



California State Teachers'
Retirement System
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May 18, 2005

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

FROM: EXECUTIVE OFFICE

SUBJECT: Employer Directive 2005-01
Legislative Changes Affecting Post-Retirement Employment.

PURPOSE

The purposes of this employer directive are as follows:

- 1) To inform employers of the legislative changes effective on January 1, 2005 for the post retirement earnings exemptions.
- 2) To inform employers of the legislative changes effective on January 1, 2005 for hiring retired members who have received the CalSTRS retirement incentive.
- 3) To inform employers of the new earnings limitation for the 2005/2006 school/fiscal year.
- 4) To remind employers to report post-retirement earnings.
- 5) To provide Education Code section references pertaining to post-retirement employment that is 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 employing agencies that employ CalSTRS retired members to perform creditable service.

DISCUSSION

NOTE: The following changes were enacted as of January 1, 2005. All references are to the education code.

- Class Size Reduction Exemption (Section 24216.5) - AB 2554 added exemptions for employment in two additional programs: special education and English language learner programs. This bill also changes the eligibility retirement date from on or before January 1, 2000 to on or before January 1, 2004 for employers who want to employ a retired member under an exemption. This bill also extends eligibility through January 1, 2008.
- 12 Month Break Exemption (Section 24214 (e)) – There are no changes to this law.
- Remedial Education Exemption – (Section 24216.6) - AB 2554 changes the eligibility retirement date from on or before July 1, 2000 to on or before January 1, 2004.
- Limited Term Appointment Exemption (Section 24216 (a) – There are no changes to this law.
- Emergency Exemption (Section 24216 (b)) – AB 2554 clarifies that a retired member who works in an administrative position requiring highly specialized skills can only work under an exemption for two calendar years.
- Retirement Incentive Restriction – (Section 22714 and 22714.5) Eliminates the 1-year restriction on employment with any California public school employer for all members who receive an additional retirement benefit. Beginning January 1, 2005, members who received a retirement incentive during 2004 under this restriction may return to work for any employer other than the employer who granted the Retirement Incentive benefit without forfeiting their additional retirement benefit.
- Retirement Incentive Restriction – (Section 22714 and 22714.5) Expands the 5-year restriction on employment with the employer that provided the additional retirement benefit to include County Office of Education and Community College members who receive a Retirement Incentive benefit on or after January 1, 2005. Any member who retired on or after January 1, 2004 with a retirement incentive will lose the increased retirement allowance attributable to either incentive if he or she returns to work for the same employer within 5 years of retirement. However, the member will not lose the retirement incentive if employed as a third party or an independent contractor.

The earnings limitation for the 2004-05 school/fiscal year is \$27,720. The earnings limitation effective July 1, 2005 for the 2005-2006 school/fiscal year will be \$27,940. The earnings limitation is adjusted each year based on the percentage increase of the

EMPLOYER DIRECTIVE 2005-01

May 18, 2005

Page 3 Of 5

average earnable salary paid to Defined Benefit Program active members. (Section 24214)

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

Activities considered to be creditable service and, therefore, subject to the earnings limitation are listed in Section 22119.5. 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 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. The total amount withheld, however, will be no more than the amount of the annual benefit.

EXAMPLE:

Mr. Smith retires receiving a gross monthly benefit of \$2,800. He returns to employment in the California public school system in September 2003. By March 2005, he has earned \$18,000 from District 1 and \$14,000 from District 2, for a total of \$32,000, which is \$4,280 in excess of the earnings limitation ($\$32,000 - 27,720 = 4,280$). Assuming that Mr. Smith stops working at the end of March 2005, his excess earnings of \$4,280 would be collected from his gross monthly retirement benefit as follows:

	May 2005	June 2005	July 2005	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	\$1,480	\$ -0-	\$4,280 Collected
Benefit after deduction	\$ -0-	\$1,320	\$2,800	\$4,120 to member

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

Members receiving disability retirement, Coverage B, have a different earnings limit, and the basis for calculating it has not changed and can be found in Section 24114. The earnings limit as of January 1, 2005 for the 2005 calendar year is \$22,650. For members

receiving a disability allowance, Coverage A, or any questions regarding the Coverage B earnings limit, please contact Disability Services at 916-229-3585. There are no exemptions to the limit for members receiving disability benefits.

CalSTRS retirees may not be employed in classified positions in the public school system except under certain circumstances. These circumstances are: pursuant to CalPERS law commencing with section 21220 of the Government Code, 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

The employer is required to maintain accurate records of the retired members' earnings and to report those earnings monthly to CalSTRS and to the retired members regardless of the method of payment or the fund from which the payments were made.

The employer is required by Section 22461 to inform CalSTRS retired members who perform creditable service about the annual earnings limitation.

All information provided to CalSTRS is subject to audit by CalSTRS Office of Audits pursuant to Section 22206.

If you have questions regarding the post-retirement earnings limitation and retirement incentive program restrictions, 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 post retirement employment limitations on the CalSTRS Web site: www.calstrs.com.

Jack Ehnes
Chief Executive Officer

Attachment

Appendix

Prior Employer Directives

Post-Retirement Earnings

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
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EXEMPTIONS TO THE POST-RETIREMENT EARNINGS LIMITATION

EDUCATION CODE	EMPLOYER DIRECTIVE	ELIGIBILITY	REQUIRED FORM/CERTIFICATE	REPORTING CODE
Education Code Section 24216.5 Effective through 12/31/2007	Exemptions to the CalSTRS Earnings Limitation for Retired Members Employed to Teach in Grades K – 12, participating in Teacher Preparation Programs Special Education Programs English Language Learner Programs	Any member retired for service on or before January 1, 2004, and employed to teach as specified.	Exemption Certification for Teacher Recruitment (SR 0126)	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.
Education Code Section 24214(e) Effective through 12/31/2007	Exemption to the Earnings Limitation for Retired Members Returning to Work After a break of Twelve (12) Consecutive Months	Any member retired for service who has not performed creditable service for at least 12 consecutive months after retirement.	None	Report earnings for creditable service as Member Code 2 and Assignment Code 61.
Education Code Section 24216.6	Exemptions to the Earnings Limitation for Retired Members Employed to Provide Direct Remedial Instruction to Pupils in Grades 2 – 12	Any member retired for service on or before January 1, 2004, employed to provide Remedial Instruction in Grades 2 – 12 as specified.	Exemption Certification for Remedial Instruction (SR 0909)	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.
Education Code Section 24216(a) Effective through 12/31/2007	Exemption to the Earnings Limitation for a Limited-Term Appointment – fiscal advisor for a fiscally insolvent school district	Any member retired for service unless member received Retirement Incentive from same employer and has not been retired for one calendar year. A member can only work under this exemption for two calendar years.	Exemption Certification for Limited-Term Appointment/Assignment (SR0164)	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.
Education Code Section 24216(b) Effective through 12/31/2007	Exemption to the Earnings Limitation for Employment in an Emergency Situation	Any member retired for service unless member received Retirement Incentive from same employer and has not been retired for one calendar year. A member can only work under this exemption for two calendar years.	Exemption Certification for Emergency Employment of Retired Member (SR 0165, Parts I & II)	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.