

Sonoma County Office of Education
Business Services

**EXTERNAL FISCAL SERVICES UPDATES
DBUG MEETING: JANUARY 26, 2018**

Section 218 Agreements:

CalPERS put out a two-part State Social Security Administrator Program Newsletter regarding Making Sense of Section 218 Agreements (see attachment). LEAs are encouraged to review their existing Section 218 agreement and determine whether there have been changes that require modifications to the existing Section 218 Agreement.

Effective January 1, 2005, state and local government employers are required to provide Form SSA-1945 to all new employees not covered by social security before their employment begins (see attachment). Form SSA-1945 explains the potential effects of the provisions in the Social Security law for workers who also receive a pension based on their work in a job not covered by Social Security.

CalPERS Retirement Appointment Reconciliation:

It is critical employers maintain employees' appointment information. External Fiscal Services is creating step-by-step documentation for LEA's to begin reconciling retirement appointments for their CalPERS employees. Maria Aguayo will be giving a demonstration on Tuesday at the HR/Payroll User Group meeting.

Classified STRS Member/Certificated PERS Member Reporting Error:

Since going live on Escape in 2010, the retirement set-up in Escape for certificated employees who elected to remain in CalPERS, was incorrect. As a result, these employees have not received their full years' service credit. Similarly, classified employees who elected to remain in CalSTRS and whose position is tied to a calendar with "Pay the Days", have not received their full years' service credit. An Escape extracted list has identified 142 affected CalPERS members and 92 affected CalSTRS members.

SCOE External Fiscal Services is taking the following steps to correct the shorted service credit reported to CalPERS and CalSTRS:

- For CalPERS we are reaching out to the affected LEAs, providing a list of current affected employees, with IT's documentation to correct the Retirement set-up in Escape
- For CalSTRS we are working to find a solution to the issue moving forward, however, the new Pension Solution Project may resolve the issue when the requirement changes to reporting with annual pay rates
- We are correcting the employee's service credit for all affected fiscal years in CalPERS and CalSTRS
- Service Credit corrections should be completed by June 30th

1099s and Independent Contractor vs Employee:

In Escape's 17.4 release the ReqPay07 and ReqPay16 includes an "&" to indicate the vendor is also an employee either with the LEA or with another LEA in our County. LEAs should verify correct classification of the individual as an independent contractor. Individuals receiving both a W2 and 1099 is a red flag that could trigger an audit. When an audit results in a misclassification, the employer may be held liable for employment taxes, penalties will incur (\$250/Form for no W2 sent to IRS and \$1,000 for not furnishing employee with W2) and interest will incur on past due payroll tax deposits.

REMINDER:

Correct Classification of New Hires:

It is critical to correctly classify individuals upon hire. Most of the problems employers have in hiring a worker is determining whether the worker is an independent contractor or employee. There is no single factor or definition that indicates an employment relationship. Determinations are based on all facts and circumstances of particular situation. In addition once a worker has been determined to be an employee, how they fit into the employer's retirement system must be established.

The employer-employee relationship also brings obligations-income and employment tax withholding, unemployment insurance contributions, worker's compensation coverage and retirement system contributions. Incorrect classifications in these areas can result in costly penalties for the employer as well as the worker.

The IRS and California EDD apply a Common Law/Control Test to assist in making worker status determinations:

Under the **Common Law Standard**, an employer-employee relationship exists when the business for which the services are performed has the right to direct and control what will be done and how it will be done, even if the employee is given the freedom of action. What matters is you have the right to control the details of how the services are performed, even if you never exercise the control.

Under the **Control Test**, an independent contractor when the business for which the services are performed has the right to control or direct only the result of the work and not what will be done and how it will be done.

Resources: EDD's Employment Determination Guide (Forms DE38 and/or DE1870) or the IRS's Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding (Form SS-8). These forms can be accessed through Escape's SCOE Resources link. Also see SCOE's Independent Consultant Checklist found on SCOE's website at www.scoe.org.

April 4, 2017

State Social Security Administrator Program Newsletter

Making Sense of Section 218 Agreements

Beginning in 1951, states were allowed to enter into voluntary agreements for Social Security and Medicare coverage authorized by Section 218 of the Social Security Act—thus called Section 218 Agreements. To offer Social Security benefits in conjunction with a retirement plan the agency must have a Section 218 agreement. For state and local government employers to participate in the Social Security and Medicare program they must request participation through the State Social Security Administrator (SSSA). The SSSA, through the modification process will amend California's Section 218 agreement to extend coverage to the employer. Every employer with a Section 218 agreement has an assigned modification number that identifies the agency's Section 218 Agreement, the terms, and effective date of coverage.

