

Section 22008 of the Education Code is amended to read:

22008. ~~For the purposes of payments into or out of the retirement fund for adjustments of errors or omissions with respect to the Defined Benefit Program or the Defined Benefit Supplement Program, the period of limitation of actions shall be applied, except as provided in Sections 23302 and 24613, as follows:~~

(a) No action may be commenced by or against the board, the system, or the plan more than three years after all obligations to or on behalf of the member, former member, beneficiary, or annuity beneficiary have been discharged, *except as provided in Sections 23302 and 24613.*

(b) ~~If the system makes an error that results in incorrect payment to a member, former member, beneficiary, or annuity beneficiary, the system's right to commence recovery shall expire three years from the date the incorrect payment was made. For purposes of this section, all obligations shall be determined to be discharged upon the latter of the following:~~

(1) *A return of the member's retirement contributions pursuant to Section 23104.*

(2) *The completion of all payments resulting from the death of a member or beneficiary pursuant to Sections 23302 and 23304.*

(3) *The filing of a waiver of the right to a payment by a beneficiary under this part.*

(4) *The termination of an allowance pursuant to Section 24600.*

(5) *Receipt of notification of death by the system.*

(c) *The board shall determine the applicability of this period of limitation in any case, and its determination with respect to the running or tolling of the period of limitation shall be conclusive and binding for purposes described in this section.*

(d) *The limitation of actions described in this section is separate from, and does not relate to, the right of the board, system or plan to correct incorrect benefits and recover amounts overpaid as described in Chapter 31.*

(e) ~~If an incorrect payment is made due to lack of information or inaccurate information regarding the eligibility of a member, former member, beneficiary, or annuity beneficiary to receive benefits under the Defined Benefit Program or Defined Benefit Supplement Program, the period of limitation shall commence with the discovery of the incorrect payment.~~

(d) ~~Notwithstanding any other provision of this section, if an incorrect payment has been made on the basis of fraud or intentional misrepresentation by a member, beneficiary, annuity beneficiary, or other party in relation to or on behalf of a member, beneficiary, or annuity beneficiary, the three year period of limitation shall not be deemed to commence or to have commenced until the system discovers the incorrect payment.~~

(e) ~~The collection of overpayments under subdivisions (b), (c), and (d) shall be made pursuant to Section 24617.~~

Section 24616 of the Education Code is amended to read:

24616. Any overpayment made to or on behalf of any member, *participant*, former member, *former participant*, or beneficiary, including but not limited to contributions, interest, benefits of any kind, federal or state tax, or insurance premiums, shall be deducted from any subsequent benefit that may be payable under either the Defined Benefit Program, the Defined Benefit Supplement Program, or the Cash Balance Benefit Program, except as provided in ~~Section~~ *Sections 24616.2 and 24616.5.* These deductions shall be permitted concurrently with any suit for

restitution, and recovery of overpayment by adjustment shall reduce by the amount of the recovery the extent of liability for restitution.

Section 24616.2 is added to the Education Code, to read:

24616.2. *The system's right to recover an amount overpaid under this part or Part 14 (commencing with Section 26000) is limited as follows:*

(a) The system's right to commence recovery of an overpayment from the member, participant, former member, former participant, or beneficiary shall expire three years from the date each overpayment was made.

(b) Any remaining amounts that are not recoverable pursuant to subdivision (a) shall be recovered as follows:

(1) Those remaining amounts that have been overpaid due to inaccurate information or nonsubmission of information required to be furnished to the system by an employer pursuant to this part or Part 14 (commencing with Section 26000) shall be recovered from the employer pursuant to Section 24616.5.

(2) Those remaining amounts that have been overpaid due to inaccurate information or nonsubmission of information from or on behalf of a recipient of a benefit, annuity or refund shall be recovered from the member, participant, former member, former participant, or beneficiary provided that the system commences recovery within three years from the date of the system's discovery of each overpayment.

(3) Those remaining amounts that have been overpaid due to fraud or intentional misrepresentation of facts by or on behalf of a recipient of a benefit, annuity or refund shall be recovered from the member, participant, former member, former participant, or beneficiary provided that the system commences recovery within ten years from the date of the system's discovery of each overpayment.

(4) Those remaining amounts that have been overpaid due solely to an error by the system shall be unrecoverable.

(c) As used in this section, the following terms have the following meanings:

(1) "Commences recovery" means to mail or electronically send written notice of the overpayment.

(2) "Discovery" means a supervisory employee of the system, and not any other entity or person, having actual knowledge of all the following:

(A) The amount of the overpayment.

(B) The identity of the recipient of the overpayment.

(C) The nature of and reason for the overpayment.

(d) The board shall determine the applicability of the recovery of overpayments in any case, and its determination shall be conclusive and binding for purposes described in this section.

