

August 1, 2006

TO: All County Superintendents of Schools
District Superintendents of Schools
Community College Districts and
Other Employing Agencies

FROM: EXECUTIVE OFFICE

SUBJECT: Employer Directive 2006-02
Post Retirement Earnings Limit and Legislative Changes for 2006/07
school/fiscal year.

PURPOSE

The purpose of this employer directive is as follows:

- ◆ To inform employers of the post retirement earnings limitation for the 2006/07 school/fiscal year.
- ◆ To inform employers of the 2006 legislative change to the post retirement earnings law.
- ◆ To remind employers that they are required to inform CalSTRS retired members who perform credible service about the annual earnings limitation.
- ◆ To remind employers to report post retirement earnings and to use the correct reporting code for post-retirement earnings that are exempt from the earnings limitation.
- ◆ To inform employers of the post-retirement excess earnings process, the CalSTRS notification process and to provide an illustration of the financial implications of exceeding the earnings limit.
- ◆ To remind employers of the retirement incentive restrictions and of the classified position restriction.

- ◆ To provide Education Code section references pertaining to post-retirement employment usually subject to the earnings limitation and to direct employers to the Education Code sections pertaining to exemptions from the post-retirement earnings limitation.

SCOPE

This directive contains information for county superintendents of schools, school districts, community college districts, and any agencies that employ CalSTRS retired members to perform creditable service.

DISCUSSION

NOTE: All references are to the Education Code.

2006/07 Post Retirement Earnings Limitation

The post-retirement earnings limitation for the 2006/07 is \$27,060. The limitation is adjusted annually based on the average salary of Defined Benefit Program members. The post-retirement earnings limitation for 2006/07 is \$880 lower than 2005/06 because average salaries during the 2004/05 and 2005/06 years were inadvertently overstated by CalSTRS. CalSTRS will not recalculate the earnings limit for 2004/05 and 2005/06, and will not collect against a recalculated earnings limit.

Members receiving disability retirement allowances have a different earnings limit, and the basis for calculating it has not changed.

Legislative Change

There has been one legislative change to Section 24214 (e) (1) from AB 224 to the 12 month break exemption language. Effective January 1, 2006, the period of 12 consecutive months begins from the effective date of the member's most recent retirement.

Notification by Employer

The employer is required by Section 22461 to inform CalSTRS retired members who perform creditable service as either an employee, employee of a third party or as an independent contractor about the annual earnings limitation. Activities considered to be creditable service and, therefore subject to the earnings limitation, are listed in Section 22119.5.

Reporting of Post Retirement Earnings

The employer is required by Section 22461 to report earnings for CalSTRS retired members who perform credible service as either an employee, employee of a third party or as an independent contractor.

All post-retirement earnings must be reported with member code 2 and assignment code 61, as shown on the attached matrix.

Activities considered to be credible service and, therefore subject to the earnings limitation, are listed in Section 22119.5. Generally, positions in grades kindergarten through community college that require a credential, certificate, or permit, or require an employee to meet minimum standards adopted by the Board of Governors of the California Community Colleges, in the California public school system, are considered credible service.

Post Retirement Excess Earnings Process

If a member retired for service earns compensation in excess of the limitation as an employee of an employer, an employee of a third party, or as an independent contractor, the member's retirement allowance shall be reduced by the amount of the excess compensation.

If a retired member exceeds the post-retirement earnings limitation, Section 24214(g) requires CalSTRS to reduce the member's retirement benefit by the excess earnings amount. The amount of the reduction may be less than or equal to the gross monthly benefit payable, depending on the amount of the excess compensation earned. The member's benefit will be reduced dollar-for-dollar until the amount withheld equals the excess earnings amount up to the amount of the member's annual benefit.

Before a member exceeds the limit, two notifications are sent by CalSTRS. The first letter is sent when post-retirement earnings are reported by the employer. The member is notified of the earnings limitation and what occurs when it is exceeded. When CalSTRS receives post-retirement earnings from the employer that reach the earnings limit halfway point, another letter is sent notifying the member and reminding the member of what occurs when the earnings limitation is exceeded.

If a member exceeds the earnings limit, CalSTRS notifies the member that the earnings limit has been exceeded and that excess earnings will be deducted from the monthly retirement benefit.

Retired members may be exempt from the post-retirement earnings limitation if they meet the eligibility criteria for one of CalSTRS exemptions. Please refer to the attached matrix for reference to the applicable employer directives for criteria for one of CalSTRS exemptions.

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Employers can assist the retired member and CalSTRS by taking the following actions:

- ✓ Before the member begins post retirement employment, discuss the duration of the assignment with the member and determine if the member may exceed the earnings limit.
- ✓ Inform the member of the current earnings limit for the fiscal year and determine if the member qualifies for any CalSTRS exemptions early in the fiscal/school year. If the member qualifies for an exemption, file it as soon as possible. Please refer to the attached matrix for more information on exemptions.
- ✓ Maintain contact with the member and provide the member with the assistance needed to track earnings on a monthly basis.

Below is an illustration of a member who has exceeded the earnings limit.