The laws and rules that affect the federal insurance contributions act (FICA) tax are straightforward in the private sector but can be very complex for government employers. Social Security coverage can vary widely within a state or even local area. Do not make an assumption about Section 218 coverage based on the status of a similar entity. If your organization needs to verify the existence or terms of a Section 218 agreement, contact that State Social Security Administrators office.

(916) 795-0810 or email: SSSA@calpers.ca.gov

New Annual Information Request Process

Has your Agency received an Annual Information Request (AIR) form? If not, you should expect to receive one in the mail soon.

The State Social Security Administrator (SSSA) began its annual information request (AIR) process in 2016. Going forward, all of California's state and local government employers, including those that do not have Section 218 coverage agreements will receive the AIR form on an annual basis. The form helps the SSSA take the appropriate coverage related action to notify the Social Security Administration of new agencies and those that became inactive, merged, dissolved, or change names.

For The Record

In 2004 new legislation required state and local government employers to provide Social Security's form SSA-1945 to new employees hired on or after January 1, 2005 in jobs not covered under Social Security. The form explains the potential effects of the two provisions in the Social Security law for workers who also receive a pension based on their work in a job not covered by Social Security. The first provision is the Windfall Elimination Provision (WEP) which can affect the amount of an employee's Social Security retirement or disability benefit. The second provision is the Government Pension Offset (GPO) which can affect a Social Security benefit received as a spouse or an ex-spouse.

We recommend the employer:

- Provide the form to the employee prior to start of employment.
- Obtain the employee's signature on the form.
- Maintain the original form in employee's file.
- Submit a copy of the signed form to the agency's pension system.

For more information and to obtain a copy of [SSA Form 1945](#) visit the Social Security Administration website.

August 17, 2017

State Social Security Administrator Program Newsletter

Making Sense of Section 218 Agreements (part II)

Common reasons to modify an existing Section 218 Agreement

A Section 218 Agreement is the contract that allows state and local government employers the option to participate in the federal Social Security and Medicare programs. Many of these Agreements were initiated between 1955 and 1970. There may have been changes at the Agency that require a modification of the agency's existing Section 218 Agreement.

Check out the top 3 reasons agencies are modifying Section 218 Agreements today:

1. To include new classification(s) or additional coverage groups. For example, elected positions were not in existence at the time the original contract was created.
2. To cover positions previously excluded in the original contract. For example, the original Agreement excluded part-time positions and the agency would like to include those positions in coverage.
3. To correct erroneous reporting. For example, the Agency has reported Social Security or Medicare on positions not covered by a Section 218 Agreement and needs to comply with federal laws and regulations.

For more information on Section 218 Agreements contact the Official California State Social Security Administrator's office.

(916) 795-0810 or email: SSSA@calpers.ca.gov

Section 218 Agreement Records

As the Official California State Social Security Administrator (SSSA), we are the keepers of all Section 218 Agreement-related documentation for all public agencies in the State of California. These documents were signed as early as 1950. The SSSA is in the process of converting the fragile documents into electronic versions to maintain back-up copies. The SSSA has scanned over 5,000 Section 218 Agreements, Modifications and correspondence documents, and over 200,000 election ballots. The documents have been placed into fire and waterproof cabinets to protect the files in the event of a fire or a flood.

We are currently working on a plan to upload these documents directly into each agency's myCalPERS account. This accessibility will aid employers in their Federal Insurance Contributions Act (FICA) tax compliance efforts. More information will follow when this effort is complete.

Medicare Coverage for Public Sector Employees

Medicare Insurance was signed into law in 1965 for those over the age of 65. Coverage became effective July 1, 1966. Although private sector employees were automatically included and contributed Medicare taxes to the program, public sector employees are only able to participate and contribute under a Section 218 agreement.

Effective April 1, 1986 Medicare became mandatory for all employees, private and public sector. All employees hired on or after this date, not covered under a Section 218 agreement, are mandatorily covered for Medicare. Public sector employees hired prior to April 1, 1986 may be excluded from the mandatory coverage. However, employers may cover employees excluded from mandatory Medicare coverage by completing the Section 218 Agreement for Medicare-Only coverage. These contracts can allow up to 5 years retroactive coverage.

