
MANAGEMENT DIRECTIVE

570.15
Amended
Number

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE

Subject:

Public Employee Pension Forfeiture Act No. 1978-140

By Direction Of:


Eric Henry, Executive Director, State Employees' Retirement System

Date:

June 6, 2006

This directive establishes policy and procedures for agencies to report members of the State Employees' Retirement System (SERS) who are convicted of or plead guilty or no defense to certain crimes relating to public office or public employment.

1. **PURPOSE.** To describe the duties and responsibilities of agencies for reporting State Employees' Retirement System (SERS) members who are convicted or plead guilty or no defense to certain crimes related to public office or public employment.
2. **SCOPE.** Applies to all agencies under the Governor's jurisdiction. Other agencies are required to follow the same procedures to be in compliance with the *Public Employee Pension Forfeiture Act, Act of July 8, 1978*, P.L. 753, No. 140, 43 P.S. §1311-1315 (hereinafter referred to as *Act 1978-140*).
3. **OBJECTIVE.** To ensure that SERS receives notification of any SERS member subject to *Act 1978-140*.
4. **POLICY.**
 - a. As a reasonable condition of employment, an employee affirms and reaffirms his or her commitment to perform his or her job with honesty and integrity while employed by the Commonwealth of Pennsylvania or any agency as a member of SERS, regardless of whether the public employment is on a full-time or part-time basis. The agreement to perform the term of public service without committing a crime listed in *Act 1978-140* is in effect as long as the individual remains a member of SERS. As such, whether or not a public employee's right to receive a retirement benefit has vested or he or she is in actual receipt of benefits, all previous accumulated rights to receive such benefit are subject to forfeiture by and through the agreement which is formed or renewed each time a person chooses to become a public official or public employee as defined in 43 P.S. §1312 or is elected, appointed, promoted, or otherwise changes a job classification as a public official or public employee. For a forfeiture to occur, the SERS member must be charged and convicted or plead guilty or no defense to a crime listed in *Act 1978-140*.
 - b. The following criminal offenses, as set forth in *Title 18 of the Pennsylvania Consolidated Statutes* or other enumerated statute, when committed by a public official or public employee, through his or her public office or position, or when his or her public employment places him or her in a position to commit one of such criminal offenses, can trigger the application of *Act 1978-140*:

Any of the criminal offenses set forth in Subchapter B of Chapter 31 (relating to definition of offenses), when the criminal offense is committed by a school employee as defined in 24 Pa. C.S. §8102 (relating to definitions) against a student.

Section 3922 (relating to theft by deception), when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 3923 (relating to theft by extortion), when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 3926 (relating to theft of services), when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 3927 (relating to theft by failure to make required disposition of funds received), when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 4101 (relating to forgery).

Section 4104 (relating to tampering with records or identification).

Section 4113 (relating to misapplication of entrusted property and property of government or financial institutions) when the criminal culpability reaches the level of misdemeanor of the second degree or higher.

Section 4701 (relating to bribery in official and political matters).

Section 4702 (relating to threats and other improper influence in official and political matters).

Section 4902 (relating to perjury).

Section 4903(a) (relating to false swearing).

Section 4904 (relating to unsworn falsification to authorities).

Section 4906 (relating to false reports to law enforcement authorities).

Section 4909 (relating to witness or informant taking bribe).

Section 4910 (relating to tampering with or fabricating physical evidence).

Section 4911 (relating to tampering with public records or information).

Section 4952 (relating to intimidation of witnesses or victims).

Section 4953 (relating to retaliation against witness, victim, or party).

Section 5101 (relating to obstructing administration of law or other governmental function).

Section 5301 (relating to official oppression).

Section 5302 (relating to speculating or wagering on official action or information).

Article III, Act of March 4, 1971 (P.L. 6, No. 2), known as the "*Tax Reform Code of 1971*".

c. In addition to the foregoing specific crimes, all criminal offenses as set forth in federal law that are substantially the same as the crimes listed above can trigger the application of *Act 1978-140* when committed by a public official or public employee, through his or her public office or position, or when his or her public employment places him or her in a position to commit the crime.

5. RESPONSIBILITIES. Agencies under the Governor's jurisdiction and independent agencies, boards, and commissions are to report to SERS all pending or concluded criminal actions against SERS members that may involve a crime listed in 4.b. or 4.c. above.

6. PROCEDURES.

a. **Agency Head or Designated Representative.** The agency head or designated representatives shall provide notice to SERS' Bureau of Benefit Administration of any action to be reported pursuant to 5. above. Notification should be given as soon as the member is charged with a crime and again when the member is convicted or pleads guilty or no defense to the charges. If available, notification should include:

- (1) location of alleged crime and date;
- (2) court docket numbers;
- (3) newspaper articles regarding the alleged crime and the member;
- (4) sentencing orders;
- (5) name of court in which proceedings occurred or will occur; and
- (6) amount of any monetary loss to the agency.

b. **SERS.** Upon notification, SERS will determine if the member is subject to pension forfeiture and follow internal procedures to forfeit the pension in accordance with *Act 1978-140*.

Any questions concerning the forfeiture of a member's pension should be directed to SERS' Bureau of Benefit Administration.

This directive replaces, in its entirety, *Management Directive 570.15* dated October 28, 1994.