

Salinas Union High School District

POST-RETIREMENT EMPLOYMENT

When necessary, the Board of Trustees may hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform creditable service for the District as an employee, the employee of a third party, or an independent contractor/consultant, provided that all applicable restrictions specified by the California State Teachers' Retirement System (CalSTRS) are met. Applicable CalSTRS restrictions include, but are not limited to, a requirement that a retired member be paid compensation comparable to that for active employees for comparable duties and prohibitions against the hiring of a retired member within 180 days of his/her retirement and for the classified service, except as an aide pursuant to Education Code 45134. Additional restrictions and rules may apply to other employment situations, such as when CalSTRS retired members are employed as employees of third parties, independent contractors, or consultants. The Superintendent or designee should consult legal counsel when dealing with such employment situations. (Education Code 22119.5, 22164.5, 24214, 24214.5)

Any retired member of the defined benefit program of CalSTRS who is hired by the District to perform retired member activities as defined pursuant to Education Code 22164.5 shall be paid at an annualized rate of pay that shall not be below the minimum or exceed the maximum paid to other District employees performing comparable duties. However, such a retired individual shall not make contributions to the CalSTRS retirement fund or accrue service credit based on compensation earned from the retired member activity. fund or accrue service credit based on compensation earned from program service. (Education Code 24214)

No retired member of the CalSTRS defined benefit program shall be hired by the District for at least 180 calendar days after his/her retirement from service, unless he/she has attained the normal retirement age and qualifies for an exemption to the 180-day waiting period. To seek this exemption, the Board shall, during the open session of a Board meeting, adopt a resolution that shall include the following information and findings: (Education Code 24214.5)

1. A statement expressing the Board's intent to seek an exemption to the 180-day waiting period
2. A description of the nature of the employment of the retiree
3. A finding that the retiree has reached the normal retirement age
4. A finding that the appointment of the retiree is necessary to fill a critically needed position before the 180-day waiting period has passed
5. A finding that the retired individual did not receive additional service credit pursuant to Education Code 22714 or 22715 or any financial inducement to retire. Financial inducement to retire shall include, but is not limited to, cash or any form of compensation or other payment directly or indirectly paid by any public employer to the retired individual before or after his/her retirement, if the individual retires for service on or before a specific date or range of dates established by the public employer on or before the date the inducement is offered
6. A finding that the retired individual's termination of employment with the District is not the basis for the need to acquire the services of the retired individual

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The resolution shall not be adopted through the Board's consent agenda. (Education Code 24214.5)

(cf. 9320 - Meetings and Notices)

When employing a retired individual who is eligible for exemption from the 180-day waiting period, the Superintendent or designee shall submit all required documentation to substantiate eligibility for the exemption to CalSTRS before the retired member begins performing any retired member activities. The Superintendent or designee may contact CalSTRS to request information as to whether the retired member qualifies for the exemption after 30 days of submitting the required documentation to CalSTRS. (Education Code 24214.5)

Postretirement Compensation Limitation

All CalSTRS retirees performing creditable service for the District shall be subject to the applicable CalSTRS earnings limit. Monies earned in excess of the limit may subject the CalSTRS retiree to a reduction in his/her retirement allowance. Compensation subject to the earnings limitation includes, but is not limited to, salary or wages, deferred compensation plans, purchase of an annuity contract, tax-deferred retirement plan or insurance program, and other plans or contributions when the cost is covered by a District. (Education Code 22119.5, 22164.5, 24214)

Whenever the District retains the services of a CalSTRS retiree as a District employee, employee of a third party, or an independent contractor, the Superintendent or designee shall: (Education Code 22461, 24214)

1. Advise the retired individual of the postretirement earnings limitation or employment restriction set forth in Education Code 22714, 24214, or 24214.5 or any other applicable law
2. Maintain accurate records of the retired individual's compensation and report it monthly to CalSTRS and the individual, regardless of the method of payment or the fund from which the payments are made

Exemption for Providing Specified Instructional Services

Until June 30, 2012, any retired certificated individual employed by the District shall be exempt from the compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2009, and to extend the exemption until June 30, 2012 unless subsequent legislation is enacted.

