



Gary S. Thomas, Ed.D., Superintendent

San Bernardino County Superintendent of Schools

DATE: April 25, 2012

TO: Chief Business Officials, Personnel Administrators, Directors of Fiscal Services, and Payroll Staff of San Bernardino County School Districts, COE, ROP's, Community Colleges, and Charter Schools

SUBJECT: Postretirement Earnings Limitations

As discussed at recent countywide meetings of Personnel Administrators and Chief Business Officials, it is imperative that both school employers and retirees are aware of the postretirement earnings limits imposed by CalSTRS and CalPERS. In fact, noncompliance can result in serious consequences and financial implications for both employer and retired annuitant.

Attached please find several references to help districts and retirees understand the earnings limitations for their respective retirement plans:

CalPERS Guide to Employment After Retirement – A comprehensive guide for CalPERS employers and employees.

CalSTRS Employer Directive 2012-01 – A copy of the directive that was sent to all school employers in February 2012 explaining the CalSTRS retiree earnings limits and consequences of exceeding them.

CalPERS/CalSTRS Postretirement Earnings Limits Summary Handout – A very summarized version of both systems' limits. (Good for quick reference, but lacks some important details found in the above reference materials.)

DFS Bulletin dated 10/17/11 regarding Expiration of All Earnings Limit Exemptions – A detailed list of all the exemptions currently allowed, **all of which expire on June 30, 2012, absent the passage of legislation to extend them. The expiration of these exemptions may have a profound impact on your school district.**

I encourage all of you to familiarize yourselves with these references and share this information with both the retirees working at your district and the departments that hire them. In fact, employers are required by Education Code 22461 to advise each employee who is a retired CalSTRS member of the annual limitation on earnings. Sharing the information contained herein should suffice.

Sincerely,

Signed Melissa L. Anderson

Melissa L. Anderson, Chief
District Financial Services

MLA:kb

Attachments (4)



A Guide to CalPERS

Employment After Retirement

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WHAT ALL RETIREES SHOULD KNOW

The following contains general information regarding working after retirement. Please read this section and the section that applies to your specific type of retirement. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

What You Should Know Before Working after Retirement

After you have retired, you may think about becoming self employed, working in private industry or going back to work for your former CalPERS employer or another CalPERS employer (any employer who contracts with CalPERS for retirement benefits) as a “retired annuitant”. There are some restrictions you need to know about so you will not jeopardize your CalPERS service, disability or industrial disability retirement benefits.

Generally you may be self employed or work in private industry and continue to collect your CalPERS retirement allowance. Some restrictions may apply depending upon whether you are retired for service, disability or industrial disability.

If you wish to work for your former CalPERS employer, for another CalPERS employer, for any CalPERS employer through a third-party employer, or for any CalPERS employer as an “independent contractor” or “consultant,” please review all the pertinent information in this publication carefully.

A retiree can work for a CalPERS employer without reinstatement (1) as a temporary “retired annuitant” employee with certain restrictions or (2) if the position is specifically exempt from restrictions by CalPERS law.

As a retired annuitant, you do not accrue service credit or otherwise acquire any additional retirement benefits from the retiree employment. Appointment to a permanent position, whether part-time or full-time, requires reinstatement from retirement into active employment unless the employment qualifies you for membership in the University of California Retirement Plan (UCRP), the California State Teachers’ Retirement System (STRS), or any other public pension system.

Exception: Certificated employees who elect to remain in CalPERS and then retire and accept a temporary assignment in a classified or certificated position in a school are subject to the restrictions in the retirement law.

Before accepting employment with any employer, it is your responsibility to:

- Ask if they contract with CalPERS for retirement benefits.
- Inform the employer that you are receiving retirement benefits from CalPERS and specify the type of retirement, i.e., service, disability, or industrial disability.
- Ensure the employment will be in compliance with CalPERS law.

Once hired, it is your responsibility and your employer's is to ensure your employment remains in compliance and, therefore, does not jeopardize your retirement benefits during the course of your employment.

Consequences of Unlawful Employment

Retiree employment found to be in violation of CalPERS law and regulations (unlawful employment) can result in your mandatory reinstatement from retirement.

If you are employed by any CalPERS employer in either a permanent part-time or permanent full-time position not specifically permitted under CalPERS law, you will be considered unlawfully employed. Unlawful employment may result in mandatory reinstatement from retirement retroactive to the date the unlawful employment began.

If you are reinstated, you will be required to reimburse CalPERS the amount of retirement allowance you received during the period of unlawful employment. In addition, through your employer, you will be required to pay the retroactive CalPERS member contributions, plus interest, equal to the amount that would have been paid had your reinstatement occurred timely. You could also be assessed the cost of any administrative expenses incurred to process your mandatory reinstatement, to the extent you are determined to be at fault. Reinstatement due to unlawful employment could also jeopardize any health benefit entitlement you may have from your current retirement.

Likewise, the CalPERS employer who unlawfully employed you will be required to pay retroactive employer contributions, plus interest, equal to the amount of employer contributions that would have been paid had your reinstatement occurred timely. Your employer could also be assessed the cost of any administrative expenses incurred to process your mandatory reinstatement, to the extent the employer is determined to be at fault.

For more information about reinstatement from retirement into active employment, please review our publication *A Guide to CalPERS Reinstatement from Retirement*, which contains the application for reinstatement. This publication is available on the CalPERS website at www.calpers.ca.gov or you may request it by calling our toll free telephone number at 888 CalPERS (or 888-225-7377).

Your temporary employment can not exceed 960 hours in a fiscal year (July 1st through June 30th).

CalPERS Employment in a Temporary Capacity

CalPERS approval is **not** required for temporary, limited-term employment as a retired annuitant. Eligibility requirements can vary depending upon whether you are retired for service, disability, or industrial disability, and your age at retirement.

Eligible retirees can work for a state agency*, university, public employer, or school employer contracted with CalPERS without reinstatement from retirement into active employment, if all of the following conditions are met.

- You have specialized skills needed to perform work of limited duration or your employment is needed during an emergency to prevent stoppage of public business.
- Your temporary employment will not exceed 960 hours in a fiscal year (July 1st through June 30th).
- The rate of pay received will not be less than the minimum nor exceed the maximum that is paid to other employees performing comparable duties.

* Retired annuitant employment with a State agency is limited to retirees who have civil service eligibility from previous State agency employment or who qualify for appointment under an applicable civil service employment list. Contact the Department of Personnel Administration (DPA) at www.dpa.ca.gov for additional information.

California State University (CSU) academic staff retirees can work as a retired annuitant academic staff for the CSU without reinstatement as long as the employment is temporary and does not exceed a total of 960 hours per fiscal year or 50 percent of the hours they were employed in the fiscal year prior to retirement, whichever is less.

Third-Party Employer and Independent Contractor or Consultant Employment

If you are considering employment or co-employment with a CalPERS employer who recruits employees or retirees through a third-party employment agency, be advised that if under common-law principles you will be an “employee” of the CalPERS employer, your employment is subject to CalPERS restrictions even though a third-party employer pays your wages or salary.

You can be hired as an “independent contractor” or “consultant” for a CalPERS employer. However, if under common-law principles you will be an “employee” of the CalPERS employer, your employment is subject to CalPERS restrictions.

