

# Extracts from Division 3, Title 5 of the California Code of Regulations

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## Chapter 1. Teachers' Retirement System

### Article 1. Definitions

#### § 20500. Definitions.

As used in this chapter:

- (a) "Accredited" means official recognition of an educational institution, by an authorized public authority or other generally recognized authority, that such institution maintains standards which qualify its graduates for admission to higher or more specialized institutions or for professional or trade practices.
- (b) "Certificated" means the holding by a person of a credential which is required by the laws of the state to be held as a condition to valid employment in the position in which such person is employed.
- (c) "Chairperson" means Chairperson of the Teachers' Retirement Board, duly elected in the manner prescribed by Education Code section 22200.
- (d) "Credential," "credentials" and "certificate" mean any life diploma, credential, certificate, or other document provided for by, and issued pursuant to the laws of the state which authorize service in the public school system of this state.
- (e) "Emergency meeting" means a meeting of the Teachers' Retirement Board held because of an unforeseen emergency condition.
- (f) "Regular meeting" is a meeting held in accordance to a schedule of meetings stating the dates and places of the meetings adopted by the Teachers' Retirement Board.
- (g) "Special meeting" is a nonemergency meeting held by the Teachers' Retirement Board at a time other than when a regular meeting is held for considering and acting upon such matters, and no others, as are included in the notice of special meeting.
- (h) "Unforeseen emergency condition" means a circumstance or a combination of circumstances which may result in monetary loss to the system, or otherwise impair the integrity or operation of the system, or result in unconscionable hardship or monetary loss of a member, disabilitant or retirant unless the Teachers' Retirement Board acts without being required to provide at least seven days' notice before acting.
- (i) "Vice Chairman" means the vice chairman of the Teachers' Retirement Board, duly elected in the manner prescribed by Education Code section 22200.

*Note: Authority cited: Sections 22202, 22209 and 22210, Chapter 4, Division 10, Education Code.*

*Reference: Sections 22216 and 22224, Education Code.*

### Article 2. Rules of Procedure

#### § 20510. Meetings.

The Teachers' Retirement Board shall meet at least once every calendar quarter at such times as it may determine. The meetings shall be presided over by a chairperson elected by the Teachers' Retirement Board from among its members. In the event of absence from a meeting of the chairperson, the vice

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chairperson, elected by the Teachers' Retirement Board from among its members, shall act as presiding officer and perform all other duties of the chairperson.

**§ 20511. Public Comment.**

(a) Public comment will be limited to agenda items or to the subject matter within the jurisdiction of the board or committee. Comments on subject matter not listed on the agenda will be limited to those periods of time listed for general public comment.

(b) Public comment for each speaker is limited to three (3) minutes per agenda item and three (3) minutes during the general comment period subject to subdivision (e).

(c) The presiding chair of the board or committee may set, limit, or extend the amount of time allotted to each member of the public and may set, limit, or extend the amount of time allotted to any public comment period if the presiding chair determines that it is necessary for the orderly conduct of business.

(d) The presiding chair may group members of the public who wish to provide public comment together by either topic or organization or by topic and organization.

(e) The presiding chair of the board or committee may allow a member of the public to transfer their unused time for public comment to another member of the public if the presiding chair determines that it is necessary for the orderly conduct of business. In doing so, no member of the public shall exceed nine (9) minutes of speaking time per agenda item and the general comment period.

(f) Any member of the public may submit comments in writing provided that such written comments are limited to items listed on the agenda or within the board's or committee's subject matter jurisdiction. To be included as a part of the administrative record for the board or committee meeting, written comments must be provided to a designated member of the staff.

(g) In order to provide public comment as set forth in subdivisions (a) through (e), a member of the public is encouraged to submit a request to provide public comment with their name, whether they are 18 years of age or older, the agenda item number, and the topic they wish to address. Completed public comment requests should be submitted to a designated staff member prior to the start of the public comment period to secure time to speak. Speakers will be called in the order in which the public comment requests are received unless otherwise grouped or organized at the discretion of the presiding chair. The presiding chair has the discretion to recognize additional speakers.

(h) CalSTRS webcast, audio, and video recording of the board and committee meetings is within the sound discretion of the board. Nothing in this regulation shall be interpreted to limit the public's right to record or broadcast subject to the restrictions set forth in Government Code section 11124.1.

(i) The presiding chair may stop a member of the public from providing further public comment or recess the meeting if they fail to comply with any of the foregoing, are unduly repetitious, or if they engage in any conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the meeting as set forth in subdivision (j).

(j) In the event that any board or committee meeting is willfully interrupted or disrupted by a person or by a group or groups of persons so as to render the orderly conduct of the meeting infeasible, the presiding chair of the board or committee may order the person, group or groups of persons willfully

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interrupting the meeting to leave the meeting or be removed from the meeting. Prior to removal, the presiding chair shall: notify the person, group, or groups of persons that they are in non-compliance with meeting procedures; request that they comply; and inform them of the consequences of non-compliance.

