

# NORTHERN CALIFORNIA PIPE TRADES TRUST FUNDS FOR UA LOCAL 342

935 Detroit Avenue, Suite 242A, Concord, CA 94518-2501 • Phone 925/356-8921 • Fax 925/356-8938

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October 2018

## **IMPORTANT REMINDER AND NOTICE TO RETIREES RETURNING TO WORK IN THE PIPE TRADES INDUSTRY AND SUSPENSION OF RETIREMENT BENEFITS**

**This Notice does not apply to Surviving Dependents, Beneficiaries, or Alternate Payees**

Dear Plan Participant:

We enclose a Suspension of Retirement Benefits Notice which explains when and how your Retirement Benefits can be suspended if you return to any work known as Prohibited Employment (under the terms of the Plan) after retirement. If you are considering returning to Work After Retirement you need to consider the Plan's Suspension of Benefits. When you retired, you received a summary of the rules governing the Plan's Suspension of Benefits. This Notice is a reminder of these rules and certain obligations you have under the Plan. You will also receive a Notice usually in the first month your Retirement Benefit is suspended, if applicable. Please read the Notice carefully as it also includes YOUR obligations to notify the Trust Fund Office.

**The Board of Trustees of the Northern California Pipe Trades Pension Plan ("Plan") would like to remind you of the following:**

- If you are considering returning to work, you must submit a written request to the Trust Fund Office at least 30 days prior to your anticipated start date. Along with your written request, you must submit a letter from your proposed Employer specifying your Job Title and outlining all of your proposed Job Duties.
- The Board of Trustees of the Plan has always intended "Canada" to be part of the "Pipe Trades Industry" definition of Prohibited Employment in as much as the UA's jurisdiction includes Canada. As a result, your Retirement Benefits will be suspended if you return to work after retiring in the Pipe Trades Industry in the **United States** or **Canada** unless your work qualifies for an exception under the Plan Rules.
- It is your obligation to notify the Trust Fund Office in writing before you start any type of work. Furthermore, if you return to work, you must also notify the Trust Fund Office in writing when your employment ends. If you return to work in Prohibited Employment the Plan has the right to withhold your Retirement Benefit payments until such written notice is received.
- When there is Full Employment, or Full Employment in certain designated positions, the Board of Trustees may establish a **Temporary** Retiree Return to Work Program for non-Disabled Retirees. Refer to the Temporary Waivers of Suspension Section of the enclosed Notice for additional information.
- **You may also be required to provide continuing proof of your employment as Non-Prohibited Employment to the Board of Trustees or its delegates at any time. Failure to provide such requested information is grounds for Suspension of your Retirement Benefits.**
- **Failure to comply with Plan Rules, including notifying the Trust Fund Office of your intent to return to work, may result in the loss of your rights to Retiree Health and Welfare Benefits. Please be aware that if you work in Prohibited Employment more than once, you will permanently be ineligible for Retiree Health and Welfare Benefits.**

**For more details, please refer to the attached Summary of Rules governing the Suspension of Benefits or Article XI of your Summary Plan Description.**

You can also request a copy of the U.S. Department of Labor regulations (29 C.F.R. § 2530.203-3) allowing for the Suspension of your Retirement Benefits, which is available from the Trust Fund Office upon written request.

If you have any questions, please contact the Trust Fund Office at 925/356-8921, ext. 246.

Sincerely,  
The Board of Trustees

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### **SUMMARY OF RULES IF YOU RETURN TO WORK AFTER RETIREMENT**

**You Are Prohibited from Working in Most Positions in the Pipe Trades Industry; and  
You Must Immediately Provide Written Advance Notice to the Trust Fund Office Prior to Commencing any  
Type of Work**

If you are receiving a monthly Retirement Benefit from the Northern California Pipe Trades Pension Plan and **return to work in the Pipe Trades Industry in the United States or Canada, your Retirement Benefits will be suspended** in accordance with the Plan Document under the rules summarized below.

