



March 27, 2001

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

SUBJECT: Employer Directive 2001-04
Exemptions to the California State Teachers' Retirement System (CalSTRS)
Earnings Limitation for Retired Members Employed to Provide Direct Remedial
Instruction to Pupils in Grades 2 – 12; Assembly Bill (AB) 1736 (Chapter 351,
Statutes of 2000)

PURPOSE

The purpose of this employer directive is to inform employers of the recent statutory changes that exempt a member from the post-retirement earnings limitation specified in Subdivisions (d), (f) and (g) of Education Code Section 24214. AB 1736 (Chapter 351, Statutes of 2000) added Section 24216.6 to the Education Code. Under specific limited circumstances provided by Section 24216.6, CalSTRS members who retired for service on or before July 1, 2000, and are temporarily employed to provide direct remedial instruction to pupils in Grades 2 to 12, inclusive, may be granted an exemption from the post-retirement earnings limitation. There is no sunset date for this exemption.

SCOPE

This directive provides direction to the school districts that request an exemption from the CalSTRS' post-retirement earnings limitation for members retired for service on or before July 1, 2000, who are employed to provide direct remedial instruction in Grades 2 to 12, inclusive. The law does not apply to creditable service performed for a community college district or a county office of education.

OVERVIEW

Education Code Section 24214 establishes a limitation on the amount of compensation that a member retired for service may earn for performing creditable service in the California public school system. The limitation is adjusted each year on July 1 to reflect the increase in the All

California State Teachers' Retirement System, Service Retirements Division, MS 70

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Urban California Consumer Price Index. The limitation applies regardless of whether a member retired for service performs creditable service as an employee of an employer, as an employee of a third party, or as an independent contractor.

Implementation of AB 1736 allows members who retired for service on or before July 1, 2000, and are employed to provide direct remedial instruction to pupils in Grades 2 to 12, inclusive, to be exempt from the post-retirement earnings limitation. There is no sunset date for this exemption.

Retired members may qualify for exemption from the post-retirement earnings limitation under Education Code Sections 24214 (e), 24216, 24216.5 or 24216.6. For eligibility criteria, please refer to the matrix that was included with this and other related employer directives. Information is also available on CalSTRS website, www.calstrs.ca.gov.

DISCUSSION

This legislation allows school districts to request an exemption from the post-retirement earnings limitation for qualified retired members if the member retired for service with an effective date on or before July 1, 2000, and is temporarily employed by a school district to provide direct remedial instruction to pupils in Grades 2 to 12, inclusive. Remedial instruction means the programs specified in Sections 37252 and 37252.5.

The following conditions apply to the exemption:

- All members retired for service whose employment with a school district meets the specified conditions shall be treated as a distinct class of temporary employees within the existing bargaining unit.
- The rate of pay for service performed shall be the rate established in accordance with Education Code Section 24214 and agreed to in the collective bargaining agreement between the employer and the exclusive representative for employees of the school district.

The school district that employs a member who retired for service shall maintain accurate records of the retired member's compensation earned and report that compensation monthly to CalSTRS. The employer will use Member Code 2 and Assignment Code 63, regardless of the method of payment or the source of funds from which the compensation is paid.

ACTION

CalSTRS requires the school districts to certify that the criteria for exemption from Education Code Section 24214 (d), (f), and (g) have been met by:

- Completing and certifying the 'Exemption Certification for Remedial Instruction' (Form SR 0909 [New: 03/01]). **Please make copies of the original form attached to this employer directive.**
- Providing each exempt retired member with the completed form (SR 0909) for his/her signature to certify that he/she has read and understood the terms and conditions of exemption from post-retirement earnings limitation under the direct Remedial Instruction Program.
- Submitting the completed and signed form (SR 0909) to CalSTRS.

ACCOUNTABILITY

All information received is subject to audit by CalSTRS (Education Code Section 22206). Exemptions for the Remedial Instruction Program are based on the employer certification submitted to CalSTRS. It is the employer's responsibility to retain all supporting documentation for hiring each person exempt under the direct Remedial Instruction Program. If the district is found to have incorrectly certified a retired member as exempt under the Remedial Instruction Program, post-retirement earnings in excess of the annual limit will be collected from the retired member. The amount of the reduction may be equal to the monthly allowance payable but shall not exceed the amount of the annual allowance payable for the fiscal year in which the excess compensation was earned. For this reason, CalSTRS requires form SR 0909 to be completed and signed by the district superintendent and the exempt member.

If a retired member's allowance is withheld because she/he has exceeded the earnings limitation and CalSTRS subsequently receives the employer's certification that the employment of that member was exempt due to employment in the Remedial Instruction Program, the amount withheld will be refunded to the member.

If you have any questions, please contact Benefit Adjustments Unit of CalSTRS at (916) 229-4664.

JAMES D. MOSMAN
Chief Executive Officer

Attachments

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**EXEMPTION CERTIFICATION FOR REMEDIAL INSTRUCTION
 SR 0909 (New 03/01)**

PLEASE MAIL THE ORIGINAL FORM TO CALSTRS AFTER COMPLETION OF CERTIFICATION

EXPLANATION OF TERMS AND CONDITIONS FOR EXEMPTION FROM THE POST-RETIREMENT EARNINGS LIMITATION UNDER THE REMEDIAL INSTRUCTION PROGRAM (AB 1736)

The following terms and conditions must be satisfied in order for members to qualify for, and school districts to request an exemption from the post-retirement earnings limitation set forth in Education Code Section 24214.

The member:

Must be retired for service with an effective date on or before July 1, 2000.

Must be temporarily employed by a school district to provide direct remedial instruction as defined in Education Code Sections 37252 and 37252.5 to pupils in Grades 2 to 12, inclusive.

The beginning date of the appointment must be on or after January 1, 2001.

<p>I hereby certify that I have read the above requirements. I understand that: (1) my employment meets the objectives of the Remedial Instruction Program, (2) my service is exempt from the post-retirement earnings limitation for the period specified by my employer, and (3) that the exemption in no way precludes CalSTRS from performing an audit of my district's records. If CalSTRS finds the exemption is incorrectly certified under the Remedial Instruction Program, my retirement allowance shall be reduced dollar-for-dollar by the amount of earnings in excess of the post-retirement earnings limitation.</p>

MEMBER NAME:	MEMBER SOCIAL SECURITY #	MEMBER SIGNATURE:	DATE:

<p>I hereby certify under penalty of perjury under the laws of the State of California that: (1) the exemption for the member listed below is in accordance with the provisions of Education Code Section 24216.6; and (2) the district shall maintain accurate records of the retired member's compensation earned and report that compensation monthly to CalSTRS as Member Code 2 and Assignment Code 63, regardless of the method of payment or the source of funds from which the compensation is paid. I understand that this certification in no way precludes CalSTRS from performing an audit of our district's records. If CalSTRS finds the employee has been incorrectly certified as exempt under the Remedial Instruction Program, current law requires that the member be subject to the earnings limitation for all creditable service.</p>

MEMBER NAME:	SSN #:	POSITION:	TEACH GRADE #:	EXEMPTION DATE: (FROM & TO)	
DISTRICT NAME		DISTRICT CODE	COUNTY NAME		COUNTY CODE
DISTRICT SUPERINTENDENT'S NAME:		SUPERINTENDENT'S SIGNATURE		DATE:	