

California State Teachers'
Retirement System
Executive Office
P.O. Box 15275
Sacramento, CA 95851-0275
916.229.3700
www.CalSTRS.com

December 6, 2007

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 2007-07
Supersedes Employer Directive 2006-02
Post Retirement Earnings Limit and Legislative Changes for 2007/08
school/fiscal year

PURPOSE

The purpose of this employer directive is as follows:

- To inform employers of the post retirement earnings limitation for the 2007/08 school/fiscal year.
- To inform employers of the 2007 legislative change to the post retirement earnings law.
- To remind employers that they are required to inform CalSTRS retired members who perform creditable service about the annual earnings limitation.
- To remind employers to report post retirement earnings and to use the correct reporting code.
- To inform employers of the post-retirement excess earnings process, the CalSTRS notification process and to provide an illustration of the financial implications of exceeding the earnings limit.
- To remind employers of the retirement incentive restrictions and of the classified position restriction.

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

2007/08 Post Retirement Earnings Limitation

The post-retirement earnings limitation for the 2007/08 school/fiscal year is \$27,940. 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 it has not changed.

Legislative Changes

There has been one legislative exemption addition to Education Code Section 24216¹ (a) (1) from Chapter 766, Statutes of 2007 (AB 2254). Effective January 1, 2007, a retired member who is appointed as a Trustee for a school participating in the Immediate Intervention/Underperforming Schools or High Priority School Grant Program may be employed under an emergency earnings exemption for a maximum period of two years.

Chapter 353, Statutes of 2007 (SB 901), which was sponsored by CalSTRS extended the exemptions through June 30, 2009. CalSTRS will extend 2007/08 exemptions that have already been received and processed with a December 31, 2007 end date through the requested end date if the requested end date is after December 31, 2007. Chapter 353 also amended the members' 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 will change from January 1, 2004 to January 1, 2006, which will make more members eligible for exemptions.

Notification by Employer

The employer is required by Section 22461 to inform CalSTRS retired members who perform creditable service as either an employee, employee of a third party or as 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.

¹ Hereinafter, all referenced code citations will be to the Education Code unless specifically stated otherwise.

Reporting of Post Retirement Earnings

The employer is required by Section 22461 to report earnings for CalSTRS retired members who perform creditable service as either an employee, employee of a third party or as an independent contractor.

All post-retirement earnings must 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. 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, in the California public school system, for which the employer is eligible to receive state apportionment, are considered creditable service.

Post Retirement Excess Earnings Process

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 earnings 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 up to the amount of the member's annual benefit.

Before a member exceeds the limit, two notifications are sent by CalSTRS. The first letter (SR 1369.1) is sent when post-retirement earnings are reported by the employer. The member is notified of the earnings limitation and what occurs when it is exceeded. When CalSTRS receives post-retirement earnings from the employer that reach the earnings limit halfway point, another letter (SR 1369.2) is sent notifying the member and reminding the member of what occurs when the earnings limitation is exceeded.

If a member exceeds the earnings limit, CalSTRS notifies the member that the earnings limit has been exceeded and that excess earnings will be deducted from the monthly retirement benefit.

Retired members may be exempt from the post-retirement earnings limitation if they meet the eligibility criteria for one of CalSTRS exemptions. Exemption requests should be submitted in a timely manner. The exemption forms are available on the CalSTRS

Web site at www.CalSTRS.com. Please refer to the attached matrix for reference to the applicable employer directives for one of CalSTRS exemptions.

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

- ✓ Before the member begins post retirement employment, discuss the duration of the assignment with the member and determine if the member may exceed the earnings limit.
- ✓ Inform the member of the current earnings limit for the school/fiscal year and determine if the member qualifies for any CalSTRS exemptions early in the fiscal/school year. If the member qualifies for an exemption, file it as soon as possible. Please refer to the attached matrix for more information on exemptions.
- ✓ Verify if the member has a twelve month consecutive break in service post retirement according to the district records.
- ✓ 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 \$27,940 with two different results.

EXAMPLE I:

Mrs. Smith retires June 30, 2006 receiving a gross monthly retirement benefit of \$3,000. She returns to employment in the California public school system fourteen months later on September 1, 2007 as a retiree. By March 2008, she has earned \$30,000 from her District, which is \$2,060 in excess of the earnings limitation ($\$30,000 - \$27,940 = \$2,060$). She is exempt from the earnings limitation because she has had at least a 12 month break in service. The excess earnings will not be collected from her gross monthly retirement benefit.

