

Forfeiture of Benefits Fact Sheet

Forfeiture of Benefits

- Under the California Public Employees' Pension Reform Act, members who have been convicted by a state or federal trial court of any felony under the law for conduct arising out of or in the performance of his or her official duties, in pursuit of the office or appointment, or in connection with obtaining salary, disability, service retirement, or other benefits, must forfeit all accrued rights and benefits in any public retirement system they are a member of at the time the felony is committed retroactive to the first commission date of the crime.
- The Government Codes related to forfeiture of benefits are 7522.72 and 7522.74.

Roles & Responsibilities

- The employee and the prosecuting agency are required by law to notify the employer within 60 days of the felony conviction.
- The employer is required by law to notify CalPERS within 90 days of an employee's conviction.*
- When CalPERS is notified of a conviction, the employer will need to provide the following information:
 - › Completed Forfeiture of Benefits Employer Form
 - › Copy of court documents related to employee's conviction/guilty plea

Earliest Date of Commission of the Crime vs. Conviction Date

- The earliest date of the commission of the crime is the date that was used in the court proceeding. In most cases, this date was provided to the courts through the evidence.
- The conviction date is the date that the member pleads guilty, or when the judge (or jury) makes a decision on a case.

Retirement with CalPERS

A member may still retire with CalPERS after they've been convicted of a felony. If a member has enough service credit remaining after the forfeited service is removed, they can retire once the minimum age requirement is met.

Community Property Claim

If the forfeited service falls within the marriage period, the non-member spouse's retirement allowance would be based on the non-forfeited benefit.

Notice of Felony Forfeiture Action

Following a notice of conviction, CalPERS sends a letter to the member informing them of our determination, which includes the amount of forfeited service.

Returning to CalPERS-Covered Employment

After forfeiture of benefits, a member cannot return to CalPERS-covered employment and accrue further benefits in CalPERS.

Return of Member Paid Contributions

- A member is entitled to a return of their member paid contributions, without interest, made during the forfeited period. CalPERS will reverse the member paid contributions and service for the forfeited period. The employer share stays in the employer's pool and will be taken into consideration when the employer rates are recalculated in their annual valuation.
- The member paid contributions for the forfeited period will first be applied to any overpayment owed to CalPERS and any remaining monies will be returned to the member.
- CalPERS is required to notify the court and district attorney at least three business days prior to the release of money to the member.

Restitution

- When a member owes restitution, their retirement benefits are not subject to garnishment except for the payment of spousal and child support, as well as tax levies.
- If CalPERS is ordered by a court to distribute the return of member paid contributions to a third party, we will comply accordingly.

Reduction or Dismissal upon Sentencing

- A felony reduced to a misdemeanor, dismissed or vacated upon sentencing does not nullify the earlier conviction/guilty plea.

Reversal of Conviction

A reversal is an appellate court decision. In cases where the conviction is reversed, the member has the option to redeposit the contributions from the forfeited period.

To report a possible forfeiture of benefits, contact CalPERS toll free at **888 CalPERS** (or **888-225-7377**).

* Although it is the employer's responsibility to notify CalPERS of an employee's felony conviction, CalPERS can be notified by the media, CalPERS ethics hotline, third parties, and members themselves. When this occurs, CalPERS will reach out to the employer and ask for felony conviction information.

Important: The information included in this document is general. The California Public Employees' Retirement Law is complex and subject to change. If there is a conflict between the law and the information in this document, the law supersedes the information in this document.