(e) This section shall not apply to a recovery made under Sections 24015, 24016, or 24017 or to a benefit or allowance reduction required pursuant to Sections 24010, 24109, 24114, 24214, or 24214.5.

(f) The collection of an amount overpaid under this section shall be made pursuant to sections 24616.5 and 24617.

Section 24616.5 of the Education Code is amended to read:

24616.5. (a) If an amount has been overpaid under this part or Part 14 (commencing with Section 26000) due to inaccurate information or nonsubmission of information required to be furnished to the system by an employer pursuant to this part of Part 14 ~~reports erroneous information~~, the system shall calculate the actuarial present value of the expected payments from the member, participant, ~~the~~ former member, former participant, or beneficiary pursuant to Sections ~~22008~~ 24616.2 and 24617. The employer shall pay the difference between the total amount of ~~the overpayment~~ overpaid and the calculation of the actuarial present value of expected payments.

(b) The employer shall remit the remaining overpaid amounts pursuant to this section to the system within 30 days of the date of the invoice. If payment is not received within 30 days, the amount owed to the system shall be recalculated to include regular interest from the initial due date.

(c) If payment pursuant to subdivision (b) is not received within 30 days, the Controller shall, upon order of the board, reduce subsequent payments from the State School Fund to the county for deposit in the county school service fund by the amount owed or, upon the request of a county superintendent of schools to the county auditor, they shall reduce payments to a school district for deposit in the district general fund by the amount owed. The Controller shall then pay to the system the amount owed for deposit in the State Treasury to the Teachers' Retirement Fund.

Section 24617 of the Education Code is amended to read:

24617. (a) To recover an amount overpaid under this part or Part 14 (commencing with Section 26000), ~~the corrected monthly allowance payable under the Defined Benefit Program or benefit payable under the Defined Benefit Supplement Program or the Cash Balance Benefit Program, as determined pursuant to Section 24616.2, the system shall correct the benefit, annuity or refund and may reduce future payments subject to the following limitations:~~

(1) The monthly allowance, annuity, or quarterly supplemental payment may be reduced by no more than 5 percent if the amount overpaid ~~overpayment~~ was due to error by the system, ~~the county superintendent of schools, a school district, or a community college district or an employer.~~ ~~and~~

(2) The monthly allowance, annuity, or quarterly supplemental payment may be reduced by no more than 15 percent if the amount overpaid ~~error~~ was due to inaccurate information or nonsubmission of information ~~by from or on behalf of a~~ the recipient of the allowance or annuity benefit.

(3) The monthly allowance, annuity, or quarterly supplemental payment may be reduced by no more than 100 percent if the amount overpaid was

~~(b) This section does not apply to the collection of overpayments due to fraud or intentional misrepresentation of facts by or on behalf of a~~ the recipient of the allowance or annuity benefit.

(4) Any one-time or lump-sum payment of a benefit or refund may be reduced by no more than 100 percent.

Section 26702 of the Education Code is amended to read:

26702. (a) ~~For the purpose of payments into or out of the fund for adjustments of errors or omissions with respect to the Cash Balance Benefit Program, the period of limitation shall be applied as follows:~~

~~(1) No action may be commenced by or against the board, the system, or the plan more than three years after all obligations to or on behalf of the participant, *former participant*, or beneficiary have been discharged.~~

~~(2) In cases where the system makes an error resulting in incorrect payment to the participant or beneficiary, the system's right to commence recovery shall expire three years from the date of payment.~~

~~(3) If an erroneous payment is made due to lack of information or inaccurate information regarding eligibility of a participant or beneficiary to receive a benefit from the Cash Balance Benefit Program, the period of limitation shall commence when the system discovers the erroneous payment.~~

~~(b) Notwithstanding any other provision of this section, if any erroneous payment has been made on the basis of fraud or intentional misrepresentation by a participant or beneficiary, or other party in relation to or on behalf of a participant or beneficiary, the three year period of limitation shall not be deemed to commence or to have commenced until the system discovers the erroneous payment. *The board shall determine the applicability of this period of limitation in any case, and its determination with respect to the running or tolling of the period of limitation shall be conclusive and binding for purposes described in this section.*~~

Section 27303 of the Education Code is repealed.

~~**27303.** Any overpayment to a participant or beneficiary under this part shall be deducted from any subsequent benefit payment that may be payable under the plan, except as provided in Section 27303.5.~~

Section 27303.5 of the Education Code is repealed.

~~**27303.5.** If an employer reports erroneous information, the system shall calculate the actuarial present value of the expected payments from the participant or beneficiary pursuant to Sections 22008 and 24617. The employer shall pay the difference between the total amount of the overpayment and the calculation of the actuarial present value of expected payments.~~