(k) CalSTRS reserves the right to inspect packages, backpacks, purses, and similar containers prior to allowing entrance into the board and committee meeting rooms.

(l) Access to the meeting room is subject to applicable fire and safety codes, regulations, and policies.

*Note: Authority cited: Section 22305, Education Code; and Section 11125.7, Government Code. Reference: Sections 11120 and 11125.7, Government Code.*

### **§ 20513. Quorum; Required Vote.**

The quorum of the Teachers' Retirement Board shall consist of the majority of the Board members. In determining whether a quorum is present, vacant positions on the Teachers' Retirement Board shall not be considered. The concurrence of the majority of the members present shall be necessary to the validity of any of the Teachers' Retirement Board's acts.

*NOTE: Authority cited: Sections 22209 and 22210, Education Code. Reference: Section 22202, Education Code; and Section 87300, Government Code.*

### **§ 20514. Secretary; Duties.**

The chief executive officer shall act as secretary of the Teachers' Retirement Board. He shall have charge of all of its correspondence and shall keep a record of its proceedings.

## **Article 3. General Provisions of Administration**

### **§ 20520. Authority of Chief Executive Officer.**

The chief executive officer of the system is authorized and empowered to correct a member's record and to approve, disapprove, modify or otherwise act on the retirement of members of the system for service or for qualifying for and receiving a disability allowance, and to fix their retirement allowances or disability allowances; and to approve, disapprove, modify or otherwise act on any application for any other benefit or refund and for granting service credit; and to determine whether persons who have qualified for and are receiving disability allowances have recovered from the disabilities which qualified them for disability allowances and to determine the eligibility of persons for family allowances. Payment of retirement allowances, disability allowances, family allowances, refunds or other benefits may be made on the action of the chief executive officer.

The chief executive officer is authorized to enter into contracts on behalf of the Teachers' Retirement Board and to perform other acts necessary in the administration of the system. The Teachers' Retirement Board may by resolution adopted at any meeting and recorded in the minutes of the meeting, delegate authority to him to perform any act within its own power to perform.

Any member, former member, disabilitant, retirant, beneficiary or other person dissatisfied with the action of the chief executive officer, other than his referral of the matter to hearing, with respect to payment of allowances, benefits or refunds or with respect to crediting service or correction of records,

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has the right to appeal such action to the Teachers' Retirement Board by filing a written notice of such appeal and the reason therefor at the office of the system within a reasonable time from the date of the mailing to him by the chief executive officer at his most recent address of record with the system of written notice of the determination or action taken and right of appeal therefrom. For the purpose of defining a "reasonable time" ninety (90) days is deemed to be a reasonable time. If no notice of appeal as herein provided is made within the time prescribed, such determination or action shall be final.

*NOTE: Authority cited: Sections 22202, 22203, 22204, 22209, 22210, 22216 and 22224, Education Code.*

### **§ 20521. Time Required for Credit.**

The following members who are employed by the day or by the hour shall have 175 days or 1,050 hours as the basis for determining their earnable compensation for a school year:

- (a) Those who are employed as substitutes but who can not be paid for school holidays;
- (b) All others who are normally not employed for more than 175 days or 1,050 hours.

Full-time day service, or full-time service as performed by members whose normal tours of duty extend throughout the school term (hereby defined for purposes of this retirement system as being the period beginning with the day upon which school commences and ending with the day upon which school closes in the same year) shall be performance of assigned duties for six hours per day for five days per week, or the equivalent thereof. Performance of assigned duty for a shorter period than six hours for five days per week, or the equivalent thereof, such as but not limited to performance of duties for four hours per day for five days per week, but for which such member receives compensation in the same amount as he would have received if such performance were six hours per day for five days per week, shall nevertheless be counted as a full-time day or full-time service.

## **Article 10. Dependents**

### **§ 21023. Providing Information to the Teachers' Retirement Board**

In addition to tax return, state or federal, the claimant or his guardian shall furnish to the Teachers' Retirement Board such other evidence regarding his financial status as the Teachers' Retirement Board may require.

*NOTE: Specific authority: Section 11385, Government Code.*

## **Article 11. State Teachers' Retirement System-Conflict of Interest Code**

### **§ 22000. General Provisions**

(a) Incorporation by Reference of Standard Code and Appendix. The Political Reform Act, Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interest regulations. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings.

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Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference. The Standard Code and the Appendix together constitute the Conflict of Interest Code of the California State Teachers' Retirement System (CalSTRS), except as provided in subsection (b) below.

(b) Filing Requirements. Designated individuals shall file statements of economic interests with CalSTRS, pursuant to Section 4 of the Standard Code. CalSTRS shall make such statements available for public inspection and reproduction. Corporate entities under contract serving as consultants to or contractors for CalSTRS need not file statements of economic interests; however, the natural person within the entity who provides the consulting or contractual services must file the statement of economic interests. With respect to officials who are determined to manage public investments, within the meaning of Government Code Section 87200, they shall also be required to file statement of economic interests (contractors who fall within the meaning of managing public investments shall also be required to file statements of economic interests). Upon receipt of the statements of economic interests of Board Members, representatives of Ex-Officio Board Members, Chief Executive Officer, Chief Investment Officer, Deputy Chief Investment Officers, Directors in the Investment Branch, Portfolio Managers and others falling within the designation of officials who are determined to manage public investments, CalSTRS shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements of all other designated employees will be retained by CalSTRS.