Your Retirement Benefits will also be suspended if you continue to work past Normal Retirement Age (Age 65) in the Pipe Trades Industry for 40 hours or more per month in the State of California, subject to some limited exceptions. However, if you returned to work and have attained Age 70½, your Retirement Benefits will not be suspended as of the first of April following the year you attained Age 70½.

**WARNING – If you are under Age 65 and return to work in Prohibited Employment, your Retirement Benefits will not be resumed until you attain Normal Retirement Age (Age 65).**

### 1. **Prohibited Employment**

#### a. **No Industry Work Prior to Age 65**

If you are retired and are under Age 65 and you return to **any** work in the Pipe Trades Industry in the United States or Canada, your Retirement Benefit will be suspended, **unless** the work qualifies under some limited exceptions.

The term "Pipe Trades Industry" includes all work, public or private, covered, or if not actually covered, of the type covered by any Collective Bargaining Agreement of the UA or any Local Union of the UA, as well as any other kind of work performed for any business engaged in the Pipe Trades Industry. The Pipe Trades Industry encompasses plumbing and pipefitting work.

Such work, which is also known as "Prohibited Employment," includes without limitation any of the following:

- (1) work in employment of the type performed by Participants covered by the Plan, known as "Covered Employment";
- (2) work which requires directly or indirectly the use of the same skills used by Participants covered by the Plan;
- (3) work in employment for compensation or wages of any kind or for profit in the Pipe Trades Industry;
- (4) work for profit as an owner or partner in any business directly or indirectly connected with the Pipe Trades Industry; and/or
- (5) work where you supervise Participants, except as permitted outside of the Collective Bargaining Agreement, in the same trade or craft or directly or indirectly use the same skills as Participants covered by the Plan. The minimal **exceptions** to these restrictions are summarized in Section c. below.

**"Prohibited Employment"** is interpreted in the broadest manner. "Hours" includes all hours for which compensation is paid or payable to you. Prohibited Employment includes work in which a salary is paid (including hourly, daily, weekly, bi-weekly, bi-monthly, monthly, annually, or any other rate), work for which you are considered an "Independent Contractor," work for which you will be entitled to receive deferred Retirement Benefits, or work in which you are due or actually receive anything of value in exchange for the services rendered.

**b. Limited Work Allowed After Normal Retirement Age 65 (prior to attaining Age 70½)**

**Work In California.** After your Normal Retirement Date (the first of the month after attainment of Age 65), your Retirement Benefits will be suspended if you work in the Pipe Trades Industry in the State of California for 40 hours or more per month as follows, subject to some limited exceptions:

- i. The type of work performed by Participants covered by the Plan; **or**
- ii. Work which requires directly or indirectly the use of the same skills used by Participants covered by the Plan; **or**
- iii. Any supervision of Participants in the same trade or craft or directly or indirectly using the same skills as Participants covered by the Plan. This includes, without limitation, self-employment, salaried, hourly, and independent contract employment.

**Work Outside California.** Upon the attainment of Age 65, there is no limit on the number of hours you may work outside of the State of California.

**c. Exceptions to Industry Service Definition (Refer to Item 2 below – Written Request Required)**

The Board of Trustees has total and absolute discretion to determine whether your anticipated or actual employment is Prohibited Employment. Thus, you must **submit a written request for pre-approval prior to commencing such work. You will receive written notification of the determination.**

Exceptions to Industry Service is defined as:

- i. Work in the Pipe Trades Industry for the Government of the United States, the State of California, a political subdivision of the State of California, a County, City, or other government agency; **or**
- ii. Work which is not covered by any Collective Bargaining Agreement of the UA or any Local Union of the UA; **or**
- iii. Employment that does not directly or indirectly replace the employment of a bargaining unit Participant; **or**
- iv. Employment that will not impinge upon the jurisdictional claims of UA Local 342.

**NOTE: Continued Proof May be Requested**

Initial and continuing qualification of such employment as Non-Prohibited Employment is determined solely by the Board of Trustees or its delegates and continued proof that such employment meets the criteria may be required at any time. Failure to provide requested information regarding your continued employment or any other matter is grounds for suspension of your Retirement Benefits.

