



California State Teachers' Retirement System
Executive Office
PO Box 15275
Sacramento, CA 95851-0275
800-228-5453
CalSTRS.com

January 14, 2022

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

FROM: Cassandra Lichnock
Chief Executive Officer

SUBJECT: Employer Directive 2022-01
Executive Order N-3-22

PURPOSE

This employer directive is intended to inform employers of the most recent Executive Order N-3-22.

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.

DISCUSSION

On January 11, 2022, Governor Newsom issued **Executive Order N-3-22**, which, amongst other provisions, suspends the CalSTRS postretirement compensation limitations and procedural requirements in subdivisions (d), (f) and (g) of Education Code section 24214, and for a retired DB member that has attained the normal retirement age at the time the compensation was earned, subdivisions (a) through (g) of Education Code section 24214.5. Executive Order N-3-22 is effective immediately and applies to all compensation earned for the performance of retired member activities from July 1, 2021, to March 31, 2022. As of April 1, 2022, the provisions of Executive Order N-3-22 will expire and revert to the provisions of Executive Order N-12-21, if applicable.

The provisions of Executive Order N-3-22 are applicable to school districts, including community college districts, county offices of education, and charter schools only if the employer makes a written finding, signed by the official or designee and retained and made available to any member of the public upon request, that temporary staffing flexibility will support the school district, county office of education, or charter school in maintaining in-person

services for students despite staffing shortages caused by the Omicron-driven rise in COVID-19 cases.

ANNUAL EARNINGS LIMIT

Executive Order N-3-22 states in part:

5. The post-retirement compensation limitations in subdivisions (d), (f), and (g) of Education Code section 24214 are suspended for compensation earned during the 2021-22 school year through March 31, 2022.

The annual postretirement earnings limit is suspended from July 1, 2021, through March 31, 2022. Therefore, any retired DB member, regardless of age, can perform retired member activities and be compensated for that service for this period without impact to their retirement benefit.

If compensation earned for the performance of retired member activities between April 1, 2022, and June 30, 2022, exceeds the 2021-22 annual postretirement earnings limit of \$48,428.00, Education Code section 24214 in its entirety continues to apply for collection of earnings in excess of this limit.

Example: If a retired DB member earned \$150,000 from CalSTRS-covered employment from July 1, 2021, through March 31, 2022, these earnings will not be considered towards the annual earnings limit. If they continue to work and earn an additional \$50,000 between April 1, 2022, and June 30, 2022, assuming the annual retirement benefit is at least \$1,572, CalSTRS would be able to collect \$1,572 from the retired DB member. (\$50,000 - \$48,428).

As a reminder, the annualized rate of pay for retired member activities must not be less than the minimum, or exceed the maximum, paid by the employer to other employees performing comparable duties.

180-CALENDAR DAY SEPARATION-FROM-SERVICE REQUIREMENT

Executive Order N-3-22 states in part:

6. For a retired member that has attained the normal retirement age at the time the compensation was earned, the post-retirement compensation limitations and procedural requirements in subdivisions (a) through (g) of Education Code section 24214.5 are suspended for compensation earned during the 2021-22 school year through March 31, 2022.

The 180-calendar day separation-from-service requirement is suspended for retired DB members who have attained normal retirement age: 60 years of age, or 62 years of age for a member subject to the California Public Employees' Pension Reform Act of 2013. Therefore, a retired DB member who has attained normal retirement age can be hired to perform retired member activities and earn compensation for that service immediately after retirement with no impact to their retirement benefit.

The following criteria no longer applies if the compensation is earned during the 2021-22 school year through March 31, 2022:

- The appointment is necessary to fill a critically needed position and must be filled before the retired DB member's 180-calendar day separation-from-service period has passed since the member's most recent retirement date.
- The termination of employment of the retired DB member with the employer must not be the basis for the need to acquire the services of the member.
- The retired DB member must not have received a retirement incentive or any financial inducement to retire from any public employer.
- The retired DB member must not begin performing retired member until CalSTRS receives all required documentation.

Due to the adjustments above, the submission of the SR1897 form is not required for this period through March 31, 2022.

There is no exemption to the separation-from-service requirement for a retired DB member who has not attained normal retirement age, and subdivisions (a) and (h) of Education Code section 24214.5 remain in effect for these members. As of April 1, 2022, the provisions of Executive Order N-3-22 will expire and revert to the provisions of Executive Order N-12-21, if applicable. Upon retaining the services of retired DB members starting on or after April 1, 2022, please refer to Employer Directive 2021-06 for the process of requesting an exemption to the 180-calendar day separation-from-service requirement.

SUMMARY OF REQUIRED ACTIONS

In accordance with Education Code section 22461, upon retaining the services of a retired DB member either as an employee of an employer, an employee of a third party or an independent contractor, including as a consultant, within the California public school system, the employer is required to:

- ✓ Notify the retired DB member of all earnings limits and the retirement incentive employment restrictions, if applicable.
- ✓ Maintain accurate records of the retired DB member's earnings.
- ✓ Report those earnings to the retired DB 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.

For questions regarding how Executive Order N-3-22 applies to school employers and CalSTRS retired members, please contact us at Postretirement@CalSTRS.com.