



Santa Clara County Office of Education

Jon R. Gundry
County Superintendent of Schools

Informational Bulletin

For Santa Clara County Districts

District Business & Advisory Services

Kolvira Chheng, Director - DBAS: 408-453-6510

Bulletin: 15-009

Date: September 3, 2014

To: District Chief Business Officers
District Fiscal Directors
Charter School Administrators

From: Nghia Do, Advisor

Re: Employer Responsibilities Regarding Felony Forfeiture Law

The purpose of this bulletin is to distribute the Employer Directive 2014-07 from California State Teachers' Retirement System (CalSTRS) regarding the responsibilities of the county superintendents of schools, school districts, charter schools, and community college districts when a CalSTRS member is convicted of a felony.

Please distribute this information within your District as deemed appropriate.

August 26, 2014

TO: All County Superintendents of Schools
District Superintendents of Schools
County Offices of Education and
Charter School Administrators

FROM: Jack Ehnes
Chief Executive Officer

SUBJECT: Employer Directive 2014-07
Employer Responsibilities Regarding Felony Forfeiture Law

PURPOSE

This directive notifies employers of their responsibilities pertaining to the felony conviction forfeiture laws that became effective January 1, 2013, with the passing of the California Public Employees' Pension Reform Act of 2013 (Chapter 296, Statute of 2012).

SCOPE

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts, and any agency that employs persons to perform creditable service under the CalSTRS Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit programs.

DISCUSSION

The California Public Employees' Pension Reform Act of 2013 added sections 7522.72 and 7522.74 to the Government Code, which require that any public employee convicted of committing a felony arising out of or in performance of his or her official duties or committed within the scope of duties against or involving a child, shall forfeit all rights and benefits he or she accrued in a public retirement system, as of the date the felony was committed and shall not accrue further benefits after such conviction.

Government Code section 7522.72 applies to all public employees first employed by a public employer or first elected or appointed to an office before January 1, 2013, otherwise known as CalSTRS 2% at 60 members.

Government Code section 7522.74 applies to all public employees first employed by a public employer or first elected or appointed to an office on or after January 1, 2013, otherwise known as CalSTRS 2% at 62 members.

The statutes apply to public employees who are convicted after January 1, 2013, of a felony under state or federal law; and the felony conviction is for one of the following reasons:

- Conduct arising out of or in the performance of his or her official duties;
- In pursuit of the office or appointment;
- In connection with obtaining salary, disability retirement, service retirement, or other benefits;
- Against or involving a child the public employee has contact with as part of his or her official duties.

If a public employee is convicted of a felony after January 1, 2013, for any of the reasons listed above, that public employee will forfeit all rights and benefits earned or accrued as of the date the felony was committed, in any public retirement system he or she is a member of at the time the felony was committed; and that public employee cannot accrue further benefits in that public retirement system. Any rights or benefits the public employee accrued prior to committing the felony will remain intact.

Notification Responsibilities:

The public employee and prosecuting agency must, within 60 days of the felony conviction, notify the public employer of the:

- 1) Date of conviction; and
- 2) Date of the first known commission of the felony.

Within 90 days of the felony conviction, the public employee and public employer must notify CalSTRS, and any other public retirement system in which the employee is a member, of the conviction.

Once CalSTRS is notified of a member's felony conviction, the member's Defined Benefit, Defined Benefit Supplement, and Cash Balance Benefit accounts will be adjusted accordingly. Pursuant to the law, any member contributions made to CalSTRS on or after the date the felony was committed, will be returned directly to the member, without interest. The law does not provide for the return of employer contributions; therefore, employer contributions will be retained by CalSTRS. Employers should not reverse any reporting of the affected service.

ACTION

Within 90 days of the member being convicted of a felony, employers must notify CalSTRS of the conviction. When notifying CalSTRS please provide the following information:

- Member's name and CalSTRS Client ID or Social Security number;
- Date of conviction;
- Date the felony was committed;
- Termination date of employment;
- Name and contact information of the prosecuting agency;
- Copy of communication received from the prosecuting agency;
- Copy of court documents related to the member's case;
- Any other pertinent information you may have.

Do not reverse any reporting of the affected service.

Please submit the information above in writing, to CalSTRS Legal Office by email at Legal_Services@CalSTRS.com, or by mail at the following address:

CalSTRS-Legal Services
P.O. Box 15275, MS 03
Sacramento, CA 95851

This employer directive does not take precedence over the law. To view the pertinent sections of the California Government Code in their entirety, please go to <http://leginfo.legislature.ca.gov>.

If you have any questions regarding this employer directive, please contact your CalSTRS Member Account Services Representative.