



California State Teachers'  
Retirement System  
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March 16, 2009

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

**FROM:** Jack Ehnes  
Chief Executive Officer

**SUBJECT:** Employer Directive 2009-02  
*Supersedes Employer Directive 2007-07*  
Post-Retirement Earnings Limit Change for 2008-09 fiscal year and the  
2009-10 fiscal year.

**PURPOSE:**

The purpose of this employer directive is to inform and remind employers:

- of the post-retirement earnings limitation for the 2008-09 fiscal year and the 2009-10 fiscal year.
- of legislative changes to the post-retirement earnings law that were effective January 1, 2008, and January 1, 2009.
- that they are required to inform CalSTRS retired members who perform creditable service about the annual earnings limitation.
- to report post-retirement earnings and to use the correct reporting code.
- of the post-retirement excess earnings process and the CalSTRS notification process and to provide an illustration of the financial implications of exceeding the earnings limit.
- of the retirement incentive and classified position restrictions.

**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:**

### 2008-09 and 2009-10 Post-Retirement Earnings Limitation

The post-retirement earnings limitation for the 2008/09 fiscal year is \$29,700. The post-retirement earnings limitation for the 2009-10 fiscal year is \$30,580. The limitation is adjusted annually based on the average salary of Defined Benefit Program members. Members receiving disability retirement allowances have a different earnings limit, and the basis for calculating that limit has not changed.

### Legislative Changes

Chapter 353, Statutes of 2007 (Senate Bill 901), which was sponsored by CalSTRS, extended the post-retirement earnings exemptions through June 30, 2009. Chapter 353 also amended the members' retirement date for eligibility for the K-12 Direct Instruction and Teacher Support exemption, and the exemption certification for Remedial Education. Effective January 1, 2008, the retirement date changed from January 1, 2004, to January 1, 2006, which made more members eligible for exemptions.

Chapter 494, Statutes of 2008 (Assembly Bill 2390), which was sponsored by CalSTRS, further extended the post-retirement earnings exemptions through June 30, 2010. Chapter 494 also amended the members' retirement date for eligibility for the K-12 Direct Instruction and Teacher Support exemption, and the exemption certification for Remedial Education. Effective January 1, 2009, the retirement date changed from January 1, 2006, to January 1, 2007, once again making more members eligible for exemptions.

### Notification and Reporting of Post-Retirement Earnings by Employer

The employer is required by Education Code<sup>1</sup> Section 22461 to inform CalSTRS retired members who perform creditable service as either an employee, employee of a third party or 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.

Generally, positions in grades pre-kindergarten through community college that require a credential, certificate, permit, or require an employee to meet minimum standards adopted by the Board of Governors of the California Community Colleges, or for which the employer is eligible to receive state apportionment, are considered creditable service.

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

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<sup>1</sup> Hereinafter, all code sections will refer to the Education Code unless specifically stated otherwise.

### Post-Retirement Excess Earnings Process

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

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

Before a member exceeds the limit, CalSTRS sends two notifications. The first, SR 1369.1, is sent when post-retirement earnings are reported by the employer. The member is notified of the earnings limitation and what will occur if it is exceeded. When the employer reports post-retirement earnings equal to one half of the earnings limit, CalSTRS sends SR 1369.2 notifying the member of the dollar amount reported to date, and reminding the member of what will occur if he/she exceeds the earnings limitation. When a member exceeds the earnings limit, CalSTRS sends the member a letter notifying her or him that the excess earnings will be withheld from their monthly retirement benefit.

Retired members may be exempt from the post-retirement earnings limitation if they meet the eligibility criteria specified in Section 24214, 24216, 24216.5 or 24216.6. Exemption requests should be submitted prior to when the retired member begins working. The exemption forms are available on the CalSTRS Web site at [www.CalSTRS.com](http://www.CalSTRS.com). Please refer to Attachment 1 for additional information about the post-retirement earning exemptions.

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

- ✓ Inform the member of the current earnings limit for the fiscal year and determine if the member qualifies for any of the CalSTRS exemptions.
- ✓ Determine if the member has a consecutive 12-month break in service post-retirement according to the district records. If the member had a 12-month break, unlimited earnings can be earned through June 30, 2010 without submitting an exemption request.
- ✓ If the member qualifies for a post-retirement earnings exemption, file it prior to or as soon as the retired member begins working.

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- ✓ Maintain contact with the member and provide the member with the assistance needed to track earnings on a monthly basis.

Below are two illustrations of members who have exceeded the earnings limit of \$29,700 with two different results.

EXAMPLE I:

Mrs. Smith retires June 30, 2007 receiving a gross monthly retirement benefit of \$5,000. She returns to employment in the California public school system 14 months later on September 1, 2008 as a retiree. By March 2009, she has earned \$36,000 from her district, which is \$6,300 in excess of the earnings limitation ( $\$36,000 - \$29,700 = \$6,300$ ). She is exempt from the earnings limitation because she had a 12-month break in service. Excess earnings will not be collected from her gross monthly retirement benefit.

EXAMPLE II:

Mr. Jones retires June 30, 2008 receiving a gross monthly retirement benefit of \$5,000. He returns to employment in the California public school system two months later on September 1, 2008 as a retiree. By March 2009, he has earned \$20,000 from District 1 and \$16,000 from District 2, for a total of \$36,000, which is \$6,300 in excess of the earnings limitation ( $\$36,000 - \$29,700 = \$6,300$ ). He is not exempt from the earnings limitation because he did not have a consecutive, 12-month break in service. Excess earnings will be collected from his gross monthly retirement benefit.