**Presumption Regarding No Disability**

If you are a Participant who retired on a Disability Retirement and you return to work, the Plan will assume you are no longer eligible to receive a Disability Retirement Benefit. However, in rare situations, for good cause, an exception may apply. You must submit a written request to the Trust Fund Office for review and determination in advance of commencing any such work.

**Temporary Return to Work Program (Full Employment-Disabled Retirees not eligible)**

When there is Full Employment, or Full Employment in certain designated positions and the Board of Trustees establishes a Temporary Retiree Return to Work Program, Retirees who are Disabled are **not** eligible to return to work, **even if you did not retire under a Disability Retirement. The Board of Trustees has discretion regarding the duration of any Temporary Retiree Return to Work Program for Non-Disabled Retirees.**

**2. Written Request for Determination**

Prior to commencing any Work After Retirement, you **must** request a determination from the Board of Trustees on whether your contemplated Work After Retirement will be prohibited under Plan, by submitting your written request to the Trust Fund Office. Your written request must be submitted with a letter from the Employer outlining your Job Title and all of your specific Job Duties. The Trust Fund Office will notify you with the determination of the Board of Trustees within a reasonable time, not to exceed ninety (90) days, unless the Board has not been provided sufficient information to make such a determination or unless special circumstances exist.

**Failure to request an advance determination from the Board of Trustees may result in a suspension of your Retirement Benefits until such time as a review of the information can be made. It is your responsibility to allow sufficient time for the Board of Trustees to review your request.**

### 3. Plan Presumptions Allowed By Department of Labor (DOL) Regulations

If you do not report your work in the Pipe Trades Industry and any Plan Representatives learn that you have performed or are performing such work, the Plan will act on the basis of a **rebuttable presumption** that you have worked at least 40 hours per month in such Prohibited Employment until you give notice that you have ceased working in Prohibited Employment. Moreover, if Representatives of the Plan learn that you have performed or are performing such work at a construction site, the Plan will act on a **rebuttable presumption** that you have been employed at that job site with the same employer for at least as long as that employer has worked at the job site. You will, however, have the opportunity to prove that these presumptions are not true by establishing that the work being performed was not or is not an appropriate basis for suspension of your Retirement Benefits. The Board of Trustees is the only entity that can make this determination.

### 4. Access to Information

If requested, you must provide the Plan with access to reasonable information for the purpose of verifying employment, such as time sheets, logs or records, income tax returns (including attachments), W-2 Forms, and any other employment or income-related records. You may also be required to provide written authorization for the Trust Fund Office to obtain access to your Social Security records, which will assist the Plan in determining your work history.

You must also comply with any request by the Plan that you request information from your employer, contractor, subcontractor, union, government agency, or any other person or entity relating to any Work After Retirement.

### 5. Plan Notices/DOL Regulation/Appeal

The Plan will notify you by First Class Mail if your Retirement Benefits are suspended during the first calendar month in which payments are suspended. The notice will include the reason for the suspension and a general description of the Plan's Benefit Suspension provisions, including a description of the specific periods of employment and the Plan's procedure for affording you a review of your Suspension of Benefits. Plan Rules state that **if you are eligible for Retiree Health and Welfare Benefits, and your Retirement Benefits are suspended for Prohibited Employment, you will lose your Retiree Health and Welfare Benefits indefinitely.**

**In addition, failure to comply with all Plan Rules, including notifying the Trust Fund Office of employment or obtaining approval from the Board of Trustees prior to commencing any Work After Retirement, may result in the irrevocable loss of your rights to Retiree Health and Welfare Benefits.**

**WARNING: Retiree Health and Welfare Benefits**

**If your Retirement Benefit is suspended due to returning to Prohibited Employment more than once, you will permanently lose your rights to Retiree Health and Welfare Benefits.**

The applicable DOL regulation allowing the suspension of your Retirement Benefits may be found in the Code of Federal Regulations. A copy of that regulation (29 C.F.R. § 2530.203-3) is available from the Trust Fund Office upon written request.