CalPERS experience is that upon review many alleged “independent contractor” or “consultant” agreements or contracts provide for an employee-employer relationship and are, thus, subject to CalPERS restrictions. Therefore, we strongly advise that you contact CalPERS to review any proposed agreement or contract before you sign it and before you begin employment.

Unemployment Insurance Payments for Work as a Retired Annuitant

California law prohibits reappointment of a retired annuitant by a CalPERS employer if, during the 12-month period prior to reappointment, the retiree received unemployment insurance compensation for prior retired annuitant employment with the same employer.

If you are working as a retired annuitant and it is discovered that during the previous 12 months you were paid unemployment insurance based on prior retired annuitant employment with the same employer, your employment must be terminated on the last day of the current pay period. You will not be eligible for reappointment as a retired annuitant by that employer for 12 months following the termination date of the current employment. CalPERS auditors have incorporated this requirement into the random auditing criteria for CalPERS employers. Violation of this unemployment insurance restriction does not result in mandatory reinstatement from retirement.

Positions Not Subject to the Fiscal Year Limit of 960 Hours

- **Member of a Board, Commission, or Advisory Committee:** You can serve as a member of an advisory committee, board, or commission if you are appointed to that position by the Governor, Speaker of the Assembly, President Pro Tempore of the Senate, director of a State department, or governing board of the public agency.
- **Appointive Member of a Public Agency Governing Body:** You can serve as an appointive member of the governing body of a public agency. However, your compensation for that office cannot exceed \$100.00 per month.
- **Appointment by Legislative Committee or the Legislature:** you can serve in a position deemed temporary in nature upon appointment by the legislature, either legislative house, or a legislative committee.
- **Election Officer or Juror:** You can serve as an election officer or juror and receive fees for such service.
- **Elective Position:** You can serve in an elective office without effect on your retirement allowance **unless** all or a portion of your retirement allowance is based on previous service in the same elected office. If so, the portion of your retirement allowance based on that elected office service is suspended for as long as you serve in office while retired. If you are an active employee serving in an elective office and wish to retire before the expiration of your current term, you must resign from the position in order to retire. If you are re-elected or re-appointed to the same position after retirement, the portion of your retirement allowance based on service in that elected office will be suspended for as long as you serve in office while retired. You are required to notify CalPERS if you are elected, appointed, re-elected, or re-appointed to elective office to determine if a portion of your allowance should be suspended.

Note: If you did collect unemployment insurance benefits, the 12-month preclusion period begins the day after the issue date of your last unemployment insurance payment.

- **Preparation for Litigation or Testimony for Former Employer:** You can be employed by your former employer if your services are required to prepare for anticipated or actual litigation or to testify in trial proceedings or hearings. You can be paid per diem and actual and necessary travel expenses. However, you cannot be paid a per diem rate higher than the rate paid by the employer to others for similar services. In addition, your employer must reduce the per diem amount paid to you by the daily equivalent of your monthly retirement annuity. Your employer must contact CalPERS to provide the amount of your monthly annuity to calculate the per diem payable to you. If you are a State retiree, your employment must be approved by the Department of Personnel Administration (DPA). If you are a public agency or school retiree, your employment must be approved by a governing body of the CalPERS employer.
- **School Crossing Guard:** you can be employed as a school crossing guard and receive wages for such service.

ALL SERVICE RETIREES

Below is information related to working after service retirement. Please read all of this section, along with the What All Retirees Should Know section at the beginning of this publication. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

Employment with a Non-CalPERS Employer

CalPERS approval is not required to work for a non-CalPERS employer. Service retirees can be self-employed or work for a private industry employer without restrictions and continue to receive their monthly retirement allowance. However, if you intend to work for a CalPERS employer as an “independent contractor,” a “consultant,” or through a third-party employer, please carefully review the section entitled Third-Party Employer and Independent Contractor or Consultant Employment.

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

CalPERS service retirees may seek temporary, limited-term employment as a “retired annuitant” without CalPERS approval. The following restrictions to employment apply:

Bona fide separation requirement: Temporary employment as a “retired annuitant” with a CalPERS employer is not allowed if you are younger than the normal service retirement age, unless both of the following conditions are met:

- There is no verbal or written agreement to return to work as a “retired annuitant” between you and any CalPERS employer before you retired.
- There is a termination of employment (separation in service) for 60 days between your retirement date and the date your temporary employment as a “retired annuitant” will begin.

Normal service retirement age for CalPERS purposes is the benefit formula age shown in your retirement formula, e.g., age 55 for the 2% @ 55 formula, age 60 for the 3% @ 60 formula, and 65 for the 1¼ % @ 65 formula. If your retirement allowance is based on more than one formula, regardless of when that formula was earned, the highest benefit age determines your eligibility. For service retirees under normal retirement age, the only exception to this restriction is for specific emergency conditions as defined in Government Code section 8558.

This bona fide separation (break) in service requirement is in California retirement law in order to comply with Internal Revenue Code (IRC) tax regulations which prohibit the in-service distribution of pension benefits.

After you have satisfied the bona fide break in service requirement, you may accept a temporary appointment to work as a “retired annuitant.” If you attained your normal retirement age prior to retiring on service, you are eligible to accept a temporary appointment to work as a “retired annuitant” the day after your retirement date.

Note: Temporary employment must not exceed the work limit of 960 hours per fiscal year. Both you and your employer are responsible for monitoring compliance with this work limit. If you exceed the work limit, both you and your employer will be held accountable for unlawful employment, the consequence of which can include mandatory reinstatement from retirement into active employment (membership) in the current position.

Temporary vs. Permanent Employment

If your intention is to remain retired, you may only accept a temporary appointment as a “retired annuitant” with any CalPERS employer unless the employment is specifically allowed by law. If you are a safety member on service retirement, you must reinstate from retirement to accept a permanent position in a miscellaneous category.

Because many permanent part-time positions require less than 960 hours per fiscal year, there is often confusion about retiree employment in such positions. If you intend to work as a permanent employee with any CalPERS employer, even if the position requires less than 960 hours per fiscal year, the retirement law requires reinstatement from retirement into active employment. To ensure compliance, confirm with your prospective employer whether the position is a temporary or permanent appointment.

For more information about reinstatement from retirement into active employment, please review the publication *A Guide to CalPERS Reinstatement from Retirement*, which contains the application for reinstatement. This publication is available on the CalPERS website at www.calpers.ca.gov or you may request it by calling our toll free telephone number at **888 CalPERS** (or **888-225-7377**).

ALL DISABILITY RETIREES

Below is information related to working after disability retirement. Please read all of this section, along with the What all Retirees Should Know section at the beginning of this publication. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

Employment with a Non-CalPERS Employer

CalPERS approval is not required to work for a non-CalPERS employer, but there are some restrictions and considerations. Generally, you may be self-employed or work for private industry and continue to collect your CalPERS retirement. There is no limit to the number of hours you can work.

Disability retirees can work with certain restrictions:

- Your employment must be in a position significantly different from the one from which you retired. The position should not include duties or activities you were previously restricted from performing at the time of your retirement.
- If you are under the service retirement age, you will be subject to an earnings limit. You are required to report your employment earnings to CalPERS either on a monthly or quarterly basis. The total employer-paid portion of your monthly retirement benefit and your new earnings cannot be greater than the current compensation of the position from which you retired (if it is greater, your retirement benefit will be reduced.) Contact CalPERS to request a *Disability Retiree's Report of Earnings* form.

