** - No. The basic issue is that someone who has retired under CalPERS cannot for any reason work more than half-time (for the State of California) without jeopardizing his/her retirement status. Also, “half-time” is defined on the basis of half of the final year of appointment (up to the maximum of a full-time academic year load of 30 units) during the last full year before s/he retired.

**Can faculty work as Part-Time lecturers in the years after they complete they FERP?** - Yes, up to the maximum of half-time (50% of the regular time base in the last full year proceeding retirement), as described above. Therefore, a faculty member who had been full-time, and then 50% in the FERP program could, at the conclusion of the FERP appointment, work as a part-time lecturer at no more than 50%. However, the faculty member who was formerly in the FERP program would be in a new category for hiring, and that is the last category (See answer for **What Priority do I have for Course Assignments?**). So, as a part-time lecturer a new salary would be based on whatever the faculty member and his/her Department/School negotiates – the person does not automatically *resume* at the salary rate and rank at which s/he was previously paid. Also, part-time faculty are not compensated for committee work. If a part-time faculty member teaches a 3-unit course, such a period of part-time employment would be the same as that of any temporary faculty unit employee, rather than the entitlement afforded to faculty members in FERP.

**Can I carry over any sick leave time into my FERP period? Do I accumulate sick leave while in FERP?** - Yes, and yes. You may carry over up to forty-eight (48) hours of sick leave from your pre-FERP

total, if you choose to reduce your accumulated sick leave by that amount for service retirement credit. During any semester in which you FERP full-time, you can continue to accrue eight (8) hours of sick leave per qualifying academic pay period up to a maximum of 160 hours. Such accumulation shall be pro-rata for less-than-full-time participants.

**What other benefits am I entitled to while in FERP?** - The benefits available to faculty members in FERP are determined by their status at the time they retire. If the faculty member has five (5) years of service at age 55, which all faculty members in FERP must have, the following benefits are available:

- Health Insurance and dental insurance at the same benefit level that was in effect at the time of retirement. After FERP is completed, the dental drops to the basic benefit. Both health and basic dental continue for life, even after the FERP program ends.
- The vision plan is given each year to faculty who are in FERP. After FERP, the vision plan ceases.
- Employee contributions to TSAs may continue during the semesters faculty are teaching under FERP, but not during the rest of the year. Such contributions cease when FERP ceases.
- As explained earlier, no Social Security contributions may be made while in FERP, but you have the option to collect Social Security payments if eligible and if a faculty member so chooses. Post retirement income is subject to mandatory Medicare coverage.
- State provided life insurance and long term disability insurance do not continue after retirement; that is, these insurance programs are not in effect either during the FERP period or thereafter. Due to their retirement status, FERP faculty are not eligible for NDI and IDL programs; FERP faculty are eligible to receive Workers' Compensation Temporary Disability payments for work-related injuries.
- FERP faculty members are eligible for fee waiver only during the semesters they are actively employed.

**May I earn additional compensation through IES, or any other General Fund source while in FERP?**

- No. According to Technical Letter HR/BEN 2004-08 and pursuant to CalPERS regulations (GC 21227), "a retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system [CalPERS] as a member of the academic staff of a California state university, if that service does not exceed, in any fiscal year, a total of 960 hours for all employers or 50 percent of the hours the member was employed during the last fiscal year of service prior to retirement." During the period of FERP participation, both the Agreement provisions and the CalPERS regulations apply. According to HR/Benefits 2004-08, "CSU employment in summer/special session/extension is not available to participants who are employed at 50% for the academic year (or the corresponding limit for librarians), since they already have reached the allowable employment limit." CSU employees may, consistent with campus policies governing outside activities, be employed outside the CSU system. However, conflicts of interest are not permitted.

**May I earn additional compensation through the SJSU Research Foundation while in FERP?** – See letter of October 20, 2009 posted on [http://www.sjsu.edu/facultyaffairs/Unit\\_3/CBA/FERP/index.htm](http://www.sjsu.edu/facultyaffairs/Unit_3/CBA/FERP/index.htm).

**How can I compare entering into the FERP program with entering into the PRTB program?** – One of the initiatives funded by the ACE/Sloan Faculty Career Flexibility Award that the SJSU campus received from 2008-2010 is the PRTB/FERP Calculator. See the link at <http://www.sjsu.edu/facultyaffairs/ACE-Sloan/ThePRTB-FERP/Calculator/index.htm>.