*NOTE: Authority cited: Article XVI, Section 17, California Constitution; Sections 22209 and 22210, Education Code; and Sections 87034 and 87300, Government Code. Reference: Sections 22205, 22205.2 and 22209, Education Code; Sections 87200 et seq. and 87300 et seq., Government Code; and Section 187300, Title 2, California Code of Regulations.*

## **Appendix A**

### ***Designated Positions***

### ***Disclosure Categories***

#### OFFICE OF THE GENERAL COUNSEL

##### *All Divisions*

General Counsel	1
Career Executive Assignment (All Levels)	1
Attorney (All Levels)	1
Assistant Chief Counsel	1
Staff Services Manager (All Levels)	3
Systems Software Specialist (Supervisory) (All Levels)	1

#### EXECUTIVE BRANCH

##### *All Divisions*

Chief Operating Officer	1
System Actuary	1
Staff Services Manager (All Levels)	2

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<b><i>Designated Positions</i></b>	<b><i>Disclosure Categories</i></b>
Pension Program Manager (All Levels)	2
Research Manager (All Levels)	2
Career Executive Assignment (All Levels)	1
Senior Management Auditor	2
Supervising Management Auditor	2
<b>PUBLIC AFFAIRS</b>	
<i>All Divisions</i>	
Career Executive Assignment (All Levels, All Divisions)	1
Pension Program Manager (All Levels)	3
Staff Service Manager (All Levels)	3
Information Officer II (Supervisory)	3
<b>FINANCIAL SERVICES BRANCH</b>	
Chief Financial Officer	1
Assistant Chief Financial Officer (All Divisions)	1
Career Executive Assignment (All Levels, All Divisions)	1
Senior Administrative Analyst-Accounting Systems (All Divisions)	2
Staff Administrative Analyst-Accounting Systems (All Divisions)	2
Pension Program Manager (All Levels)	2
Accounting Administrator (All Levels)	2
Investment Officer (All Levels)	2
Financial Accountant III, IV, V	2
Staff Service Manager (All Levels)	2
<b>BENEFITS AND SERVICES BRANCH</b>	
<i>All Divisions</i>	
Career Executive Assignment (All Levels)	1
Staff Services Manager (All Levels)	3
Pension Program Manager (All Levels)	3
<b>INVESTMENT BRANCH</b>	
<i>All Divisions</i>	
Investment Officer (All Levels)	1
Fiduciary Counsel	1
<b>TECHNOLOGY SERVICES BRANCH</b>	
<i>All Divisions</i>	
Career Executive Assignment (All Levels)	1
Data Processing Manager (All Levels)	3
Senior or Staff Information System Analyst (Supervisor)	3
System Software Specialist (Supervisory)(All Levels)	3
Pension Program Manager (All Levels)	3
Staff Services Manager (All Levels)	3

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**Designated Positions**

**Disclosure  
Categories**

ADMINISTRATIVE SERVICES BRANCH

*All Divisions*

Career Executive Assignment (All Levels)	1
Staff Services Manager (All Levels)	2
Data Processing Manager (All Levels)	2
Business Services Officer, Procurement Management—Acquisitions Unit (All Classes & All Levels)	2
Associate Governmental Program Analyst, Procurement Management—Acquisitions Unit	2

**Consultants/New Positions**

\*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

With respect to consultants/new positions, the Chief Executive Officer may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus, is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Government Code Section 81008.)

**Disclosure Categories**

The following disclosure categories shall be subject to the terms, definitions, and conditions of the standard Conflict of Interest Code and any amendments thereto incorporated by reference in subparagraph (a) of Section 22000 above.

Category 1:

Designated individuals in Category 1 must report:

All interests in real property, all investments, all sources of income, including receipt of gifts, loans and travel payments, and all business positions in business entities.

Category 2:

Designated individuals in Category 2 must report:

Income, including receipt of gifts, loans and travel payments, from and investments and business positions in, any source which is of the type to contract with the California State Teachers’ Retirement System to provide services, supplies, materials, machinery or equipment to the System.

Category 3:

Designated individuals in Category 3 must report:

Income, including receipt of gifts, loans and travel payments from, and investments and business

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positions in, any source which is of the type to contract with the division, branch or department of the designated position to provide services, supplies, materials, machinery or equipment to the same.