If you are under the service retirement age and are determined to be performing duties similar to those from which you were previously found disabled, CalPERS can re-evaluate your medical condition to determine whether you should be reinstated from retirement back into your former position.

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

CalPERS disability retirees may seek temporary, limited-term employment as retired annuitants without CalPERS approval. However, certain restrictions apply.

All disability retirees are limited to working no more than 960 hours per fiscal year when working in a temporary capacity.

Note: Temporary employment must not exceed the work limit of 960 hours per fiscal year. Both you and your employer are responsible for monitoring compliance with this work limit. If you exceed the work limit, both you and your employer will be held accountable for unlawful employment, the consequence of which can include mandatory reinstatement from retirement into active employment (membership) in the current position.

CalPERS approval is not required to work for a non-CalPERS employer; however, your employment must be in a position that differs than the one from which you retired.

If you are a disability retiree, you may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement benefits; however you must have CalPERS written approval before beginning any permanent employment with a CalPERS employer.

Temporary vs. Permanent Employment

If your intention is to remain retired, you may only accept a temporary appointment as a retired annuitant with any CalPERS employer unless the employment is specifically allowed by law.

Because many permanent part-time positions require less than 960 hours per fiscal year, there is often confusion about retiree employment in such positions. If you intend to work as a permanent employee with any CalPERS employer, even if the position requires less than 960 hours per fiscal year, the retirement law requires reinstatement from retirement into active employment. To ensure compliance, confirm with your prospective employer whether the position is a temporary or permanent appointment.

For more information about reinstatement from retirement into active employment, please review the publication *A Guide to CalPERS Reinstatement from Retirement*, which contains the application for reinstatement. This publication is available at CalPERS On-Line at www.calpers.ca.gov or you may request it by calling our toll free telephone number at 888 CalPERS (or 888-225-7377).

Note: Disability retirees have another option other than reinstatement under the provision of Government Code Section 21228 for those who wish to work in either a permanent part-time or full-time position while continuing to receive their disability retirement benefits.

Eligibility to Work for a CalPERS Employer in a Permanent Capacity

Under Government Code Section 21228, disability retirees may seek permanent employment while receiving retirement benefits with CalPERS approval. However, certain restrictions apply.

All Disability Retirees

If you are a disability retiree you may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement benefits. You must submit the *Request to Work While Receiving Disability/Industrial Disability Retirement Benefits* form and the *Physical Requirements of Position/Occupational Title* form located in the back of this publication and all required documents. You must have CalPERS written approval before beginning employment. Your job duties must differ significantly from those required under the position from which you retired. That is, the position should not include duties or activities you were previously restricted from performing at the time of your retirement. If you are approved to work, you will be required to report your earnings to CalPERS.

In order to request approval to work for a CalPERS employer in a permanent position while receiving disability retirement benefits, you must submit the following required documents: A *Request to Work While Receiving Disability/Industrial Disability Retirement Benefits* form, a *Physical Requirements of Position/Occupational Title* form, a position duty statement and a medical report from a specialist for the disabling condition(s) that precluded you from working.

- You must submit all required documents to CalPERS.
- You must complete and sign Section 1 of the *Request to Work While Receiving Disability/Industrial Disability Retirement Benefits* form. Your prospective employer must complete and sign Section 2 and provide you a position duty statement for the job.
- You and your employer must complete and sign the *Physical Requirements of Position/Occupational Title* form.
- If you have more than one disabling condition at the time of retirement, you must provide a medical report from each medical specialist for your disabling condition.
- You must schedule an appointment with a medical specialist for your disabling condition(s) and provide the specialist with a copy of the position duty statement and the completed *Physical Requirements of Position/Occupational Title* form.
- A *Physician's Report on Disability* form is **not** required.
- If you are a local safety disability retiree, you must also submit the medical documentation used at the time of your retirement identifying the restrictions placed upon you, plus a position duty statement describing the position you held when you became disabled.

CalPERS will require a current medical report from a specialist for your disabling condition(s) that precluded you from working. The specialist must include the following pertinent information, on appropriate letterhead, in the medical report:

- Indicate patient (name) and the date of the most recent examination.
- Indicate that the position duty statement (by title) and the *Physical Requirements of Position/Occupational Title* form were reviewed and discussed with patient.
- Indicate whether or not there are any limitations or restrictions to patient performing all tasks involved.
- Indicate if there are restrictions or limitations and specifically identify what the restrictions involve.
- Indicate doctor's signature, printed name, medical specialty, and contact information.

All required documents must be submitted with your request form in order for CalPERS to begin the determination process, which can take approximately three months to complete. There are times when CalPERS may require an independent medical examination to supplement your medical specialist's report.

Required Documents

A completed ***Request to Work While Receiving Disability/Industrial Disability Retirement Benefits*** form. A completed ***Physical Requirements of Position/Occupational Title*** form. A position duty statement for the prospective job. A current Medical Report from a medical specialist.

Local safety disability retirees must also submit the duty statement describing the position you held when you were found disabled and the medical documentation showing the job restrictions placed upon you due to your disability.

All required documents must be submitted with your request form in order for CalPERS to begin the determination process which can take approximately three months to complete.

Once approved, you will be informed of the amount of your earnings limit and how to report your earnings.

Note: All permanent employment under Government Code Section 21228 requires approval prior to employment; there are no exceptions. If violated, both you and your employer are responsible for the unlawful employment, and mandatory reinstatement from retirement into the current position could result, whether or not the permanent position is part-time.

Once Approved under Government Code Section 21228

Retirees approved to work under Government Code Section 21228 do not accrue service credit or otherwise acquire retirement rights for employment as a retiree.

You will be informed of the amount of your earnings limit and how to report your earnings. The total employer-paid portion of your monthly retirement benefit and your new earnings cannot be greater than the current compensation of the position from which you retired. If it is greater, your retirement benefit will be reduced. The earnings limitation continues as long as you are employed in the approved position; it does not end when you reach your service retirement age.

Note: If you wish to change to a different employer or a different position (lateral transfer or with promotion) or if you wish to restart employment in a previously approved position, you must reapply to CalPERS and await our approval before beginning employment. If you do not receive prior approval, you will be considered unlawfully employed. There are no exceptions to this requirement.

ALL INDUSTRIAL DISABILITY RETIREES

Below is information related to working after industrial disability retirement. Please read all of this section, along with the What All Retirees Should Know section at the beginning of this publication. If you have any questions after reading the contents of this publication, contact CalPERS prior to accepting employment.

Employment with a Non-CalPERS Employer

CalPERS approval is not required to work for a non-CalPERS employer, but there are some restrictions and considerations. Generally, you may be self-employed or work for private industry and continue to collect your CalPERS retirement. There is no limit to the number of hours you can work.

Industrial disability retirees can work with certain restrictions:

- Your employment must be in a position that is significantly different from the one from which you retired. The position should not include duties or activities you were previously restricted from performing at the time of your retirement.
- You are **not** subject to an earnings limit, even if you are under the service retirement age.

If you are under the service retirement age and are determined to be performing duties similar to those from which you were previously found disabled, CalPERS can re-evaluate your medical condition to determine whether you should be reinstated from retirement back into your former position.

Eligibility to Work for a CalPERS Employer in a Temporary Capacity

CalPERS industrial disability retirees may seek temporary, limited-term employment as a retired annuitant without CalPERS approval. However, certain restrictions apply.

