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# **Circular Letter**

**TO: ALL PUBLIC AGENCIES, COUNTY OFFICES OF EDUCATION, AND SCHOOL DISTRICTS**

**SUBJECT: AB 1651 IMPLEMENTATION**

On September 30, 2010, Assembly Bill (AB) 1651 was chaptered, which adds Government Code section 20969.2 to the Public Employees' Retirement Law. This bill ensures that certain persons subject to mandatory furloughs will not have their CalPERS retirement benefits impacted due to the furlough. Those covered under this legislation include local safety members as defined in Government Code Section 20420 and persons employed by a county office of education, school district, school district that is a contracting agency, or community college district. Please refer to Circular Letter 200-066-10 for more general information relating to AB 1651.

## **Implementation**

CalPERS is using an annual adjustment process to implement AB 1651. Employers must transmit furlough information to CalPERS using new Automated Communications Exchange System (ACES) file exchange functionality. The new functionality allows employers with ACES Account Administrator access to view and transmit AB 1651 files in a secure environment. Review ACES help text entitled "ACES File Exchange" for more information regarding this new ACES functionality. Employers who do not use ACES will be contacted separately.

This implementation process will require three steps. First, employers must submit detailed furlough plan information to CalPERS. Second, employers must submit specific member information for the accounts identified as requiring an adjustment, and third, CalPERS will make the proper adjustment to each member's account. More information about each step is detailed below:

**Step 1:**

CalPERS will send each impacted employer an excel file that requests specific furlough plan information through the newly created ACES channel. The County Offices of Education (COE) will be responsible to collect and transmit the furlough plan information for each of their districts. Employers must provide furlough plan information to CalPERS for the 2008/2009 and 2009/2010 fiscal years. Employers click the fiscal year tabs, at the bottom of the excel file, to fill in the requested information.

The information requested is whether the employer implemented a furlough plan, the effective date, the nature of the furlough plan (e.g. number of days), district contact information, whether the employer reports earnings<sup>1</sup> based special compensation, and whether pay rates were reduced due to furlough in order to maintain the employee's normal service credit totals (Attachment 1). Pay rates reduced due to a reduction in pay or a pay cut with no corresponding days off are not furloughs under AB 1651, and the employer should indicate "no" under the question inquiring whether a furlough plan was implemented.

Employers must return the completed excel file to CalPERS. The excel file is being sent through ACES in conjunction with this letter. Employers must submit the completed excel file to CalPERS by January 31, 2011.

**Step 2:**

CalPERS will run internal reports based on the furlough plan information provided by each employer to determine which accounts require an adjustment for the 2008/2009 and 2009/2010 fiscal years. This report will identify those employees who received less than one year of service credit, retired, or had a community property split during a furlough year. Again through ACES, we will transmit to each impacted employer another spreadsheet which contains specific member information. Employers must complete the spreadsheet by providing lost earnings due to furlough (e.g. member should have been paid \$3,000, but was only paid \$2,700 due to furlough, lost earnings equal \$300) for each impacted member (Attachment 2).

Additionally, for employers who provide earnings based special compensation, CalPERS will seek supplemental detail on those who retired and based their final compensation on a furlough impacted year. A separate spreadsheet will be sent to all employers who offer that category of special compensation. Retirees who had their earnings based special compensation totals or service credit totals reduced due to furlough may receive a retirement allowance adjustment.

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<sup>1</sup> A furlough does not change pay rate, nor would it change special compensation in most instances when items of special compensation are paid as a flat dollar amount or a percentage of pay rate. Furloughs could reduce special compensation amounts that are paid as a factor of earnings.

The COE are responsible for collecting and submitting the information to CalPERS for each of their districts. To successfully transmit excel files through the ACES channel each file must begin with the file name "AB1651\_". The information submitted will enable CalPERS to make all necessary adjustments to each member account. Employers must submit each completed spreadsheet to CalPERS within 30 calendar days of receipt.

**Step 3:**

CalPERS will verify the information submitted by each employer and make the necessary adjustments to the member accounts.

**Membership Enrollment**

CalPERS membership enrollment procedures are not changing as a result of this legislation; however there are implications with regard to the employers' role in monitoring employees for membership qualification.

The work hours of employees who do not have a fixed term of appointment and who work on a seasonal, limited-term, on-call, emergency, intermittent, substitute, irregular or other part-time basis as outlined in Government Code Section 20305 should be monitored to determine the point at which service that would have been credited but for the mandatory furlough would have qualified the employee for membership in CalPERS. The hours that an employee would have worked had the employee not been subject to mandatory furloughs should be counted toward qualification of CalPERS membership.

**Conclusion**

In order to effectively implement AB 1651 employers must submit accurate information to CalPERS in a timely manner. We understand compliance with this law will result in an additional workload for everyone involved and we thank you for your continued cooperation.

If you have any specific questions about furloughs as they relate to CalPERS, please contact the CalPERS Employer Contact Center at **888 CalPERS** (or **888-225-7377**) or e-mail us at: [ERSD\\_School\\_and\\_Local\\_Safety\\_Furlough@calpers.ca.gov](mailto:ERSD_School_and_Local_Safety_Furlough@calpers.ca.gov).

Lori McGartland, Chief  
Employer Services Division

Enclosures

[Furlough Plan Information Spreadsheet](#) (PDF, 7 KB)

[Example of Monthly Reporting Spreadsheet](#) (PDF, 8 KB)