If your agency has employees in this situation and would like to offer this benefit, please contact the State Social Security Administrator's Office for assistance or visit our [webpage](#) for general information.

If employees have questions regarding Medicare eligibility please refer them to the [Social Security Administration](#) or they may sign up for a [mySocialSecurity](#) account to view eligibility.

Statement Concerning Your Employment in a Job Not Covered by Social Security

Employee Name _____ Employee ID# _____

Employer Name _____ Employer ID# _____

Your earnings from this job are not covered under Social Security. When you retire, or if you become disabled, you may receive a pension based on earnings from this job. If you do, and you are also entitled to a benefit from Social Security based on either your own work or the work of your husband or wife, or former husband or wife, your pension may affect the amount of the Social Security benefit you receive. Your Medicare benefits, however, will not be affected. Under the Social Security law, there are two ways your Social Security benefit amount may be affected.

Windfall Elimination Provision

Under the Windfall Elimination Provision, your Social Security retirement or disability benefit is figured using a modified formula when you are also entitled to a pension from a job where you did not pay Social Security tax. As a result, you will receive a lower Social Security benefit than if you were not entitled to a pension from this job. For example, if you are age 62 in 2013, the maximum monthly reduction in your Social Security benefit as a result of this provision is \$395.50. This amount is updated annually. This provision reduces, but does not totally eliminate, your Social Security benefit. For additional information, please refer to Social Security Publication, "Windfall Elimination Provision."

Government Pension Offset Provision

Under the Government Pension Offset Provision, any Social Security spouse or widow(er) benefit to which you become entitled will be offset if you also receive a Federal, State or local government pension based on work where you did not pay Social Security tax. The offset reduces the amount of your Social Security spouse or widow(er) benefit by two-thirds of the amount of your pension.

For example, if you get a monthly pension of \$600 based on earnings that are not covered under Social Security, two-thirds of that amount, \$400, is used to offset your Social Security spouse or widow(er) benefit. If you are eligible for a \$500 widow(er) benefit, you will receive \$100 per month from Social Security ($\$500 - \$400 = \$100$). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65. For additional information, please refer to Social Security Publication, "Government Pension Offset."

For More Information

Social Security publications and additional information, including information about exceptions to each provision, are available at www.socialsecurity.gov. You may also call toll free 1-800-772-1213, or for the deaf or hard of hearing call the TTY number 1-800-325-0778, or contact your local Social Security office.

I certify that I have received Form SSA-1945 that contains information about the possible effects of the Windfall Elimination Provision and the Government Pension Offset Provision on my potential future Social Security Benefits.

Signature of Employee _____ Date _____

Information about Social Security Form SSA-1945 Statement Concerning Your Employment in a Job Not Covered by Social Security

New legislation [Section 419(c) of Public Law 108-203, the Social Security Protection Act of 2004] requires State and local government employers to provide a statement to employees hired January 1, 2005 or later in a job not covered under Social Security. The statement explains how a pension from that job could affect future Social Security benefits to which they may become entitled.

Form SSA-1945, **Statement Concerning Your Employment in a Job Not Covered by Social Security**, is the document that employers should use to meet the requirements of the law. The SSA-1945 explains the potential effects of two provisions in the Social Security law for workers who also receive a pension based on their work in a job not covered by Social Security. The Windfall Elimination Provision can affect the amount of a worker's Social Security retirement or disability benefit. The Government Pension Offset Provision can affect a Social Security benefit received as a spouse, surviving spouse, or an ex-spouse.

Employers must:

- Give the statement to the employee prior to the start of employment;
- Get the employee's signature on the form; and
- Submit a copy of the signed form to the pension paying agency.

(Mail copy to: Member Account Services, CalSTRS, PO Box 15275, Sacramento, CA 95851-0275)

Social Security will not be setting any additional guidelines for the use of this form.

Copies of the SSA-1945 are available online at the Social Security website, www.socialsecurity.gov/online/ssa-1945.pdf. Paper copies can be requested by email at ofsm.oswm.rqct.orders@ssa.gov or by fax at 410-965-2037. The request must include the name, complete address and telephone number of the employer. Forms will not be sent to a post office box. Also, if appropriate, include the name of the person to whom the forms are to be delivered. The forms are available in packages of 25. Please refer to Inventory Control Number (ICN) 276950 when ordering.