All industrial disability retirees are limited to working no more than 960 hours per fiscal year when working in a temporary capacity.

Note: Temporary employment must not exceed the work limit of 960 hours per fiscal year. Both you and your employer are responsible for monitoring compliance with this work limit. If you exceed the work limit, both you and your employer will be responsible for the unlawful employment, which can include mandatory reinstatement from retirement into active employment (membership) in the current position.

CalPERS approval is not required to work for a non-CalPERS employer; however, your employment must be in a position that differs significantly from the one from which you retired.

If you are an industrial disability retiree you may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement benefits; however you must have CalPERS written approval before beginning any permanent employment with a CalPERS Employer.

Temporary vs. Permanent Employment

If your intention is to remain retired, you may only accept a temporary appointment as a retired annuitant with any CalPERS employer unless the employment is specifically allowed by law.

Because many permanent part-time positions require less than 960 hours per fiscal year, there is often confusion about retiree employment in such positions. If you intend to work as a permanent employee with any CalPERS employer, even if the position requires less than 960 hours per fiscal year, the retirement law requires reinstatement from retirement into active employment. To ensure compliance, confirm with your prospective employer whether the position is a temporary or permanent appointment.

For more information about reinstatement from retirement into active employment, please review the publication *A Guide to CalPERS Reinstatement from Retirement*, which contains the application for reinstatement. This publication is available on CalPERS On-Line at www.calpers.ca.gov or you may request it by calling our toll free telephone number at 888 CalPERS (or 888-225-7377).

Note: Industrial disability retirees have another option other than reinstatement under the provision of Government Code Section 21228 for those who wish to work in either a part-time or full-time permanent position while continuing to receive their industrial disability retirement benefits.

Eligibility to Work for a CalPERS Employer in a Permanent Capacity

Under Government Code Section 21228, industrial disability retirees may seek permanent employment while receiving retirement benefits with CalPERS approval. However, certain restrictions apply.

All Industrial Disability Retirees

If you are an industrial disability retiree you may apply to work in a permanent part-time or full-time position with a CalPERS employer while receiving your retirement benefits. You must submit the *Request to Work While Receiving Disability/Industrial Disability Retirement Benefits* form and the *Physical Requirements of Position/Occupational Title* form located in the back of this publication and all required documents. You must have CalPERS written approval before beginning employment. The position and required duties must differ significantly from those required under the position from which you retired. The position should not include duties or activities you were previously restricted from performing at the time of your retirement. If you are approved to work, you will be required to report your earnings to CalPERS.

In order to request approval to work for a CalPERS employer in a permanent position while receiving industrial disability retirement benefits, you must submit the following required documents: A *Request to Work While Receiving Disability/Industrial Disability Retirement Benefits* form, a *Physical Requirements of Position/Occupational Title* form, a position duty statement that describes the physical requirements of the job, and a medical report from a specialist for the disabling condition(s) that precluded you from working.

- You must submit all required documents to CalPERS.
- You must complete and sign Section 1 of the *Request to Work While Receiving Disability/Industrial Disability Retirement Benefit* form. Your prospective employer must complete and sign Section 2 and provide you a position duty statement for the job.
- You and your employer must complete and sign the *Physical Requirements of Position/Occupational Title* form.
- If you have more than one disabling condition at the time of retirement, you must provide a medical report from each medical specialist for your disabling condition.
- You must schedule an appointment with a medical specialist for your disabling condition(s) and provide the specialist with a copy of the position duty statement and the completed *Physical Requirements of Position/Occupational Title* form.
- A *Physician's Report on Disability* form is **not** required.
- If you are a local safety disability retiree, you must also submit the medical documentation used at the time of your retirement identifying the restrictions placed upon you, plus a position duty statement describing the position you held when you became disabled.

CalPERS will require a current medical report from a specialist for the disabling condition(s) that precluded you from working. The specialist must include the following pertinent information, on appropriate letterhead in the medical report:

- Indicate patient (name) and the date of the most recent examination.
- Indicate that the position duty statement (by title) and the *Physical Requirements of Position/Occupational Title* form were reviewed and discussed with patient.
- Indicate whether or not there are any limitations or restrictions to patient performing all tasks involved.
- Indicate if there are restrictions or limitations and specifically identify what the restrictions involve.
- Indicate doctor's signature, printed name, medical specialty, and contact information.

All required documents must be submitted with your request form in order for CalPERS to begin the determination process, which can take approximately three months to complete. There are times when CalPERS may require an independent medical examination to supplement your medical specialist's report.

Required Documents

A completed ***Request to Work While Receiving Disability/Industrial Disability Retirement Benefits*** form. A completed ***Physical Requirements of Position/Occupational Title*** form. A position duty statement for the prospective job. A current Medical Report from a medical specialist.

Local safety industrial disability retirees must also submit the duty statement describing the position you held when you were found disabled and the medical documentation showing the job restrictions placed upon you due to your disability.

All required documents must be submitted with your request form in order for CalPERS to begin the determination process which can take approximately three months to complete.

Once approved, you will be informed of the amount of your earnings limit and how to report your earnings.

Note: All permanent employment under Government Code Section 21228 requires approval prior to employment; there are no exceptions. If violated, both you and your employer are responsible for the unlawful employment, and mandatory reinstatement from retirement into the current position could result, whether or not the permanent position is part-time.

Once Approved under Government Code Section 21228

Retirees approved to work under Government Code Section 21228 do not accrue service credit or otherwise acquire retirement rights for employment as a retiree.

You will be informed of the amount of your earnings limit and how to report your earnings. The total employer-paid portion of your monthly retirement benefit and your new earnings cannot be greater than the current compensation of the position from which you retired. If it is greater, your retirement benefit will be reduced. The earnings limitation continues as long as you are employed in the approved position; it does not end when you reach your service retirement age.

Note: If you wish to change to a different employer or a different position (lateral transfer or with promotion) or if you wish to restart employment in a previously approved position, you must reapply to CalPERS and await our approval before beginning employment. If you do not receive prior approval, you will be considered unlawfully employed. There are no exceptions to this requirement.



Request To Work While Receiving Disability / Industrial Disability Retirement Benefits

888 CalPERS (or 888-225-7377) • TTY for Speech and Hearing Impaired: (916) 795-3240

You must complete this form in order to request approval to work for a CalPERS employer in any permanent position while continuing your disability / industrial disability retirement benefits.

Section 1

Member Certification

Please clearly print the requested information.

A **Physician's Report on Disability** form is not required.

Be sure to have your employer fill out **Section 2** on the reverse side of this form.

Local safety disability or industrial disability retirees must also submit the position duty statement and qualifying medical documentation used at the time of their retirement.

Name of Member (First Name, Middle Initial, Last Name) | Social Security Number

Address

City | State | ZIP Code | Country

Daytime Phone () | Fax Number () | E-Mail Address

I understand this is a formal request for permanent employment under Government Code Section 21228 and that my employment offer is contingent upon written approval from CalPERS. I must advise CalPERS of any changes to my salary or employment (for e.g. lateral transfer or promotion) and receive approval before beginning any new permanent position. A consequence of unlawful employment may result in mandatory reinstatement from retirement into the position I am currently working, retroactive to my hire date.

I also understand that the position I am applying for must be significantly different than the one from which I retired. I am subject to an earnings limitation so that the total of the pension portion of my retirement allowance and employment earnings will not exceed the current (gross) salary of the position from which I retired.