*\*Gift disclosure: Not all gifts are reportable. For example, a filer does not have to disclose gifts based on a personal friendship where there is no connection between the donor and the duties that the filer performs. This exception and others are outlined in statute and regulations. FPPC regulation 18942 summarizes the major gift exceptions including those from family members, gifts of home hospitality, gifts related to holidays and certain prizes and awards.*

### ***Officials Who Manage Public Investments***

It has been determined that individuals in the positions listed below are officials who manage public investments, within the meaning of Government Code Section 87200, and will file the Form 700 Statement of Economic Interests:

Board Members  
Representatives of Ex-Officio Board Members  
Chief Executive Officer  
Chief Investment Officer  
Deputy Chief Investment Officer  
Directors — Investment Branch  
Portfolio Managers (All)  
Consultants Who Manage Public Investments<sup>1</sup>

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<sup>1</sup> Note: Please see California Code of Regulations, Title 2, § 18700.3 to determine filers under the “Consultants Who Manage Public Investments” designation.

## **Article 12. Unused Excess Sick Leave**

### **§ 23005. Delegation of Authority of Board to Chief Executive Officer**

The Board, pursuant to Section 22203 of the Education Code, hereby delegates to the Chief Executive Officer the administration of the program, including but not limited to, the power to act finally in accordance with these regulations and the instructions and supervision of the Board. The Chief Executive Officer may, in turn, delegate his authority to his subordinates.

*NOTE: Authority cited: Sections 22720 and 22210, Education Code. Reference: Sections 22203, 22204, 22209 and 22720, Education Code.*

## **Article 13. Election of Members to the Teachers' Retirement Board**

### **§ 24000. Board Member Elections.**

Teachers' Retirement Board (Board) member elections shall be conducted by the Election Coordinator designated by the Chief Executive Officer in accordance with this Article.

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The Election Coordinator shall conduct the elections in the most cost-effective manner feasible.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.*

**§ 24001. Notice of Election.**

The Election Coordinator shall distribute a Notice of Election adopted by the Board in advance of each election containing candidate nomination and election guidelines, eligibility criteria for candidates and voters, how to obtain candidate nomination packets from the System, and the schedule of events.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.*

**§ 24002. Nomination of Candidates.**

The Election Coordinator shall distribute candidate nomination packets containing a copy of the Notice of Election, petition form, nomination certification form, and copies of the rules and regulations governing the conduct of Board member elections, to members and participants who request a packet.

Members and participants shall qualify for nomination if they meet the eligibility criteria specified in the Notice of Election. Nomination shall be on the petition form provided by the System, signed by then currently eligible active members and then currently eligible active participants as defined in section 24004. Members and participants may sign more than one petition form. The minimum number of petition signatures required shall be determined by the Board and specified in the Notice of Election.

The candidate shall indicate on the petition form the specific Board member position for which he or she seeks election. An individual candidate may not be a candidate for more than one Board member position during any particular election.

The petition form shall include the signature and legible printed name of each member or participant signing the petition, month and day of birth, and the last 4 digits of his or her Social Security Number. Any signature not accompanied by all of the required information shall be invalidated.

Each candidate shall certify on the nomination certification form provided by the System that he or she accepts the nomination, consents to serve if elected, agrees to comply with the rules and regulations governing the conduct of Board member elections, and abide by a drawing of lots by the Election Coordinator in case of a tied vote.

Only those nomination certification forms and petition forms received in the headquarters office of the System by the deadline specified in the Notice of Election shall be accepted. The candidate must submit the nomination certification form and petition form containing at least the minimum required number of valid signatures in one packet at one time. Completed petition forms and nomination certification forms transmitted via facsimile to the headquarters office of the System by the deadline specified in the Notice of Election shall be accepted if the original completed forms are received in the headquarters office of the System within seven calendar days following the deadline.

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The Election Coordinator shall verify the identity and eligibility of individuals who sign candidates' petition forms through sampling or another reasonable and cost-effective method, and shall certify qualified candidates for the Board member election.

The position of candidate names and statements in election materials distributed by the System to eligible voters shall be chosen by lot conducted by the Election Coordinator at the time he or she certifies valid nominating petitions.

The Election Coordinator shall notify qualified candidates of their certification, and the position of their names and statements in election materials distributed by the System. All deadlines and instructions related to the drafting of candidate statements shall be distributed to all qualified candidates in the notification letter. Upon distributing notification letters to qualified candidates, the Election Coordinator shall make public the names of the qualified candidates for the Board member election.

Where only one candidate has been nominated, the Election Coordinator shall, upon verification of the signatures presented in the nominating petition and upon the candidate's certification of his or her nomination acceptance, cancel the remaining election procedures and designate the single candidate to be certified by the Chief Executive Officer as elected.

If no candidate has been nominated in an election, or if no candidate has presented a valid petition form and nomination certification form for an election as required above, the Election Coordinator shall extend the nomination period for an additional 21 calendar days and publicize his or her action to active members and participants and other interested parties.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

### **§ 24003. Candidate Statements.**

(a) As part of a candidate statement, each candidate shall provide the following information in the format specified by the Election Coordinator:

- (1) Name.
- (2) Job Title.
- (3) Employer.
- (4) Status as either an active member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program and years of service as a member or participant.
- (5) A list of no more than 5 previous job positions held.
- (6) A list of no more than 5 organizations to which the candidate belongs and positions held in those organizations.

