

# Postretirement Employment Restrictions

Employer Advisory  
Committee Meeting  
August 3, 2016



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## Postretirement Earnings Limitations and Restrictions

There are four different limitations imposed on retired DB members who wish to work after retirement. They are:

1. Prohibition on working for a school employer in a classified position (Education Code section 45134 for K-12 and Education Code section 88033 for Community College).
2. Limitation on compensation paid during the first 180 calendar days after retirement (Separation-from-Service).
3. Limitation on compensation paid during a fiscal year (Annual Earnings Limit).
4. Prohibition on returning to any job within five years after receiving a retirement incentive with the employer that offered the incentive.

## Reportable Postretirement Service

- The service meets the criteria in Retired Member Activities (Education Code section 22164.5):
  - The activities are identified as creditable service in Education Code section 22119.5 subdivisions (b), (c) and (d).
  - The activity is performed as:
    - An employee of the school employer.
    - An independent contractor.
    - An employee of a third party on behalf of a school employer.

## Reportable Postretirement Compensation

- The compensation meets the criteria of Education Code sections 22119.2 and 22119.3 (creditable compensation).
- The compensation meets criteria in Education Code section 24214 (f):
  - It must be paid in cash and includes payments to deferred compensation plans, tax-deferred plans and health insurance premiums.

## Working for a Third Party

Retired members employed by a third party are excluded from the postretirement earnings limit and related provisions provided they meet ALL of the following criteria:

- The retired member is employed by a third party that does not participate in a California public pension system;
- The activities performed by the retired member are not normally performed by an employee of an employer; and
- The activities are performed by the retired member for 24 months or less.

*\* Note: Employer reporting for those who meet the criteria above is not required.*

## Separation-from-Service Requirement

Education Code section 24214.5: A retired member must wait 180 days after his or her most recent CalSTRS retirement date before returning to work with the California public school system.

- Effective January 1, 2013, for all members regardless of age:
  - Must wait 180 calendar days to avoid a benefit reduction.

### **Penalty:**

- CalSTRS is required to collect dollar-for-dollar for any earnings during the first 180 days up to the pension benefit payable during that period.

## Separation-from-Service Requirement Exemption

There is an exemption for CalSTRS retired members who have reached normal retirement age and are hired to fill a critically needed position during the first 180 calendar days following the members' most recent retirement date.

In order to request:

- Employer must complete a *Request for Separation-from-Service Requirement Exemption (SR 1897)*, which is available on the Secure Employer Website (SEW).
- Must include a resolution adopted by the governing body with this form.

## Minimum Requirements for the Exemption

The exemption from the 180-day rule applies if all of the following are met:

- The retired member is of normal retirement age (60 or 62).
- The appointment is necessary to fill a critically needed position before the 180 calendar days has passed.
- The member did not receive any financial incentives to retire.
- The member's termination of service was not the cause of the need to acquire the services of the member.
- The governing body of the employer approves the appointment in a public meeting by adopting a resolution expressing intent to seek an exemption.
- The resolution is adopted and the Form SR 1897 is received prior to the retired member performing postretirement activities.

## Annual Earnings Limit

In addition to the Separation-from-Service requirement, members are subject to the Annual Earnings Limit for each fiscal year.

### **Current Earnings Limit:**

**2016-17 = \$41,732**

Education Code section 24214  
governs the annual earnings limit.

## Annual Earnings Limit Exemption

There is an exemption for CalSTRS retired members who have reached normal retirement age and are appointed to address academic or financial weaknesses in a school district in one of the following positions:

- **Trustee** for a school district that received an emergency apportionment.
- **Fiscal Adviser or Fiscal Expert** for a district that must revise its budget or that may or will be unable to meet its financial obligations.
- **Trustee or Receiver** for a local educational agency that has been identified for corrective action under federal law.
- **Special Trustee** for a community college district that fails to achieve fiscal stability or fails to comply with Board of Governors recommendations.

*\*Note: Must be appointed to one of the above positions to be considered for the earnings limit exemption, no exceptions.*

## Minimum Requirements for Earnings Limit Exemption

- The exemption form must be received by CalSTRS prior to the retired member performing any postretirement activities.
- The position was first advertised to active or inactive members and no qualified member was available.
- The appointing authority made a good faith effort to hire a retired member who reinstated to active membership.
- The salary offered to the retired member does not exceed the salary that was first advertised.
- The salary paid is no greater than the salary offered to active members for the position.
- The retired member is of normal retirement age when the compensation is earned.
- The retired member has not received any financial inducement to retire from any public employer in the previous six months.

## Required Documents for the Earnings Limit Exemption

- A letter substantiating the appointment of the retired member and time period in accordance with the applicable law from one of the following:
  - State Superintendent of Public Instruction;
  - Executive Director of the State Board of Education;
  - Chancellor of the California Community Colleges; or
  - County Superintendent of Schools.
- A duty statement.
- Recruitment documentation to substantiate the position was advertised and the salary is being paid in accordance with the applicable law.

## Common Reasons Exemptions are Denied:

- Retiree is not of normal retirement age.
- For the Annual Earnings Limit Exemption – member's position is not an exempted position under Education Code section 24214.
- Resolution does not meet all requirements.

## Questions