I have attached a position duty statement of the job and a completed *Physical Requirements of Position/Occupational Title* form. I have also attached a current medical report completed and signed by a physician specializing in the condition for which I retired on disability/industrial disability retirement. The physician is a medical specialist who certifies that he/she has examined me, reviewed the attached position duty statement and *Physical Requirements of Position/Occupational Title* form and indicates whether or not I am able to perform all of the tasks without any restrictions or limitations.

Member Signature | Date (mm/dd/yyyy)

This form continues on the back.

Put your name and Social Security number at the top of every page.

Your Name _____
Social Security Number

Section 2

Employer Certification

Permanent employment or changes in employment status (e.g., lateral transfer or promotion) that begins prior to written approval from CalPERS may result in mandatory reinstatement.

It is the intent of: _____ to hire: _____
Employer CalPERS Member
in the position of: _____ pursuant of Government Code Section 21228;
Job Title
and contingent upon written approval from CalPERS.

Employer Address (City, State, ZIP Code)

Daytime Phone Fax Number E-Mail Address

We understand that reinstatement of the retiree, due to unlawful employment, to any position within our agency, may result in penalties and payment of contributions to CalPERS, retroactive to retiree's date of hire.

The salary range for this position is: _____ hourly/monthly.

Employer Signature Date (mm/dd/yyyy)

Print Name of Authorized Personnel Classification Title

Mail to:

CalPERS Benefit Services Division • P.O. Box 2796, Sacramento, California 95812-2796



Physical Requirements of Position/Occupational Title

888 CalPERS (or 888-225-7377) • TTY for Speech and Hearing Impaired: (916) 795-3240 • Fax: (916) 795-1280

Section 1

Member Information

This form must be completed by the member and their employer to supplement the physical requirements listed on the member's job duty statement/job description.

Name of Member (First Name, Middle Initial, Last Name)		Social Security Number	
Position/Occupational Title		Name of Employer	
Worksite Street Address			
City		State	ZIP

Section 2

Physical Requirements Information

Indicate with a check mark (✓) the frequency required for each activity listed at the right.

Activity	Never	Occasionally Up to 3 hours	Frequently 3–6 hours	Constantly Over 6 hours	Distance/ Height
Sitting					
Standing					
Running					
Walking					
Crawling					
Kneeling					
Climbing					
Squatting					
Bending (neck)					
Bending (waist)					
Twisting (neck)					
Twisting (waist)					
Reaching (above shoulder)					
Reaching (below shoulder)					
Pushing & Pulling					
Fine Manipulation					
Power Grasping					
Simple Grasping					
Repetitive use of hand(s)					
Keyboard Use					
Mouse Use					
Lifting/Carrying					
0 – 10 lbs.					
11 – 25 lbs.					
26 – 50 lbs.					
51 – 75 lbs.					
76 – 100 lbs.					
100 + lbs.					

Continued on page 2.

Put your name and Social Security number at the top of every page.

Your Name

Social Security Number

Section 2 (continued)

Physical Requirements, continued

Indicate with a check mark (✓) the frequency required for each activity listed at the right.

If there is not enough space to enter all your additional requirements or comments, attach a separate sheet. Be sure to use a label, or clearly write your name and Social Security number on each attachment.

Activity	Never	Occasionally Up to 3 hours	Frequently 3–6 hours	Constantly Over 6 hours	Distance/ Height
Walking on uneven ground					
Driving					
Working with heavy equipment					
Exposure to excessive noise					
Exposure to extreme temperature, humidity, wetness					
Exposure to dust, gas, fumes, or chemicals					
Working at heights					
Operation of foot controls or repetitive movement					
Use of special visual or auditory protective equipment					
Working with bio-hazards (e.g., blood-borne pathogens, sewage, hospital waste, etc.)					

Section 3

Signature of Employer and Member

This form must be completed and signed by you and your employer and sent to a medical specialist along with other documentation.

If you are a Disability Retirement Election applicant, your employer must provide you a copy of this completed form. Your employer must send the signed original to CalPERS.

Also, you must attach your current job duty statement /job description and a copy of the *Physical Requirements of Position/Occupational Title* form to the *Physician's Report on Disability* form prior to sending them to a medical specialist. Complete document submittal requirements are described in *A Guide to Completing Your CalPERS Disability Retirement Election Application*.

The medical specialist must be the treating physician specializing in your disabling condition.

If you are a Request to Work While Receiving Disability/Industrial Disability Benefits applicant or a Reinstatement from Disability/Industrial Disability Retirement applicant, you must attach the job duty statement/job description of the prospective job to a copy of the completed *Physical Requirements of Position/Occupational Title* form prior to sending them to a medical specialist. You must submit the resulting medical report and other required documents to CalPERS. The *Physician's Report on Disability* form is not required.

Signature of Employer Representative

Date (mm/dd/yyyy)

Title

Phone Number

Signature of Member

Phone Number

Date (mm/dd/yyyy)

Mail to:

CalPERS Benefit Services Division • P.O. Box 2796, Sacramento, California 95812-2796

BECOME A MORE INFORMED MEMBER

CalPERS On-Line

Visit our website at www.calpers.ca.gov for more information on all your benefits and programs.

Reaching Us By Phone

Call us toll free at **888 CalPERS** (or **888-225-7377**).
Monday through Friday, 8:00 a.m. to 5:00 p.m.
TTY: For Speech & Hearing Impaired (916) 795-3240

my|CalPERS

Stay informed and be in control of the information you want and need—
with my|CalPERS!

my|CalPERS is the personalized and secure website that provides all your retirement, health, and financial information in one place. Take advantage of the convenience of 24/7 access to learn more about CalPERS programs and services that are right for you in your career stage. With my|CalPERS, you can:

- Get quick and easy access to all your account information.
- Manage and update your contact information and online account profile.
- Access information about your health plan and family members enrolled in your plan.
- See all the information you need to make health plan decisions.
- View, print, and save online statements.
- Go “green” by opting out of receiving future statements by mail.
- Use financial planning tools to calculate your retirement benefit estimate, estimate your service credit cost, and even request a staff-prepared retirement estimate.
- Check statuses of requests to purchase service credit or applications for disability retirement.
- Keep informed with CalPERS News so you don't miss a thing.

CalPERS Education Center

my|CalPERS is your gateway to the CalPERS Education Center. Whether you're in the early stages of your career, starting to plan your retirement, or getting ready to retire, visit the CalPERS Education Center to:

- Take online classes that help you make important decisions about your CalPERS benefits and your future.
- Register for instructor-led classes at a location near you.
- Download class materials and access information about your current and past classes.
- Browse our retirement fair schedule.
- Make a personal appointment with a retirement counselor.

Log in today at my.calpers.ca.gov.

Visit Your Nearest CalPERS Regional Office

Visit the CalPERS website for directions to your local office.
Monday to Friday, 8:00 a.m. to 5:00 p.m.