(b) As part of a candidate statement, a candidate may provide a list of no more than 10 endorsements by individuals or entities,

(c) As part of a candidate statement, a candidate may provide answers to the following questions:

- (1) What do you think should be the primary role of a member of the Teachers' Retirement Board?
- (2) How do you think you could contribute to CalSTRS as a member of the Teachers' Retirement Board?
- (3) What education and training do you possess that has prepared you to serve as a member of the

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Teachers' Retirement Board?

A candidate's answers to the preceding three questions indicating his or her opinion or positions on issues of general concern to the System's membership may be included, so long as they are clearly stated as the candidate's opinion or view and do not exceed the length limits specified by the Board in the Notice of Election. The answers must be truthful, and must not include any remarks or questions that are inherently misleading, including rhetorical remarks and questions that are inherently misleading. Answers may not refer to individual members of the Board or other candidates for election to the Board by name or inference.

Any portion of a candidate's answers to the questions above which, in total, exceeds the length limits specified by the Board in the Notice of Election will not be distributed.

(d) The candidate statement shall be filed with the Election Coordinator by the deadline indicated in the notification letter sent to qualified candidates. Once filed, statements may not be changed or withdrawn except by the Election Coordinator. Any candidate statement received after the deadline will not be distributed.

The Election Coordinator shall distribute candidate statements to the candidates in each contest following the candidate statement filing deadline. The Election Coordinator shall accept written comments concerning a candidate statement from opposing candidates for fourteen calendar days following the date he or she distributes the submitted candidate statements. The Election Coordinator shall attempt to resolve a dispute between candidates over a submitted candidate statement. Only those written comments that allege a candidate statement violates the provisions of this Section may be considered.

The Election Coordinator shall reject or edit any statement which he or she determines contains obscene, vulgar, profane, scandalous, untrue, libelous or defamatory matter or which does not meet the statement limitations stated above. The Election Coordinator may request the candidate to verify the truthfulness of any factual statements. The candidate shall provide timely verification upon such request as specified in the notification letter sent to qualified candidates. The Election Coordinator shall remove any portion of the candidate's statement a candidate is unable to verify. All decisions by the Election Coordinator related to candidate statements are final.

Nothing in this section shall be deemed to make candidate statements or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or distributed to voters. Information contained in the statement is the responsibility of the candidate and the System shall not be held responsible for the validity of any candidate statement or the contents thereof.

Following the review of candidate statements by the Election Coordinator, he or she shall distribute to each candidate in the respective contest all candidate statements as they shall appear in election materials distributed to eligible voters.

Any copy or representation of election material, such as the ballot or campaign materials that include

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the System name, logo or registered mark of the System, shall include a disclaimer that neither the System nor the Teachers' Retirement Board endorses any particular candidate or position.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

**§ 24004. Ballot Distribution.**

The Election Coordinator shall cause ballots and candidate statements to be distributed in advance of each election to each eligible active member and participant for whom the System has a valid mailing address recorded. The Election Coordinator shall provide a means for eligible active members and participants for whom the System does not have a valid mailing address recorded to request ballots and candidate statements. The Election Coordinator shall provide for the return of the voted ballots to the Board without cost to the eligible active member or participant. For purposes of this Article, "eligible active member" or "eligible active participant" means a member of the Defined Benefit Program or a participant of the Cash Balance Benefit Program, respectively, who is employed, on the date, or during the period specified in the Notice of Election's criteria for voter eligibility, by an employer.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

**§ 24005. Ballot Counting.**

The Election Coordinator shall create reasonable procedures to ensure ballots are secured and canvassed in a manner consistent with commonly accepted election practices.

Valid ballots shall be canvassed publicly by an independent, neutral agent appointed by the System for that purpose on the date specified in the Notice of Election at a location to be designated by the System. Depending upon the method of balloting selected by the Election Coordinator, the following are declared to be invalid ballots and shall not be counted in the election:

- a. Votes cast for individuals not listed as candidates on the official ballot.
- b. Ballots submitted by a person who is not an eligible voter.
- c. A duplicate ballot is received from the same voter.
- d. Votes cast in excess of that allowed on the ballot.
- e. Ballots not forwarded or received within the time period prescribed by the Notice of Election.
- f. If a paper ballot is not forwarded through the United States Postal Service in the valid pre-addressed and stamped return envelope that is furnished.
- g. Electronic ballots not cast in the manner prescribed by the System.

The candidate receiving the highest number of votes, or the winning lot as drawn by the Election Coordinator in case of a tie vote, or the single candidate, shall be certified by the Chief Executive Officer as having been elected.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

**§ 24006. Notice of Election Results.**

(a) Within three business days after the public ballot canvassing, or after verification of the nominating signatures pursuant to Section 24002 where the Election Coordinator certifies only one qualified candidate in an election for a position on the Board, the Election Coordinator shall transmit the election results to the Chief Executive Officer for his or her certification.