EXAMPLE:

Mr. Smith retires receiving a gross monthly benefit of \$2,800. He returns to employment in the California public school system in September 2006. By March 2007, he has earned \$18,000 from District 1 and \$14,000 from District 2, for a total of \$32,000, which is \$4,940 in excess of the earnings limitation ($\$32,000 - 27,060 = 4,940$). Assuming that Mr. Smith stops working at the end of March 2007, his excess earnings of \$4,940 will be collected from his gross monthly retirement benefit as follows:

	May 2007	June 2007	July 2007	Total
Monthly retirement benefit	\$2,800	\$2,800	\$2,800	\$8,400 Paid
Excess earning deduction up to 100 percent of monthly benefit	\$2,800	\$2,140	\$ -0	\$4,940 Collected
Benefit after deduction	\$ - 0 -	\$660	\$2,800	\$3,460 to member

Retirement Incentive Restrictions

A member who retired with a retirement incentive under Section 22714 (“Retirement Incentive”) or under Section 22714.5 (“2+2”) will lose the increased retirement allowance attributable to either incentive if he or she returns to work in any capacity within 5 years of retirement for the school district, community college district, or county

office of education that granted the member the retirement incentive. However, the member will not lose the retirement incentive if employed as a third party or an independent contractor.

Additional information on both retirement incentives is available in Employer Directive 2003-06.

Classified Position Restriction

CalSTRS retirees may not be employed after retirement in classified positions in the public school system except under two circumstances. These circumstances are in a K-12 school when an aide is needed in a class with a high pupil-teacher ratio, and to provide one-on-one instruction in remedial classes or for underprivileged students. (Education Codes 45134 and 88033)

ACTION

In accordance with Section 22461, upon retaining the services of a retired member either as an employee, an employee of a third party, or as an independent contractor, the employer is required to:

- ◆ Notify the retired members of the new earnings limit.
- ◆ Maintain accurate records of the retired member's earnings.
- ◆ Make monthly reports of those earnings to the retired members and to CalSTRS (using member code 2 and assignment code 61) regardless of the method of payment or the fund from which the payments were made.

If you have questions regarding the post-retirement earnings limitation, call 800-228-5453 to speak to CalSTRS staff or to access our Teletalk automated system. Teletalk calls are answered electronically. To access information available to touch tone callers, you enter a three-digit message code. To access Earnings Limitation After Service Retirement information, use code 372. You can also find information regarding the earnings limitation on the CalSTRS Web site at www.CalSTRS.com. Once you are in the web site click on member and then click on "working after retirement."

Jack Ehnes
Chief Executive Officer

Attachments

Appendix

Prior Post Retirement Employer Directives

ED 2005-01 May 18, 2005
ED 2004-02 June 28, 2004
ED 2003-05 December 16, 2003
ED 2003-01 March 19, 2003
ED 02-05 August 20, 2002
ED 01-10 May 10, 2001
ED 01-04 March 27, 2001
ED 01-03 March 27, 2001
ED 01-02 March 27, 2001
ED 00-02 March 13, 2000
ED 98-02 July 8, 1998
AD 97-08 July 15, 1997
AD 97-03 May 1, 1997
AD 97-01 March 3, 1997
AD 96-04 June 21, 1996
AD 95-05 June 19, 1995

Retirement Incentives

ED 2003-06 December 30, 2003

EXEMPTION NAME & REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
<p>Exemption Certification for Teacher Recruitment (Form SR 0126)</p>	<p>Any member retired for service on or before January 1, 2004, and employed to provide direct classroom instruction or support to individuals participating in the following programs:</p> <ul style="list-style-type: none"> ◆ Instruction in K-12 ◆ Special Education Programs ◆ English Language Learner Programs <p>Support in the following programs:</p> <ul style="list-style-type: none"> ◆ Pre-Internship Teaching Program ◆ Alternative Certification Program ◆ School Paraprofessional Teacher Training Programs ◆ Individuals Completing Student Teaching Assignments ◆ Support & Assessment to New Teachers through the Beginning Teacher Support & Assessment Program. 	<p>Education Code Section 24216.5</p> <p>Effective: 7/1/2000 through 12/31/2007</p>	<p>Report earnings subject to exemption as Member Code 2 and Assignment Code 61.</p>
<p>12 Month Break Exemption (No Required Form)</p>	<p>Any member retired for service who has not performed creditable service for at least 12 consecutive months after their most recent retirement.</p>	<p>Education Code Section 24214(e)</p> <p>Effective: 1/1/2001 through 12/31/2007</p>	<p>Report earnings for creditable service as Member Code 2 and Assignment Code 61.</p>

EXEMPTION NAME & REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
Exemption Certification for Remedial Instruction (Form SR 909)	Any member retired for service on or before January 1, 2004, employed to provide Remedial Instruction in Grades 2 – 12 before school, after school, intersession, summer school or a combination thereof.	Education Code Section 24216.6 Effective: 1/1/2001	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.
Exemption Certification for Limited Term Appointment/Assignment (Form SR 0164)	Any member retired for service (unless member received Golden Handshake from same employer) and has not been retired for one calendar year. A member can only work under this exemption for two calendar years.	Education Code Section 24216(a) Effective: 7/1/95 through 12/31/2007	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.
Exemption Certification for Emergency Employment of Retired Member (Form SR 0165 Parts 1 & II)	Any member retired for service (unless member received Golden Handshake from same employer) and has not been retired for one calendar year. A member can only work under this exemption for two calendar years.	Education Code Section 24216(b) Effective: 7/1/95 through 12/31/2007	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.