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Circular Letter

TO: **ALL CALPERS EMPLOYERS**

SUBJECT: **INFORMATION ON LAYOFFS**

This is a follow up to Circular Letter 200-016-09, issued on March 19, 2009. This Circular Letter addresses the general effects of a separation from service due to a layoff.

Retirement Benefits

A layoff is considered a separation from employment due to a formal layoff action. As with any separation of service, a member who is laid off will accrue no further service credit once the layoff becomes effective.

Employers should advise employees who are subject to layoff that in certain circumstances they may leave their member contributions on deposit with CalPERS or may elect to withdraw their contributions. Contributions left on deposit with CalPERS will continue to accrue interest and the former employees will thereafter be inactive CalPERS members. If member contributions are withdrawn, CalPERS membership terminates and the former employees will receive no future CalPERS retirement, disability and/or death benefits. Employer contributions cannot be refunded.

Please refer to the CalPERS website, at www.calpers.ca.gov, the State Handbook, or the Public Agency Procedures Manual for specific information regarding a separation from service.

Government Code section 21022 allows certain local members, under specified conditions, to purchase service credit for a period of unemployment resulting from a layoff. The section only applies when a member previously laid off is then rehired by the same public agency and only when the public agency has contracted for this provision. No similar provision exists in the Public Employees' Retirement Law for state and school employees who have been laid off and are later rehired.

Employer contribution rates will be impacted by layoffs, however the effects are nearly impossible to determine ahead of time and will be different for each employer.

Supplemental Income Plans

Upon a participant's severance from employment with a participating employer, a participant who has a balance in the CalPERS 457 Plan (the "457 Plan") account may elect to:

- Leave the account balance invested with CalPERS 457 Plan. The participant's account may remain invested in any of the existing fund options. The participant, however, will have full control to re-allocate his or her 457 Plan account balance among the available investment options by calling the toll-free Plan Information line at (800) 260-0659 or accessing the Plan web site at https://calpers.ingplans.com.

- Purchase CalPERS service credit by rolling funds held in the 457 Plan account to CalPERS, provided the participant is eligible for such service credit. The election to purchase service credit must be made prior to the layoff.

- Receive a full or a partial distribution under one of the distribution options. No minimum age restrictions apply once a participant has severed employment with the employer sponsoring the 457 Plan (early withdrawal penalties do not apply to 457 plans). The distribution will be taxed as ordinary income in the calendar year in which it is distributed. Federal tax of 20% of the distributed balance will be withheld and state taxes may be withheld upon request. Funds may be rolled over into an eligible retirement plan or an IRA to avoid taxes.

Health Benefits

A member who is laid off is entitled to continued group health insurance coverage pursuant to the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

In February 2009, the American Recovery and Reinvestment Act (ARRA) established additional entitlements under COBRA. In general terms, the ARRA provides a premium subsidy for former CalPERS health members who lost coverage due to an involuntary loss of employment (for reasons other than gross misconduct) from September 1, 2008 through December 31, 2009. This subsidy provides eligible individuals with an opportunity for premium cost reduction and an additional COBRA continuation coverage election opportunity for health benefits.

The premium cost reduction allows eligible individuals to pay only 35 percent of the COBRA health premium for 9 months of COBRA coverage beginning March 1, 2009. Former employers must subsidize the remaining 65 percent of COBRA health premium and can recover this cost through their federal payroll tax payments.

More information about the ARRA can be found at the United States Department of Labor's website at http://www.dol.gov/ebsa/cobra.html or the Internal Revenue website at http://www.irs.gov/newsroom/article/0,,id=204335,00.html. Specific CalPERS related COBRA coordination and instructions can be found in Circular Letter 600-020-09.

CalPERS Member Home Loan

A layoff does not directly impact members who already have a home loan through the Member Home Loan Program. However, a member hoping to participate may be affected because the eligibility criteria require a qualified member to be currently employed and employment income is often a key factor in qualifying for a loan.

Reporting Layoffs to CalPERS

Choose the appropriate method below to notify CalPERS of an employee's separation or layoff from employment:

- Public Agencies and Schools using ACES: Use "Appointment Status" of "Layoff."

- Public Agencies and Schools using AESD-1: Use Type of Action of "Separation, Permanent" or "Separation, Temp (≥ 2 months)." For public agencies contracted for Government Code section 21022, please indicate "Layoff" in box #8 (Remarks).

- State agencies: Use PIMS Transaction Codes of: S02 – Layoff situation or in lieu of involuntary transfer or S30 – Layoff situation (reduction in force).

If you have any specific questions about layoffs or benefits as they relate to CalPERS, please visit our web site at www.calpers.ca.gov or contact the CalPERS Employer Contact Center at **888 CalPERS** (or **888**-225-7377).

Lori McGartland, Chief
Employer Services Division