Until June 30, 2012, any retired certificated individual employed by the District shall be exempt from the compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2009, and is employed to provide

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any of the following services: (Education Code [24216.5](#), [24216.6](#))

1. Direct classroom instruction to students in grades 7-12
2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment System pursuant to Education Code 44279.1-44279.7

(cf. 4131.1 - Beginning Teacher Support/Induction)

3. Support to individuals completing student teaching assignments
4. Support to individuals participating in, an alternative certification program (Education Code 44380-44386), or a school paraprofessional teacher training program (Education Code 44390-44393)

(cf. 4112.21 - Interns)

(cf. 4222 - Teacher Aides/Paraprofessionals)

5. Instruction and student services provided to students enrolled in special education programs pursuant to Education Code 56000-56885

(cf. 4112.23 - Special Education Staff)

6. Instruction to students enrolled in English language learner programs pursuant to Education Code 400-410 and 430-446

(cf. 4112.22 - Staff Teaching Students of Limited English Proficiency)

7. Direct remedial instruction to students in grades 2-12 for the programs specified in Education Code 37252 and 37252.2

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6179 - Supplemental Instruction)

Retired individuals who are exempt from the limitation on earnings shall be treated as part of a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of the District. (Education Code 24216.5, 24216.6)

The compensation for the class of retired individuals shall be agreed to in the collective bargaining agreement between the District and the exclusive representative for the bargaining unit. (Education Code 24216.5, 24216.6)

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Exemption for Emergency Situations or Appointment as a Trustee/Administrator

A retired certificated individual shall be exempt from the postretirement earnings limitation for a maximum period of two years if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee pursuant to the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program, or assigned to a position by the County Superintendent of Schools pursuant to Education Code 42122-42129. (Education Code 24216)

(cf. 0520.1 - High Priority Schools Grant Program)

Until June 30, 2012, a retired individual shall also be exempt from the postretirement earnings limitation up to an additional one-half of the full-time position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

1. The vacancy occurred due to circumstances beyond the District's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.
3. The employment is reported in a public meeting of the Board of Trustees.

(cf. 9320 - Meetings and Notices)

4. The retired individual's termination of employment with the District is not the basis for the vacant administrative position.

The above exemptions shall not apply to any individual who has received additional retirement service credit pursuant to Education Code 22715 or 22716. A retiree who has received an additional service credit pursuant to Education Code 22714 or 22714.5 shall be ineligible for the above exemptions for one year from his/her effective date of retirement for service performed in any California District, community college District, or county office of education. (Education Code 24216)

(cf. 4117.13/4317.13 - Early Retirement Option)

Consultancy Contracts

A retired certificated employee serving as a consultant shall be retained as an employee and his/her service shall be limited in accordance with retirement system rules and regulations. (Education Code 35046)

To be eligible for consideration for a consultancy contract, a retired certificated employee must have served the District or the County Superintendent for at least 10 years and be at least 55 years of age. (Education Code 35046)

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Retirement consultancy contracts are renewable annually for up to five years or until the employee reaches age 65, whichever comes first. (Education Code 35046)

Legal Reference:

EDUCATION CODE

22119.5 Creditable service, definition

22131 Employer; employing agency, definition

22164.5 Retired member activities, definition

22461 Notice of earnings limitation

22714 Encouragement of retirement

22715 Additional service credit

22716 Unpaid services

24214 Creditable service by retiree

24214.5 Postretirement compensation limit; members below normal retirement age

26113 Creditable service, definition

35046 Consultancy contracts

44830 Employment of certificated employees

44830.3 Employment of District interns

44929 Service credit under STRS; additional two years

44929.1 2+2 service and year credit option under STRS

45134 Age limits

CODE OF REGULATIONS, TITLE 5

27000-27009 Penalties and interests for late remittances and late and unacceptable reporting by employers

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

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