If CalSTRS commences collection of the excess earnings in November 2009, Mr. Jones' excess earnings for fiscal year 2008-09 of \$6,300 will be collected from his gross monthly retirement benefit as follows:

	November 2009	December 2009	Total
Monthly retirement benefit	\$5,000	\$5,000	\$10,000
Excess earning deduction up to 100 percent of monthly benefit	\$5,000	\$1,300	\$6,300 Collected
Benefit after deduction	\$ - 0 -	\$3,700	\$3,700 to member

### Retirement Incentive Restrictions

A member who retired with a CalSTRS 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 five years of retirement for the school district, community college district, or county office of education that granted the member the retirement incentive. The member will not lose the retirement incentive if employed as a third party or an independent contractor. However, post-retirement earnings limitations continue to apply to those members with retirement incentives. 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. (1) When a K-12 school needs an aide in a class with a high pupil-to-teacher ratio, or (2) to provide one-on-one instruction in remedial classes or for underprivileged students. (Section 45134 and Section 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 an independent contractor, the employer is required to:

- Notify the retired member of the new earnings limit.
- Maintain accurate records of the retired member’s earnings.
- Report those earnings to the retired member and to CalSTRS monthly, 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, please log on to the CalSTRS website at [www.CalSTRS.com](http://www.CalSTRS.com) click on “member” then click on “working after retirement” or call 1-800-228-5453 to speak with a Customer Service Representative.

Attachments

## **Appendix**

### Prior Post-Retirement Employer Directives

ED 2007-07 December 6, 2007  
ED 2006-02 August 1, 2006  
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 AND REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
12-Month Break Exemption  No Form Required	Member retired for service who has not performed creditable service for at least 12 consecutive months after the most recent retirement.  Exemption extended through 06/30/2010	Education Code Section 24214(e)	Report earnings for creditable service as Member Code 2 and Assignment Code 61.
K-12 Direct Instruction and Teacher Support  Form SR 0126, Direct Classroom/Remedial Exemption Form	Member retired for service on or before January 1, 2007 [effective 01/01/09] and employed by a school district to provide: <ul style="list-style-type: none"> <li>• Direct Classroom Instruction in K-12</li> <li>• Instruction and Pupil Services provided to pupils in Special Education Programs</li> <li>• Instruction to pupils in English Language Learner Programs</li> </ul> Support in the following programs: <ul style="list-style-type: none"> <li>• Pre-Internship Teaching Program</li> <li>• Alternative Certification Program</li> <li>• School Paraprofessional Teacher Training Programs</li> <li>• Individuals Completing Student Teaching Assignments</li> <li>• Support and Assessment to New Teachers through the Beginning Teacher Support and Assessment Program.</li> </ul> Exemption extended through 06/30/2010	Education Code Section 24216.5	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.

EXEMPTION NAME AND REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
<p>Exemption Certification for Classroom/Remedial Education</p> <p>Form SR 0126, Direct Classroom/Remedial Exemption Form</p>	<p>Member retired for service on or before January 1, 2007 [effective 01/01/09] and employed by a school district to provide Direct Remedial Instruction as specified in EC Sections 37252 and 37252.2 in Grades 2 – 12 before school, after school, intersession, summer school or a combination thereof.</p> <p>Exemption extended through 06/30/2010</p>	<p>Education Code Section 24216.6</p>	<p>Report earnings subject to exemption as Member Code 2 and Assignment Code 61.</p>
<p>Exemption Certification for Emergency Employment of Retired Member</p> <p>Form SR 0165, Parts I &amp; II, Exemption Certification for Emergency Employment of Retired Member</p>	<p>Member retired for service performing creditable service who is filling a vacant administrative position in an emergency situation. A member can only work under this exemption for two calendar years from the date of appointment or assignment.</p> <p>Employment under an emergency exemption is required to be reported in a public meeting of the governing body of the employer.</p> <p>The recruitment process to fill the vacancy is expected to extend over several months.</p> <p>Exemption extended through 06/30/2010</p>	<p>Education Code Section 24216</p>	<p>Report earnings subject to exemption as Member Code 2 and Assignment Code 61.</p>

EXEMPTION NAME AND REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
<p>Exemption Certification for Limited Term Appointment/Assignment</p> <p>Form SR 0164, Exemption Certification for Limited-Term Appointment/Assignment of a Retired Member</p>	<p>Member retired for service who is:</p> <ul style="list-style-type: none"> <li>• Appointed as a trustee or administrator by the Superintendent of Public Instruction pursuant to EC Section 41320.1</li> <li>• Appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with EC Section 52053) of Chapter 6.1 of Part 28)</li> <li>• Appointed as a trustee pursuant to the High Priority Schools Grant Program (Article 3.5 (commencing with EC Section 52055.600) of Chapter 6.1 of Part 28)</li> <li>• Assigned by a county superintendent of schools pursuant to Article 2 (commencing with EC Section 42122) of Chapter 6 of Part 24</li> </ul> <p>A member can only work under this exemption for two calendar years from the date of appointment or assignment. Exemption extended through 6/30/2010</p>	<p>Education Code Section 24216</p>	<p>Report earnings subject to exemption as Member Code 2 and Assignment Code 61.</p>
<p>A member receiving a Retirement Incentive who has not been retired for one year from the effective date of retirement is ineligible for an exemption.</p> <p>A member receiving additional service credit under Education Code Sections 22715 and 22716 is ineligible for an exemption.</p>			