Fresno Regional Office

10 River Park Place East, Suite 230
Fresno, CA 93720

Glendale Regional Office

Glendale Plaza
655 North Central Avenue, Suite 1400
Glendale, CA 91203

Orange Regional Office

500 North State College Boulevard, Suite 750
Orange, CA 92868

Sacramento Regional Office

Lincoln Plaza East
400 Q Street, Room E1820
Sacramento, CA 95811

San Bernardino Regional Office

650 East Hospitality Lane, Suite 330
San Bernardino, CA 92408

San Diego Regional Office

7676 Hazard Center Drive, Suite 350
San Diego, CA 92108

San Jose Regional Office

181 Metro Drive, Suite 520
San Jose, CA 95110

Walnut Creek Regional Office

1340 Treat Blvd., Suite 200
Walnut Creek, CA 94597

INFORMATION PRACTICES STATEMENT

The Information Practices Act of 1977 and the Federal Privacy Act require the California Public Employees' Retirement System to provide the following information to individuals who are asked to supply information. The information requested is collected pursuant to the Government Code (Sections 20000, et seq.) and will be used for administration of the CalPERS Board's duties under the California Public Employees' Retirement Law, the Social Security Act, and the Public Employees' Medical and Hospital Care Act, as the case may be. Submission of the requested information is mandatory. Failure to supply the information may result in the System being unable to perform its function regarding your status and eligibility for benefits. Portions of this information may be transferred to State and public agency employers, State Attorney General, Office of the State Controller, Teale Data Center, Franchise Tax Board, Internal Revenue Service, Workers' Compensation Appeals Board, State Compensation Insurance Fund, County District Attorneys, Social Security Administration, beneficiaries of deceased members, physicians, insurance carriers, and various vendors who prepare the microfiche or microfilm for CalPERS. Disclosure to the aforementioned entities is done in strict accordance with current statutes regarding confidentiality.

You have the right to review your membership file maintained by the System. For questions concerning your rights under the Information Practices Act of 1977, please contact the Information Practices Act Coordinator, CalPERS, 400 Q Street, P.O. Box 942702, Sacramento, CA 94229-2702.

While reading this material, remember that we are governed by the Public Employees' Retirement Law and the Alternate Retirement Program provisions in the Government Code, together referred to as the Retirement Law. The statements in this publication are general. The Retirement Law is complex and subject to change. If there is a conflict between the law and this publication, any decisions will be based on the law and not this publication. If you have a question that is not answered by this general description, you may make a written request for advice regarding your specific situation directly to CalPERS.



California Public Employees' Retirement System

400 Q Street
P.O. Box 942701
Sacramento, CA 94229-2701

888 CaPERS (or 888-225-7377)

www.calpers.ca.gov

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January 2011

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

February 8, 2012

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

FROM: Jack Ehnes
Chief Executive Officer

SUBJECT: Employer Directive 2012-01
Supersedes Employer Directive 2011-02
Earnings Limit and Legislative Changes for the 2012-13 Fiscal and 2012
Calendar Years

PURPOSE:

This employer directive is intended to inform and remind employers of:

- The service retirement postretirement earnings limit for the 2012-13 fiscal year.
- The disability retirement earnings limit for the 2012 calendar year.
- The disability allowance earnings limit for the 2012-13 fiscal year.
- Legislative changes to clarify the application of the earnings limit.
- The application of the earnings limit for retired CalSTRS members.
- The restriction for retired CalSTRS members who are under age 60.
- Restrictions on hiring retired CalSTRS members who received a retirement incentive through CalSTRS.
- Restrictions on hiring retired CalSTRS members in classified positions.
- Requirements for employers to inform retired CalSTRS members performing creditable service about the annual earnings limit and to report post-retirement earnings to CalSTRS.
- The post-retirement excess earnings notification process.
- Service retirement postretirement earnings limit exemptions are ending June 30, 2012.
- Examples of financial consequences of exceeding the earnings limit.

SCOPE:

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts, and any agency that employs retired members of the Defined Benefit (DB) Program (referred to in this directive as “retired CalSTRS members”) to perform creditable service.

DISCUSSION:

2011-2012 Postretirement Earnings Limit

The post-retirement earnings limit for the 2012-13 *fiscal* year remains unchanged from the 2011-12 *fiscal* year at \$31,020. The limit applies to earnings received from the California public school system only. The limit is adjusted annually by the Teachers’ Retirement Board, if necessary, and is based on the average salary of DB Program members.

2012 Disability Retirement Earnings Limit

The disability retirement earnings limit for the 2012 *calendar* year is \$27,000. The limit applies to all earnings regardless of whether they are earnings from the public or private sectors. The limit is adjusted annually by the Teachers’ Retirement Board, if necessary, by the amount of change in the California Consumer Price Index.

2012-2013 Disability Allowance Earnings Limit

The disability allowance retirement earnings limit for the 2012-13 *fiscal* year is calculated individually for each member. The limit applies to all earnings regardless of whether they are earnings in the public or private sectors. The limit is based on the member’s indexed final compensation amount. Members with Coverage A are subject to a monthly earnings limit and a continuous six-month earnings limit.

Legislative Changes

Under Chapter 703, Statutes of 2011 (SB 3490—Negrete McCleod), DB retirees with Cash Balance (CB) Benefit Program accounts will no longer be able to contribute to their CB accounts. While being a DB retiree does not mean that their CB account is closed, it does mean that the CB account can no longer accept contributions. If a retiree is employed in a position that contributes to Cash Balance, those earnings will now be reported to CalSTRS as postretirement earnings and not added to the CB account. Cash Balance contributions submitted by employers for a DB retiree will not be accepted. If you try to report CB contributions for DB retirees, the file will not be accepted by CalSTRS and it will need to be corrected before submission. All earnings from CalSTRS-covered employment are subject to the Postretirement Earnings limit.

Application of Earnings Limit

Section 24214 imposes limitations on any retired CalSTRS member who returns to work and performs activities specified in Section 22119.5 as either an employee of an employer, an employee of a third party, or as an independent contractor within the California public school system.

Restriction for Retired CalSTRS Members who are Under Age 60

Pursuant to Section 24214.5, retired CalSTRS members who are under age 60 and have been retired for less than six months will be subject to a restriction if they return to CalSTRS-covered employment during that time. If the retired member returns to work during this period, CalSTRS will reduce his or her retirement benefit dollar-for-dollar by an amount equal to his or her earnings. This law does not allow exemptions. This restriction is in addition to the annual earnings limit. Any amount the retired CalSTRS member receives while under age 60 will also count against the annual postretirement earnings limit for the appropriate fiscal year.

Retirement Incentive Restrictions

A member who retired with a CalSTRS retirement incentive under Section 22714 will lose the increased retirement benefit attributable to the incentive if he or she returns to employment in any capacity, including in permissible classified service, within five years of retirement for the school district, community college district, or county office of education that granted the member the retirement incentive.

Classified Position Restrictions

Section 45134 may preclude retired CalSTRS members from employment in classified positions in the California public school system. This section is outside the Teachers' Retirement Law and would be enforced by the Department of Education.

Notification and Reporting of Post-Retirement Earnings by Employer

Section 22461 requires employers to notify retired CalSTRS members of the earnings limits and report earnings to CalSTRS each month. All post-retirement earnings must be reported with Member Code 2 and Assignment Code 61.

Post-Retirement Excess Earnings Notification Process

If a retired CalSTRS member earns compensation in excess of the earnings limit as an employee of an employer, an employee of a third party, or as an independent contractor within the California public school system, Section 24214(g) requires CalSTRS to reduce the member's retirement benefit dollar-for-dollar by the amount of compensation that exceeds the earnings limit until the amount withheld equals the excess earnings up to a maximum of the member's annual retirement benefit.

