

## Repayment Rules

Repayment rules that LEAs and DFS follow regarding the overpayment of an employee are dictated by the state of California, the IRS, and the Employment Development Department (EDD). A brief discussion of Assembly Bill 185 is included here:

### ***AB 185 New Wage Overpayment Requirements***

Assembly Bill 185 adds Ed Code 44042.5, which provides parameters for the wage overpayment process. The changes in overpayment procedures were part of the 2022-23 Enacted State Budget and became effective on September 27, 2022. *Please consult with your legal counsel for guidance regarding its implementation.*

Section (a) (1) through (4) of EC § 44042.5 is included here:

*"(a) (1) When a school employer determines a wage overpayment has been made to a school employee, it shall notify the employee in writing of the overpayment, afford the employee an opportunity to respond before commencing recoupment actions, and inform the school employee of their rights specified in paragraph (4). If the school employee agrees that the school employer overpaid them in the claimed amount, reimbursement shall be made to the school employer through one of the following methods mutually agreed to by the employee and the school employer:*

*(A) Cash payment or cash installment payments.*

*(B) Installment payments through payroll deduction covering at least the same number of pay periods in which the error occurred.*

*(C) The adjustment of appropriate leave credits or compensating time off, provided that the overpayment involves the accrual or crediting of leave credits such as vacation, annual leave, holiday leave, or compensating time off. Any errors in sick leave balances shall only be adjusted with sick leave credits.*

*(2) Installment payment amounts deducted from an employee's salary or wages pursuant to paragraph (1), except as provided in subdivision (b), shall not exceed the amounts specified in Section 706.050 of the Code of Civil Procedure.*

*(3) Absent mutual agreement on a method of reimbursement pursuant to paragraph (1), within 30 days of the school employee verifying the overpayment amount the school employer shall proceed with recoupment pursuant to subparagraph (B) of paragraph (1).*

*(4) If a school employee disputes the existence or amount of a school employer's claimed overpayment made to the school employee, the school employer shall first initiate a legal action and obtain a court order or a binding arbitration decision validating the claimed overpayment amount before it may recover the overpayment amount. For purposes of this paragraph, binding arbitration may apply only when a memorandum of understanding between the school employer and an exclusive representative of the school employee sets forth procedures for adjudicating wage overpayment disputes that, at a minimum, meet the requirements and protections for school employees set forth in this section. If in court the school employee is represented by counsel supplied by the exclusive representative designated under the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code), then the provisions of subdivision (b) of Section 3543.8 of the Government Code shall apply to that litigation."*

In addition, the employer may only take action to recover the overpayment within three years from the date of the overpayment. The full version of Education Code Section (EC §) 44042.5 can be found using this [link](#). Again, please consult with your legal counsel for guidance regarding its implementation.

### **Guidelines for submitting a salary abatement request to DFS Payroll.**

To initiate a salary abatement request, please follow these instructions:

- Complete Form 3328T, the Salary Abatement Request form. Follow this [link](#) to access the fillable form.
- Use the "View Employee Earnings by Payroll" Galaxy screen to ensure accurate historical payroll data. For employees holding multiple positions, contact DFS for the correct split earnings information. Do not use the Galaxy screen for these cases.
- To avoid delays, ensure all data is complete and correct before seeking a signature from an authorized signer at your LEA. Forms containing errors will be returned for correction and will not be processed.
- Repayments are payable to RCOE by commercial warrant, LEA revolving check, or cashier's check only. Cash is not accepted.
- Please note that payroll deductions do not clear the abatement. A repayment check must be forwarded to DFS to clear the abatement and facilitate the necessary adjustments to the employee's W-2/W-2C.

### **Collecting Overpayments from Employees**

- You can recover overpayments through voluntary payroll deductions, but only if the employee has given their authorization. The one exception is for unused vacation days, which can be deducted without permission.
- If the employee does not agree to a repayment plan, the LEA may pursue legal collection methods to get the money back.
- If the employee agrees to a repayment plan through deductions, make sure all the money is collected within the same calendar year.
- Please be mindful that pending salary abatements are recalculated every January. This process removes the federal taxes, effectively increasing the amount due by the employee.
- Pending salary abatements are recalculated after 3 years, removing Social Security, Medicare, UI, and SDI taxes, resulting in a higher amount owed by the employee.
- Do not use adjustment codes 6xx or 4xx to lower the employee's future paychecks.
- Pending/Active Salary Abatements Report is available on demand using MicroStrategy.

### Repayment Deadlines

To ensure an employee's W-2 can be adjusted for the current year, all repayments must be received in DFS before the year-end deadline.

DFS will send out a notification every October with the exact processing deadlines for the current calendar year.

Please be aware that any salary abatements not collected by the deadline may increase. This is due to the statute of limitations for refunds on Medicare and Social Security taxes

Publication 15 includes a section regarding the repayment of wages paid in error in a prior year, see excerpt on the following page:

***Employee reporting of repayment.*** The wages paid in error in the prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee isn't entitled to file an amended return (Form 1040-X) to recover the income tax on these wages. Instead, the employee may be entitled to a deduction or credit for the repaid wages on his or her income tax return for the year of repayment. However, the employee should file an amended return (Form 1040-X) to recover any Additional Medicare Tax paid on the wages paid in error in the prior year. If an employee asks about reporting their wage repayment, you may tell the employee to see *Repayments* in Pub. 525 for more information.

