

***Stanislaus County Employees'  
Retirement Association***



**OVERPAYMENT OF BENEFIT POLICY**

**Policy 3004**

August 27, 2020

**Purpose**

To provide a framework that StanCERA can use as a basis for resolving erroneous overpayments of benefits to StanCERA members and their beneficiaries.

**Authority**

Department Head Approval

**Procedure**

Pursuant to Government Code §31525 and §31539, the Executive Director may take whatever action deemed necessary to correct any errors in a retiree monthly benefit, which violates Federal or State laws or Internal Revenue Service code rules and regulations or policy.

StanCERA shall take all reasonable steps to recover the full amount of overpayments made to any retiree/beneficiary.

StanCERA will allow the following repayment methods:

1. Lump sum payment from retiree/beneficiary; or
2. Monthly reduction from the retiree/beneficiary benefit. The monetary amount shall be collected per methods listed below, or a higher percentage amount, if requested, by retiree/beneficiary.
  - a. If StanCERA or the employer caused the error creating an overpayment in the monthly benefit, then StanCERA shall collect directly from the member's/beneficiary's benefit a minimum of 5% of the gross monthly benefit until repayment is complete.
  - b. If the retiree/beneficiary caused the error, due to lack of or inaccurate information, fraud, or intentional misrepresentation, creating an overpayment in the monthly benefit (including appropriate interest), StanCERA shall collect a minimum of 15% of the gross monthly benefit until repayment is complete.

For overpayments less than \$50 (fifty), the Executive Director shall make no demand of payment and write off the account.

In cases where there is no evidence of fraud or dishonest conduct by the retiree/beneficiary, StanCERA will only seek recovery of amounts paid to the retiree/beneficiary for the four (4) years immediately before the error was corrected.

If there is evidence that the overpayment resulted from fraud or dishonest conduct, or intentional misrepresentation by the retiree/beneficiary, StanCERA reserves all rights to seek all amounts overpaid, plus the maximum amount of recoverable interest under law. StanCERA staff and/or the Board of Retirement shall determine whether the member engaged in fraud or dishonest conduct based on all the facts available.

Upon discovery of the overpayment, StanCERA shall notify the member/beneficiary, in writing, of the overpayment.

1. The notification will request a payment to StanCERA of the amount overpaid, subject to the provisions of this policy.
2. The notification will include an agreement to repay overpayment and a consent form for spouse or beneficiary, if applicable.
3. The notification and agreement to repay will include effective date and minimum amount of monthly benefit reduction to go into effect by default, if response is not received from the retiree/beneficiary is not received within 30 (thirty) days from when the notification was sent.

StanCERA will maintain a permanent record of all amount of overpayments and the repayments to StanCERA.

StanCERA reserves the right to pursue all legal remedies to collect overpayments.

**Policy Review**

This shall be reviewed policy at least every three years.

**Policy History**

Policy reviewed August 27, 2020.



Richard Santos, Executive Director

POLICY APPROVAL DATE: August 27, 2020