You are entitled to a review of the Plan's decision to suspend your Retirement Benefits by a written request filed with the Plan within 60 days of the date of the Suspension Notice. The Plan's Claims and Appeals procedures apply to a suspension of Retirement Benefits. Refer to Article XVII of your Summary Plan Description for the Plan's Claims and Appeals procedures.

If your monthly Retirement Benefits have been suspended, you should notify the Plan when your Prohibited Employment has ended. The Trustees have the right to withhold Benefit payments until such notice is received by the Trust Fund Office and Plan Representatives determine that the notice is accurate.

**Retirement Benefits for those who retire early and return to Prohibited Employment will not be resumed until you attain Normal Retirement Age (Age 65) except for: (a) Participants who qualify for Disability Retirement after returning to Industry Service; (b) Retirees who retired on a Disability Retirement who return to Industry Service after recovering from the disability and subsequently qualify for Early or Disability Retirement; or (c) Non-Disabled Retirees who are approved by the Board of Trustees or its delegates to temporarily return to work**

**under a Temporary Return to Work Program during temporary shortages of available qualified men and women for work in the trade. Refer to the Temporary Waivers of Suspension section of this Notice for additional information.**

**6. Payment Resumption/Offset Amounts Owed to Plan/Prohibited Employment Ends**

If you are employed in Prohibited Employment and have attained Normal Retirement Age (Age 65), your Retirement Benefits will be suspended for a period equal to the number of months during which you were employed in Prohibited Employment. **However, when you stop working and want to retire again, you must timely notify (within 15 days) the Trust Fund Office in writing and certify that you are not working. Failure to give such notice and certification will delay the payment resumption of your Retirement Benefits.** Once you have notified the Trust Fund Office in writing and furnished the required certification or information of your non-employment or sufficient information to establish that any employment does not constitute Prohibited Employment under the Plan Rules, your suspended Benefits will resume after the last month for which Benefits were suspended or the month following receipt of notice, whichever is later, subject to any permissible offsets.

If the Plan has paid you a monthly Retirement Benefit for any month in which you engaged in Prohibited Employment prior to Normal Retirement Age (Age 65), the Plan may offset all such amounts from future Retirement Benefits before reinstating your Retirement Benefit and paying you any Retirement Benefits. If the Plan paid you any Retirement Benefits for any month in which you engaged in Prohibited Employment on or after you attained Age 65, the Plan may reduce your future Retirement Benefits by 100% for the first three months of any Retirement Benefit payment to which you would otherwise be entitled and up to 25% of future monthly payments until the full amount of the overpayment is recovered. Any overpayments not recovered at the time of your death may be offset against any death benefits or survivor benefits that may be payable.

**7. Temporary Waivers of Suspension**

The Board of Trustees may periodically permit Work After Retirement in Covered Employment to meet temporary shortages of available qualified men and women for work in the trade, for work requiring special individual skills, or for work for Signatory Employers that may be covered by the Collective Bargaining Agreement. This practice allows those who have already retired to be able to return to work to meet these special needs. The Board of Trustees reserves the right to rescind or modify this policy at any time. All waivers are temporary and subject to modification and/or termination at any time.

**Return to Covered Employment After Previously Retiring.** If, after previously retiring, you return to approved Covered Employment under a Temporary Return to Work Program, once you cease such temporary work, you may earn additional Benefit Credits at the current rate. Any additional Benefit Credits will be recalculated at the time of your termination of re-employment. If you are Age 70½ or older and continue to work past the required beginning date for distributions (April 1 following the year you attain age 70½), your additional Benefit Credits earned will be recalculated annually as required by law.

**8. Innocence is Not Defense Warning**

**WARNING – The DOL regulations allow the offset of Benefits owed to the Plan, regardless of whether you know or did not know of your entitlement to the payments.**

If you have any questions, please contact the Trust Fund Office at 925/356-8921, ext. 246.

Sincerely,  
The Board of Trustees