EXAMPLE II:

Mr. Smith retires June 30, 2007 receiving a gross monthly retirement benefit of \$4,000. He returns to employment in the California public school system two months later in September 2007 as a retiree. By March 2008, he has earned \$18,000 from District 1 and \$14,000 from District 2, for a total of \$32,000, which is \$4,060 in excess of the earnings limitation ($\$32,000 - \$27,940 = \$4,060$). He is not exempt from the earnings limitation because he does not have a 12 month break in service. The excess earnings will be collected from his gross monthly retirement benefit.

If the excess earnings are collected beginning in November 2008, his excess earnings for fiscal year 2007/08 of \$4,060 will be collected from his gross monthly retirement benefit as follows:

	November 2008	December 2008	January 2009	Total
Monthly retirement benefit	\$4,000	\$4,000	\$4,000	\$12,000 Paid
Excess earning deduction up to 100 percent of monthly benefit	\$4,000	\$ 60	\$ - 0 -	\$4,060 Collected
Benefit after deduction	\$ - 0 -	\$3,940	\$4,000	\$7,940 to member

Retirement Incentive Restrictions

A member who retired with a 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 5 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. These circumstances are 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. (Sections 45134 and 88033)

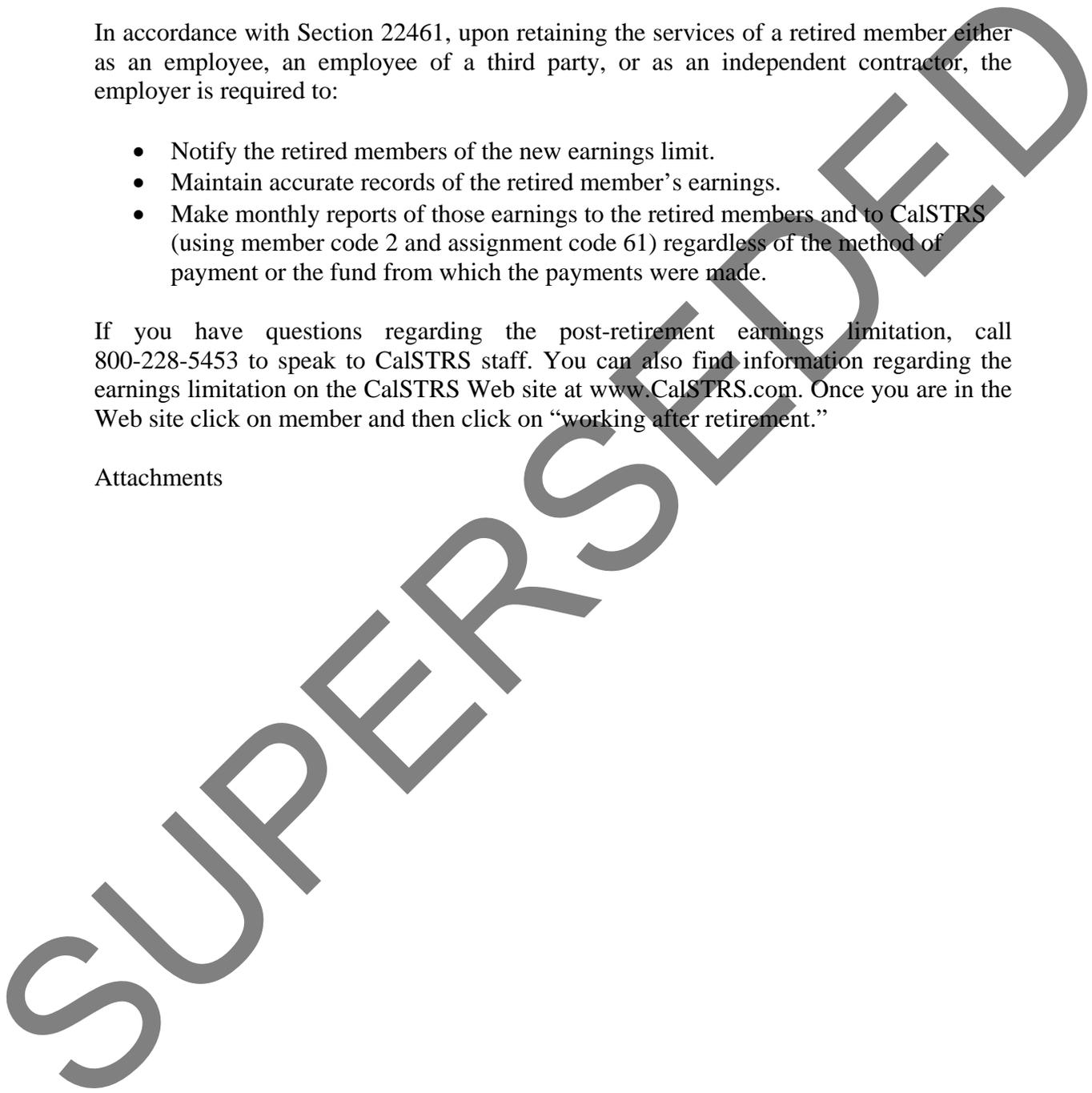
ACTION

In accordance with Section 22461, upon retaining the services of a retired member either as an employee, an employee of a third party, or as an independent contractor, the employer is required to:

- Notify the retired members of the new earnings limit.
- Maintain accurate records of the retired member's earnings.
- Make monthly reports of those earnings to the retired members and to CalSTRS (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, call 800-228-5453 to speak to CalSTRS staff. You can also find information regarding the earnings limitation on the CalSTRS Web site at www.CalSTRS.com. Once you are in the Web site click on member and then click on "working after retirement."

Attachments



Appendix

Prior Post Retirement Employer Directives

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

SUPERSEDED

EXEMPTION NAME & REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
K-12 Direct Instruction and Teacher Support (Form SR 0126)	Member retired for service on or before January 1, 2004 [effective through 12/31/07] Member retired for service on or before January 1, 2006 [effective after 01/01/08] and employed by a school district to provide: <ul style="list-style-type: none"> • Direct Classroom Instruction in K-12 • Instruction and Pupil Services provided to pupils in Special Education Programs • Instruction to pupils in English Language Learner Programs Support in the following