**Form 3328T**
**Division of Administration and Business Services  
District Fiscal Services**
**Salary Abatement Request**
*Please use the "View Employee Earnings by Payroll" Galaxy screen when completing this form.*

<b>District Information:</b>		<b>Payroll Information:</b>				
District Name: _____		Payroll Number: _____	Fiscal Year: _____			
District Number: _____		Payroll Issue Date: _____				
<b>Employee Information:</b>		<b>Reason for Abatement:</b>				
Employee Name: _____ (Last) _____ (First) _____ (MI) _____		Please include a detailed reason for the abatement.				
Employee Number: _____						
Social Security Number (SSN): XXX-XX-_____						
<b>Original Amount Paid:</b>						
Position: _____	Salary: _____	Regular: _____	Overtime: _____	Misc. Adjust.: _____	Cash Option: _____	Gross: _____
Position: _____	Salary: _____	Regular: _____	Overtime: _____	Misc. Adjust.: _____	Cash Option: _____	Gross: _____
<b>Revised Amount:</b>						
Position: _____	Salary: _____	Regular: _____	Overtime: _____	Misc. Adjust.: _____	Cash Option: _____	Gross: _____
Position: _____	Salary: _____	Regular: _____	Overtime: _____	Misc. Adjust.: _____	Cash Option: _____	Gross: _____
<b>Net Abatement Amount:</b>						
Position: _____	Salary: _____	Regular: _____	Overtime: _____	Misc. Adjust.: _____	Cash Option: _____	Gross: _____
Position: _____	Salary: _____	Regular: _____	Overtime: _____	Misc. Adjust.: _____	Cash Option: _____	Gross: _____
<b>Requested by:</b>						
Name: _____		Phone Number: _____	E-Mail: _____			
<b>Authorization:</b>						
<i>Information indicated in this section will be verified with the district's current Certification of Signatures form. Only original signatures from an authorized agent will be accepted.</i>						
Name: _____		Title: _____				
Signature: _____		Date: _____				
<b>Upon Receipt of the Completed Form:</b>				Must be signed by an authorized signer. Refer to the Certification of Signatures form.		
1. The net abatement amount will be available in Galaxy's View Salary Abatement screen. 2. The District is responsible for collection of payment. Upon collection, please submit the following: a) Payment    b) Copy of Salary Abatement form						
<b>For County Use Only:</b>						
Galaxy Entry Date: _____		Completed By: _____				
Comments: _____						

**Pending/Active Salary Abatements Report**

To view outstanding salary abatements, run the Pending/Active Salary Abatements report in MicroStrategy. If an abatement will not be repaid, send a request to DFS Payroll to mark it as "uncollected." This triggers a process to correct the employee's retirement records, reducing their reported earnings and refunding the retirement contributions back to the LEA.



**Pending/Active Salary Abatements** 9/12/25 8:47 AM

*Run by JULIE PORTILLO  
Prompt 1: District* [Redacted]

<u>Retirement Plan</u>	<u>Employee Number</u>	<u>Employee Name</u>	<u>Calendar Year</u>	<u>Month</u>	<u>Fiscal Year</u>	<u>Payroll</u>	<u>POD</u>	<u>Original Gross</u>	<u>Revised Gross</u>	<u>Net Abatement</u>
S1	[Redacted]		2025	JUNE	2025	12M		10,688.00	10,208.00	329.24
P1	[Redacted]		2021	DECEMBER	2022	06M		3,206.36	2,480.56	674.99
S1	[Redacted]		2024	FEBRUARY	2024	08M		14,002.27	12,447.07	1,373.94
S1	[Redacted]		2025	JANUARY	2025	07P	01114202501	3,840.00	0.00	3,129.40
S1	[Redacted]		2025	FEBRUARY	2025	08M		10,381.34	10,274.46	82.90
S1	[Redacted]		2024	FEBRUARY	2024	08B		1,417.71	969.01	396.20

**Pending/Active Salary Abatements Report**

To view outstanding salary abatements, run the Pending/Active Salary Abatements report in MicroStrategy. If an abatement will not be repaid, send a request to DFS Payroll to mark it as "uncollected." This triggers a process to correct the employee's retirement records, reducing their reported earnings and refunding the retirement contributions back to the LEA.



**Pending/Active Salary Abatements** 9/12/25 8:47 AM

*Run by JULIE PORTILLO  
Prompt 1: District* [Redacted]

<u>Retirement Plan</u>	<u>Employee Number</u>	<u>Employee Name</u>	<u>Calendar Year</u>	<u>Month</u>	<u>Fiscal Year</u>	<u>Payroll</u>	<u>POD</u>	<u>Original Gross</u>	<u>Revised Gross</u>	<u>Net Abatement</u>
S1	[Redacted]		2025	JUNE	2025	12M		10,688.00	10,208.00	329.24
P1	[Redacted]		2021	DECEMBER	2022	06M		3,206.36	2,480.56	674.99
S1	[Redacted]		2024	FEBRUARY	2024	08M		14,002.27	12,447.07	1,373.94
S1	[Redacted]		2025	JANUARY	2025	07P	01114202501	3,840.00	0.00	3,129.40
S1	[Redacted]		2025	FEBRUARY	2025	08M		10,381.34	10,274.46	82.90
S1	[Redacted]		2024	FEBRUARY	2024	08B		1,417.71	969.01	396.20