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*A Joint Powers Authority serving school and
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LEGAL UPDATE

August 20, 2012

To: Superintendents, Member School Districts (K-12)

From: Marko Fong, Assistant General Counsel *MF*

Subject: Six-Month Limitation on Reemployment for STRS Early Retirees
Memo No. 21-2012

With the recent changes to the STRS retirement limitations,¹ we remind districts about another limitation that affects individuals who retire from STRS prior to the normal retirement age (60). Since 2010, Education Code section 24214.5 has provided that individuals who retire before age 60 must wait at least six months after the date of their retirement before they can perform services within the California public school system² without penalty. This includes work as an independent contractor and work for any third party employer who contracts with a public school district or community college district. If the individual performs such services prior to six months after retirement and prior to his/her own 60th birthday³, any compensation earned in the position will be reduced dollar-for-dollar from his/her retirement compensation.

Please contact any attorney in this office if you have any questions about contracting with a STRS retiree.

Attach. Education Code § 24214.5

¹ Legal Update Memo 20-2012

² This includes Community College Districts as well. Education Code section 24214.5 refers to Education Code section 22119.5 which specifically includes Community College employment.

³ For example, an individual who retired two months prior to his/her 60th birthday would only have to wait until turning 60.

EDUCATION CODE SECTION

§ 24214.5. Postretirement compensation limitation; members below normal retirement age; allowance reductions for excess compensation

(a) Notwithstanding Section 24214, as of July 1, 2010, the postretirement compensation limitation that shall apply to the compensation for performance of the activities identified in subdivision (a) or (b) of Section 22119.5 either as an employee of an employer, an employee of a third party, or as an independent contractor, within the California public school system, shall be zero dollars (\$0) during the first six calendar months after the most recent retirement of a member retired for service under this part, if the member is below normal retirement age at the time the compensation is earned.

(b) If a member retired for service under this part earns compensation for performing activities identified in subdivision (a) or (b) of Section 22119.5 in excess of the limitation specified in subdivision (a), as an employee of an employer, as an employee of a third party, or as an independent contractor, within the California public school system, the member's retirement allowance shall be reduced by the amount of the excess compensation. The amount of the reduction may be equal to the monthly allowance payable but may not exceed the amount of the annual allowance payable under this part for the fiscal year in which the excess compensation was earned.