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(b) Following certification by the Chief Executive Officer, the Election Coordinator shall notify candidates, Board members and other interested parties of the certified results. Notification to the newly elected Board member shall include an Oath of Office form. This form is to be signed by the Board member-elect in the presence of a notary public and returned to the System. The Election Coordinator shall file the Oath with the Secretary of State.

(c) Upon the Chief Executive Officer's certification and proper execution of the Oath of Office form, the Board member elected through this process shall take his or her office on either the day provided for by statute or immediately, if elected to fill a vacancy.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

#### **§ 24007. Recount of an Election.**

(a) A candidate in the affected Board member election may file a written request with the Election Coordinator at the headquarters office of the System for recount within ten business days following the distribution of the certified election results; otherwise, there shall be no opportunity for requesting a recount and the certified election results stand as the final results.

(b) A request for a recount shall not delay the seating of an elected Board member. Such elected Board member shall take office on either the day provided for by statute or immediately, if elected to fill a vacancy, subject to the potential termination of such Board membership as a result of the recount.

(c) A candidate in the affected Board member election may request a recount of the valid ballots only if the difference in the number of votes cast between the candidate requesting the recount and the unofficial winner is less than 3 percent of the total number of valid ballots cast. A written request for a recount shall specify the election to be recounted, shall be signed by the candidate requesting the recount, and may specify any other relevant material to be examined.

(d) The Election Coordinator shall set a date for the recount upon receipt of the written request, and shall confirm this date upon receipt of the estimated cost to conduct the recount. The estimated cost of conducting a recount will include the System's administrative cost and the costs of the independent, neutral agent appointed by the System to canvass the valid ballots. Legal tender of the amount of the estimated cost of conducting the recount shall be submitted by the candidate requesting the recount to the Election Coordinator within three business days following notification of the estimated cost to conduct the recount; otherwise, the recount shall be terminated.

(e) If the results of the recount do not change the ranking of the candidates then the certified results shall stand as the final election results. In this case, if the actual cost of the recount is less than the estimated cost deposited by the requester, the System shall refund the amount which exceeds the actual cost; if the actual cost of the recount is more than the estimated cost, the System shall invoice the requester for the difference.

(f) If the results of the recount do change the ranking of the candidates, then the recount results shall be certified by the Chief Executive Officer and shall stand as the final election results. In this case, the System shall refund the amount of the estimated cost deposited by the requester.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

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**§ 24008. Protest of an Election.**

A candidate in the affected Board member election may protest an election by filing a written protest with the Election Coordinator at the headquarters office of the System within ten business days following the mailing of the certified election results for an election or a recount, otherwise, there shall be no opportunity for filing a protest and the certified election results shall stand as the final election results. The written protest shall be identified using the word “protest”, shall specify the election, and shall state the grounds of the protest and suggested remedy.

Upon receipt of a valid and timely protest, the Election Coordinator shall mail a copy of the request to all candidates in the election and notify the Board and other interested parties that a protest has been filed.

An ad-hoc committee of the Board consisting of an odd number of members no fewer than three shall determine, what remedy, if any, shall be granted to the candidate filing the protest. No Board member who is a candidate in the election under protest, or has endorsed a candidate in the election under protest may become a member of the committee or participate in its selection.

The Board chairperson shall appoint Board members to the committee. If the Board chairperson is a candidate or has endorsed a candidate in the election under protest, the Board vice chairperson shall appoint Board members to the committee. If the Board vice chairperson is a candidate or has endorsed a candidate in the election under protest, the Board shall appoint from its number, members to the committee at its next regularly scheduled meeting.

If a minimum of three Board members are not eligible to participate on the ad-hoc committee, or if a majority of the full Board, excluding candidates but including endorsers of candidates so directs, the protest shall instead be determined by a panel of three arbitrators in accordance with the provisions below, the laws of the State of California, and the Labor Arbitration rules of the American Arbitration Association (AAA) in effect at the time, to the extent the AAA rules are not in conflict with these regulations. One member of the panel shall be selected by the protesting candidate, one member of the panel shall be selected by the successful candidate, and the third member, who shall serve as chair, shall be selected by the first two panel members.

The committee may consider written and/or oral arguments submitted by the candidate filing the protest and any other interested party, in making its determination. Any oral proceedings by the committee shall be held in the Board's meeting room and be open to the public. Other procedures, including those for receiving and considering arguments and factual allegations, shall be determined by the committee or arbitration panel in its sole discretion.

The determination of the committee or arbitration panel shall be rendered within 30 calendar days of its appointment and shall be final and binding on the System and candidates for office. The committee or arbitration panel shall declare the election under protest void, and the position vacant, only upon a finding that Board-adopted election procedures were not substantially followed and that, without this lack of substantial compliance, the election outcome would likely have been different.

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The filing of a protest shall not delay the seating of an elected Board member. Such elected Board member shall take office on either the day provided for by statute or immediately, if elected to fill a vacancy, subject to the potential termination of such Board membership as a result of the protest. Any newly elected member, as the result of a protest, shall hold office for a period equal to the remainder of the term of the vacated office.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Section 22200, Education Code.*

#### **§ 24009. Elections for Vacant Elected Seats.**

The Board shall provide public notice that an elected seat on the Board has been vacated at or before its next regularly scheduled meeting.