CalSTRS sends two notifications to the retired member. The first notification is sent when post-retirement earnings are initially reported by the employer. The letter is the *Initial Postretirement Earnings Letter* (SR 1369.1) and states the current earnings limit and what will occur if it is exceeded. When the employer reports post-retirement earnings equal to one-half of the earnings limit, CalSTRS sends a second letter, called the *Postretirement Earnings Mid-Limit Letter* (SR 1369.2), notifying the member of the dollar amount reported to date, and reminding the member of the consequences of exceeding the earnings limit.

When a member exceeds the earnings limit, CalSTRS sends the member a letter notifying him or her that the excess earnings will be withheld from his or her monthly retirement benefit. CalSTRS gives at least 30 days notice before commencing collection.

Through June 30, 2012, some retired members may qualify for an exemption from the postretirement earnings limit if they meet the eligibility criteria specified in Sections 24214, 24216, 24216.5 or 24216.6. Exemption requests are subject to CalSTRS approval and must be received by CalSTRS no later than June 30 of the school year for which the exemption would apply. The exemption forms are available on the Secure Employer Web site.

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

- Inform the member of the current fiscal year earnings limit and determine if the member may qualify for a CalSTRS exemption, subject to CalSTRS approval.
- Determine whether the member has a consecutive 12-month break from CalSTRS-covered service. If so, the member is exempt from the earnings limit through June 30, 2012.
- If the member qualifies for a postretirement earnings limit exemption, file it before, or as soon as, the retired member begins working and no later than June 30 of the school year for which the exemption would apply. For the 2011-2012 fiscal year, the exemption form must be received at CalSTRS by June 30, 2012. CalSTRS will notify both the employer and retired member in writing if the exemption request is granted or denied.
- Assist the member with tracking his or her earnings so he or she does not exceed the limit.

Please refer to Attachment 1 for additional information about the post-retirement earnings limit exemptions.

Postretirement Earnings Limit Exemptions Ending June 30, 2012

ALL EXEMPTIONS TO THE POSTRETIREMENT EARNINGS LIMIT WILL END JUNE 30, 2012. This applies to all members, regardless of their retirement date. These exemptions include: Direct Classroom and Remedial Exemption, Emergency Exemption, Limited-Term Appointment or Assignment Exemption, and the 12-Month Break Exemption.

With exemptions no longer available starting with the 2012-13 fiscal year, all retired members will be restricted by the annual postretirement earnings limit. For members receiving a disability benefit, the limit applies to all employment. For members receiving a service

retirement benefit, the postretirement earnings limits apply only to CalSTRS-covered employment.

Examples of Financial Consequences of Exceeding the Earnings Limit

Below are three scenarios of retired CalSTRS members who have exceeded one or both of the earnings limits.

EXAMPLE I:

Mrs. Smith, age 62, retires June 30, 2010. She returns to employment in the California public school system 14 months later on September 1, 2011 as a retired member. Mrs. Smith earns \$4,000 each month in post-retirement earnings for a total of \$40,000 by June 30, 2012. She is exempt from the earnings limit because she has a consecutive 12-month break in service. However, she will be subject to the earnings limitation on all of her earnings after June 30, 2012.

EXAMPLE II:

Mr. Jones, age 65, retires June 30, 2011. He returns to employment for two school districts in the California public school system two months later on September 1, 2011. By March 2012, he earns \$20,000 from District 1 and \$20,000 from District 2, for a total of \$40,000. He exceeds the earnings limit by \$8,980 ($\$40,000 - \$31,020 = \$8,980$). He is not exempt from the earnings limit because he does not have a consecutive 12-month break in service. CalSTRS will collect the excess earnings dollar-for-dollar from his gross monthly retirement benefit.

CalSTRS will collect Mr. Jones' \$8,980 of excess earnings for fiscal year 2011-12 from his \$5,000 gross monthly retirement benefit as follows:

	Monthly Benefit Amount	Outstanding Earnings Limit Overage to Collect	Deduction From Monthly Benefit	Net Monthly Benefit Amount
1st Month	\$5,000	\$8,980	\$5,000	\$0
2nd Month	\$5,000	\$3,980	\$3,980	\$1,020

EXAMPLE III:

Ms. Garcia, age 59 and 4 months, retires June 30, 2011. She returns to employment in the California public school system on July 1, 2011. She returns to work prior to age 60 and does not have a six-month break in service.

Ms. Garcia earns \$2,700 each month in post-retirement earnings for a total of \$32,400 by June 30, 2012. During the first six months after her retirement, Ms. Garcia earns \$16,200 in postretirement earnings. Because she is under age 60 at the time of retirement, she is restricted from earning any amount for the first six months after her retirement date. In addition, she exceeds the annual earnings limit by \$1,380 ($\$32,400 - \$31,020 = \$1,380$). CalSTRS is required to collect \$17,580 ($\$16,200 + \$1,380 = \$17,580$).

CalSTRS will collect the \$17,580 of excess earnings from her \$7,000 gross monthly retirement benefit as follows:

	Monthly Benefit Amount	Outstanding Earnings Limit Overage to Collect	Deduction From Monthly Benefit	Net Monthly Benefit Amount
1st Month	\$7,000	\$17,580	\$7,000	\$0
2nd Month	\$7,000	\$10,580	\$7,000	\$0
3rd Month	\$7,000	\$3,580	\$3,580	\$3,420

ACTION

In accordance with Section 22461, upon retaining the services of a retired CalSTRS member as an employee of an employer, an employee of a third party, or as an independent contractor within the California public school system, the employer is required to:

- Notify the retired member of the earnings limit.
- Maintain accurate records of the retired member's earnings.
- Report those earnings to the retired member and to CalSTRS monthly, 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 limit please visit CalSTRS.com or call 800-228-5453 to speak with a Customer Service Representative. To learn more about postretirement limitations, please visit CalSTRS.com, click "Members" and then click "Working After Retirement."

Attachment

Postretirement Earnings Limit Exemption Matrix

- The last date an employer can submit exemption forms and documentation to CalSTRS is **June 30, 2012**.
- A member receiving a CalSTRS Retirement Incentive who has not been retired for one year from the effective date of retirement is ineligible for an emergency employment exemption.
- A member receiving additional service credit under Education Code Section 22715 and 22716 is ineligible for an exemption.
- Qualification for **all** earnings limit exemptions is subject to CalSTRS approval. CalSTRS sends a letter to a member approving or denying the exemption request.
- **There are no exemptions for any service performed after June 30, 2012**

Exemption	Required Form	Eligibility	Education Code
12-Month Break	No Form Required	No creditable service performed for at least 12 consecutive months after the most recent retirement.	Education Code Section 24214(e)
K-12 Direct Instruction and Teacher Support	Form SR0126 Direct Classroom/ Remedial Exemption form	<ul style="list-style-type: none"> • Effective date of retirement on or before January 1, 2009. • Employment in a school district for: <ul style="list-style-type: none"> ○ K-12 direct classroom instruction. ○ Special education program instruction and pupil services. ○ English language learner program pupil instruction. • Employment to support these programs: <ul style="list-style-type: none"> ○ Alternative certification ○ School Paraprofessional Teacher Training Program ○ Individuals completing student teaching assignments ○ Beginning Teacher Support and Assessment Program. 	Education Code Section 24216.5
Exemption Certification for Classroom/ Remedial Education	Form SR0126 Direct Classroom/ Remedial Exemption form	<ul style="list-style-type: none"> • Effective date of retirement on or before January 1, 2009. • Employment in direct remedial instruction for grades 2-12: <ul style="list-style-type: none"> ○ Before school ○ After school ○ Intersession ○ Summer school ○ Combination of above 	Education Code Section 24216.6