programs: <ul style="list-style-type: none"> • Pre-Internship Teaching Program • Alternative Certification Program • School Paraprofessional Teacher Training Programs • Individuals Completing Student Teaching Assignments • Support & Assessment to New Teachers through the Beginning Teacher Support & Assessment Program. Exemption extended through 6/30/2009	Section 24216.5	Report earnings subject to exemption as Member Code 2 and Assignment Code 61.
12 Month Break Exemption (No Required Form)	Member retired for service who has not performed creditable service for at least 12 consecutive months after the most recent retirement. Exemption extended through 6/30/2009	Section 24214(e)	Report earnings for creditable service as Member Code 2 and Assignment Code 61.

EXEMPTION NAME & REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
<p>Exemption Certification for Remedial Education</p> <p>(Form SR 0126)</p>	<p>Member retired for service on or before January 1, 2004 [effective through 12/31/07]</p> <p>Member retired for service on or before January 1, 2006 [effective after 01/01/08]</p> <p>and employed by a school district to provide Direct Remedial Instruction as specified in <i>Education Code</i> 37252 and 37252.2 in Grades 2 – 12 before school, after school, intersession, summer school or a combination thereof.</p> <p>Exemption extended through 6/30/2009</p>	<p>Section 24216.6</p>	<p>Report earnings subject to exemption as Member Code 2 and Assignment Code 61.</p>
<p>Exemption Certification for Limited Term Appointment/Assignment</p> <p>(Form SR 0164)</p>	<p>Member retired for service who is:</p> <ul style="list-style-type: none"> • Appointed as a trustee or administrator by the Superintendent of Public Instruction pursuant to Section 41320.1 • Appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program (Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28) • Appointed as a trustee pursuant to the High Priority Schools Grant Program (Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28) • Assigned by a county superintendent of schools pursuant to Article 2 (commencing with Section 42122) of Chapter 6 of Part 24 <p>A member can only work under this exemption for two calendar years from the date of appointment or assignment. Exemption extended through 6/30/2009</p>	<p>Section 24216</p>	<p>Report earnings subject to exemption as Member Code 2 and Assignment Code 61.</p>

EXEMPTION NAME & REQUIRED FORM	ELIGIBILITY	EDUCATION CODE	REPORTING CODE
<p>Exemption Certification for Emergency Employment of Retired Member</p> <p>(Form SR 0165 Parts I & II)</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>Exemption extended through 6/30/2009</p>	<p>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 section 22715 and 22716 is ineligible for an exemption.</p>			

SUPERSEDED