

# CVUSD

## Administrative Regulation

### Personnel

AR 4117.14, 4317.14

### Postretirement Employment

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in “Tier 3” categorical programs and deemed in compliance with the program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result of this flexibility, the district may choose to temporarily suspend certain provisions of the following policy or administrative regulation that reflect those requirements. However, this flexibility does not affect or alter any existing contract or bargaining agreement that the district may have in place. Thus, districts should examine the terms of those contracts and agreements and consult with district legal counsel for additional guidance.

When necessary, the district may, subject to specific legal requirements, hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform specialized work or 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, 24215.5)

(cf. 3600 – Consultants)

(cf. 4111/4211/4311 – Recruitment and Selection)

(cf. 4112 – Appointment and Conditions of Employment)

Any retired certificated individual who is a member of the defined benefit program of the State Teachers’ Retirement System (STRS) and who is hired by the district to perform any service pursuant to Education Code 22119.5 or 26113 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 retirement fund or accrue service credits based on compensation earned from that service. (Education Code 24214)

No retired member of the CalSTRS defined benefit program shall be hired for at least 180 calendar days after his/her retirement from service unless he/she has attained the normal

retirement age and qualified for an exemption to the 180-day waiting period. Such hiring shall only be made with Governing Board approval in a public meeting, as reflected in a resolution that shall include information about the nature of the appointment and the following findings: (Education Code 24215.5)

1. A statement expressing the Board's intent to seek an exemption to the 180-day waiting period.
2. The retired individual is eligible for this exemption because he/she did not receive additional service credit pursuant to Education Code 22714 or 22715 or a 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.
3. 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.
4. A description of the nature of the employment of the retiree.
5. A finding that the retiree has reached the normal retirement age.
6. A finding that the appointment of the retiree is necessary to fill a critically needed position before the 180-day waiting period has passed.

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 24215.5)

#### Postretirement Compensation Limitation, Notice and Report

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 compensation limitation set forth in Education Code 22714, 24214 or 24214.5 or any other applicable law.

(cf. 4112.9/4212.9/4312.9 – Employee Notifications)

2. Maintain accurate records of the retired individual's compensation and report it monthly to STRS and the individual, regardless of the method of payment or the fund from which the payments are made.

When employing a retired individual who is eligible for any exemption from the postretirement compensation limitation, the Superintendent or designee shall submit to STRS all required documentation to substantiate eligibility for the exemption.

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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