Exemption	Required Form	Eligibility	Education Code
Exemption Certification for Emergency Employment of Retired Member	Form SR0165 Exemption Certification for Emergency Employment of Retired Member	<ul style="list-style-type: none"> • Employment performing creditable service for a permanently vacant administrative position requiring highly specialized skills in an emergency. • Exemption limited to 24 consecutive months from date of appointment or assignment. All exemptions end June 30, 2012, regardless of start date. • Employment must be reported to governing body of employer in a public meeting. • Recruitment to permanently fill the vacancy is expected to extend over several months. • Vacancy occurs due to circumstances beyond the employer's control. • Vacancy is not due to the termination of the retired member seeking the exemption. 	Education Code Section 24216
Exemption Certification for Limited-Term Appointment/ Assignment of a Retired Member	Form SR0164 Exemption Certification for Limited-Term Appointment/ Assignment of a Retired Member	<ul style="list-style-type: none"> • Exemption limited to 24 consecutive months from date of appointment or assignment. All exemptions end June 30, 2012, regardless of start date. • Member appointed as: <ul style="list-style-type: none"> ○ Trustee or administrator by the Superintendent of Public Instruction with a recognized expertise in management and finance. ○ Trustee under the Local Education Agency Intervention provisions. ○ Trustee under the High Priority Schools Grant Program • Member assigned by: <ul style="list-style-type: none"> ○ County superintendent of schools as a fiscal advisor, fiscal expert or as a member of the Fiscal Crisis and Management Assistance Team. 	Education Code Section 24216

Postretirement Earnings Limits

for Fiscal Year 2012-13

CalPERS:

- ✓ 960 hours per fiscal year
- ✓ May not work in permanent part-time position, even if less than 960 hours
- ✓ Applies to any work for CalPERS employer
- ✓ Must wait 60 days before beginning employment with a CalPERS employer if younger than “normal retirement age”
- ✓ Rate of pay is not less than the minimum or more than the maximum paid to other employees performing comparable duties.
- ✓ Some positions are not subject to 960 hour limit, such as elected positions, members of advisory boards and commissions, appointed members of a public agency governing body, appointments by legislature, preparation for litigation for former employer, or school crossing guards.
- ✓ Link to CalPERS guide on employment after retirement:
<http://www.calpers.ca.gov/eip-docs/about/pubs/member/employment-after-retire.pdf>

CalSTRS:

- ✓ \$31,020 per fiscal year
- ✓ \$0 per year if under 60 and retired less than 6 months
- ✓ Applies to any CalSTRS-covered service as an employee of employer, employee of third party, or independent contractor
- ✓ Retirement benefit will be reduced dollar-for-dollar by amount of earnings over limit.
- ✓ Employers are required to advise employees who are retired CalSTRS members of the annual earnings limits.
- ✓ **No exemptions from earnings limits as of July 1, 2012!!!**
- ✓ For more information on CalSTRS postretirement earnings limits, see bulletin from District Financial Services.

*Different earnings limits apply to those who receive a disability retirement benefit from either CalPERS or CalSTRS



Gary S. Thomas, Ed.D., Superintendent

San Bernardino County Superintendent of Schools

DATE: October 17, 2011

TO: Chief Business Officials, Personnel Administrators, Directors of Fiscal Services,
and Payroll Staff

SUBJECT: Expiration of Exemptions to CalSTRS Earnings Limitations

Currently, the maximum amount a CalSTRS retiree can earn in one fiscal year is \$31,020, unless the retiree:

- Does not perform CalSTRS-covered employment for at least 12 consecutive months after their retirement.
- Works in a vacant administrative position in an emergency situation, under certain conditions.
- Is assigned by the County Superintendent of Schools as a fiscal advisor, fiscal expert, or as a member of FCMAT.
- Is appointed as trustee by the SPI or pursuant to an LEA Intervention Program
- Provides direct classroom instruction in a K-12 classroom.
- Provides direct remedial instruction in grades 2 – 12 during the summer, before school, after school, on weekends, during intersession or in any combination of these times.
- Provides support to individuals completing student teaching assignments, alternate certification programs or the California School Paraprofessional Teacher Training Program.
- Provides support and assessment for new teachers through BTSA.
- Provides instruction/pupil services in special education.
- Provides instruction to pupils in ELL programs.

Please be advised that ALL the current exemptions from the CalSTRS earnings limit will end on June 30, 2012! In the past, state law extended the sunset dates of these exemptions; however, there has been no new legislation passed to extend these provisions. ALL CalSTRS retirees will be restricted to the annual postretirement earnings limit. There is no “grandfather clause”, even if a CalSTRS retiree has been working under any of these exemptions in the past. This will definitely impact a great number of retirees working in our districts and county office.

Also remember that if a CalSTRS member retires before age 60, the law requires the member to wait six months or until his or her 60th birthday, whichever is sooner, before returning to CalSTRS-covered employment; otherwise, CalSTRS must reduce the member's retirement benefit by the amount he or she earns, dollar for dollar, up to the member's annual retirement benefit.

You should also keep in mind that if you plan to hire a retired CalSTRS member, Education Code section 22461 requires you to advise the retired member of the earnings limits.

If you have any additional questions, please contact Suzanne Retherford at (909) 777-0705, or myself at (909) 777-0701.

Sincerely,

Gary Thomas, Ed.D.
County Superintendent of Schools

Signed Melissa L. Anderson

Melissa L. Anderson, Chief
District Financial Services

MLA:kb

Attachment: CalSTRS e-Bulletin, Volume 12

Postretirement Earnings Exemptions End June 2012

All exemptions to the postretirement earnings limit will end June 30, 2012. These exemptions include:

- Direct Classroom and Remedial Exemption
- Emergency Exemption
- Limited-Term Appointment or Assignment Exemption
- 12-Month Break Exemption

In past years, state law extended the expiration date of these exemptions. No new legislation has been approved to extend these exemptions.

What This Means for Employers

With exemptions no longer available starting with the 2012-13 fiscal year, all retired members will be restricted by the annual postretirement earnings limit. The postretirement earnings limits apply only to CalSTRS-covered employment. Keep in mind that if you plan to hire a retired CalSTRS member, Education Code section 22461 requires you to advise the retired member of the earnings limits.

Earnings Limits

Annual Postretirement Earnings Limit

If a retired member exceeds the annual postretirement earnings limit, CalSTRS must withhold all of the member's gross monthly retirement benefit until the excess earnings are collected in full, up to the amount of the member's annual retirement benefit.

Zero-Dollar Limit

If a member retires before age 60, the law requires the member to wait six months or until his or her 60th birthday, whichever is sooner, before returning to CalSTRS-covered employment in order to avoid significant benefit reduction. If a retired member returns to CalSTRS-covered employment during this period, CalSTRS must reduce the member's retirement benefit by the amount he or she earns, not to exceed the member's annual retirement benefit.

If you have questions regarding postretirement earnings and exemptions, please contact us at 916-414-5967 or email us at Postretirement@CalSTRS.com