The Board shall hold special elections to fill vacancies that occur during the term of the elected members of the Board by distributing a Notice of Election for a vacated seat within 90 calendar days of the vacancy. An election shall be held within 180 calendar days of the distribution of the Notice of Election.

*Note: Authority cited: Section 22200.5, Education Code. Reference: Sections 22200 and 22200.5, Education Code.*

### **Article 14. Investment Relationships and Campaign Contributions**

#### **§ 24010. Prohibitions on Campaign Contributions.**

(a) No party engaging or seeking to engage in an Investment Relationship with CalSTRS may make any campaign contributions, as defined in The Political Reform Act (Gov. Code, § 81000et seq.), valued in excess of \$1,000, individually, or \$5000 in the aggregate from the party engaged in the Investment Relationship and the individuals identified in subdivision (d) collectively, in any twelve month period beginning on the dates identified in subdivision (e), to any person designated in subdivision (c) below.

(b) For purposes of this Article 14, "Investment Relationship" means a relationship between a non-governmental party and CalSTRS for the purpose of providing investment services such as money management or fund management services, investment advice or consulting (including making recommendations for the placement or allocation of investment funds), and investment support services (including market research, fund accounting, custodial services, and fiduciary advice) for investments placed in the Teachers' Retirement Fund.

(c) This prohibition applies to campaign contributions made to or on behalf of CalSTRS officers and employees, any existing Teachers' Retirement Board member, the Governor, Controller, Treasurer, and Superintendent of Public Instruction, candidates for Teachers' Retirement Board member, and candidates for the offices of Governor, Controller, Treasurer, and Superintendent of Public Instruction.

(d) This prohibition applies to those parties currently engaging in or seeking to engage in an Investment Relationship with CalSTRS which is expected to generate at least \$100,000 annually in income, fees, or other revenue to the party, and specifically includes:

(1) Those individuals employed by or associated with the parties described in this Section 24010(b), above, who are required to file a Form 700 Statement of Economic Interest pursuant to Government

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Code Section 81000et seq., the Fair Political Practices Commission Regulations contained in Title 2, Division 6, California Code of Regulations Section 18109et seq., and the Teachers' Retirement System Regulations contained in Title 5, Division 3, California Code of Regulations Section 22000,et seq.; or  
(2) "Authorized Personnel/Key Personnel" as defined and identified by the contracting party in the "Authorized Personnel/Key Personnel exhibit" incorporated in or attached to the contract between the contracting party entering into the Investment Relationship and CalSTRS; or  
(3) Those individuals who expect to and/or do experience a material financial effect on their economic interests including salary, bonuses, options, or other financial incentives directly deriving from an Investment Relationship with CalSTRS.

This prohibition also applies to contributions from any other entities or individuals made at the direction of such parties identified above in this subdivision (d).

(e) For parties defined in subdivision (d) above, the prohibition set forth in this section shall apply to the time period which begins

(1) On the date CalSTRS first announces a procurement or search process that could lead to an Investment Relationship which is likely to generate at least \$100,000 annually in income, fees, or other revenue to the party; or

(2) On the date a party identified in subdivision (d) above approaches CalSTRS with a proposal to enter into an Investment Relationship with CalSTRS by discussing the specific facts and financial terms of a particular investment transaction or strategy, whichever is earlier, and ends when the Investment Relationship is terminated by any party for any reason, or when CalSTRS communicates its decision not to pursue the Investment Relationship.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.*

#### **§ 24011. Disclosure and Recusal Requirement for Campaign Contributions.**

(a) No CalSTRS officer, employee or current Teachers' Retirement Board member, including the Controller, Treasurer, and Superintendent of Public Instruction shall make, participate in making or in any way attempt to use his or her official position to influence a decision involving an Investment Relationship with CalSTRS if the officer, employee or member has received, solicited or directed a campaign contribution, as defined in The Political Reform Act (Gov. Code, § 81000et seq.), valued in excess of \$1,000, individually or \$5000 in the aggregate, in any twelve month period prior to the dates identified in Section 24010, subdivision (e) from any person designated in Section 24010, subdivision (d). For purposes of this section, a member appointed by the Governor and the Director of Finance shall also be deemed to have received a contribution if the Governor who appointed the member or Director of Finance has received a contribution within the twelve month period prior to the dates identified in Section 24010, subdivision (e) from any person designated in Section 24010, subdivision (d).

(b) If the disqualification provision of subdivision (a) results in the lack of a quorum for the purposes of taking action on any item before the Board or any of its committees, a sufficient number of Board

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members to constitute a quorum shall be drawn by lot from the otherwise disqualified Board members for the purpose of establishing a quorum and taking action on items before the Board or any of its committees. Board members who have been drawn by lot to constitute a quorum shall have their participation deemed as necessary and shall be exempt from the restrictions of subdivision (a) for the purpose of establishing a quorum and participating in the deliberations and voting on an item for which a quorum could not be established absent this waiver of the restrictions of subdivision (a).

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.*

### **§ 24012. Remedies, Enforcement and Safe Harbors.**

(a) CalSTRS' General Counsel shall cause an independent investigation to be performed for any reported violation of Sections 24010 and 24011, and report any documented violation to the Board for action.

(b) If any party seeking an Investment Relationship with CalSTRS is found to be in violation of Section 24010, that party shall be disqualified from engaging in an Investment Relationship with CalSTRS for a period of two years.

(c) Any party who has an existing Investment Relationship with CalSTRS and who is found to be in violation of the provisions of Section 24010 shall be subject to disqualification from doing future or additional business with CalSTRS for a period of two years.

(d) If a party voluntarily reports a violation of Section 24010 to the CalSTRS General Counsel within ninety days of the contribution being made and it is established pursuant to an independent investigation that the violation was inadvertent, the disqualification provision of subdivision (c) will not be applied. This safe harbor provision does not apply to a knowing or intentional violation of Section 24010.

(e) CalSTRS staff shall maintain a current list of parties engaged in an Investment Relationship subject to Section 24010, subdivision (d). The disclosure and recusal requirements of Section 24011, subdivision (a) shall not apply to any CalSTRS officer, employee or current Teachers' Retirement Board member, including the Controller, Treasurer, and Superintendent of Public Instruction if the Investment Relationship has not been published on the list maintained by CalSTRS staff.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section 17; and Sections 22250 and 22253, Education Code.*

### **§ 24013. Definitions.**

Things not specifically defined herein are defined in the Government Code, the Education Code, the Political Reform Act, the Fair Political Practices Commission Regulations, and the Teachers' Retirement System Regulations.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22207, 22208, 22214, 22250, 22253 and 22305, Education Code. Reference: California Constitution, Article XVI, Section*

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17; and Sections 22250 and 22253, Education Code.

## **Article 15. Supplemental Benefit Maintenance Account**

### **§ 26000. Supplemental Benefit Maintenance Account Purchasing Power Protection.**

(a) Purpose. The purpose of this regulation is to outline and implement the process whereby the Board adjusts the purchasing power protection provided by the Supplemental Benefit Maintenance Account (SBMA) including the frequency and timing of actuarial projections and adjustments to the target percentage of purchasing power.

(b) Actuarial Projection.

(1) The Board shall adopt an actuarial projection pursuant to subdivision (a) of Education Code section 22954.1 no less frequently than every two years.

(A) The first actuarial projection shall be based on projected assets and liabilities of the SBMA as of June 30, 2009, which shall be referred to as the "June 30, 2009" projection date.

(B) The actuarial projection shall be based on actuarial assumptions adopted by the Board, as applied to the assets and liabilities of the SBMA as of the valuation date prior to the projection date and the California Consumer Price Index for the fiscal year ending on the projection date.

(c) Percentage of Purchasing Power.

(1) Pursuant to the requirements of Education Code sections 22954.1 and 24415.5, the Board shall set the percentage of purchasing power to be protected at the actuarial projection level most recently adopted by the Board pursuant to subsection (b) above.

(2) The percentage of purchasing power shall be established in half percentage point increments.

(3) The actuarial level of the percentage of purchasing power shall be rounded to the nearest half percentage point.

(d) Sustainability Level.

(1) The Board shall set the date through which the level of benefits is to be maintained.

(2) The initial date for sustainability of the level of benefits shall be through and including June 30, 2089.

(3) The Board shall re-examine and amend this date no more frequently than every ten years and no less frequently than every twenty years based upon actuarial projections.

(4) The sustainability level shall be approximately the estimated length of membership for those members of the Defined Benefit Program at the time the date is reviewed.

(5) The change in date shall be made by plan amendment adopted by the Board with the actuarial assumptions adopted by the Board pursuant to subsection (b).

(e) Adjustments to Percentage of Purchasing Power.

(1) Any adjustment in the percentage of purchasing power adopted shall be effective as of October 1 of the fiscal year following the adoption of the actuarial projection, subject to the limitations set forth above.

(2) The adjustment in the percentage of purchasing power protection in any one year shall be equal to the greater of:

(A) one-half percentage point; or

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(B) one-fourth of the change in amount of the SBMA percentage, subject to the requirement of subdivision (c)(3) that the percentage of purchasing power shall be established in half-percentage point increments, with the largest incremental change occurring in the initial years.

*Note: Authority cited: Section 24415.5, Education Code. Reference: Sections 22954.1, 22954.5 and 24415.5, Education Code.*

## **Article 15.5. Penalties and Interest for Late Remittances and Late and Unacceptable Reporting by Employers**

### **§ 27000. Format for Monthly Reports.**

Employers shall file reports through CalSTRS' secure employer website as follows:

(a) Employers reporting information to the Defined Benefit Program shall comply with Section 1.3 of CalSTRS' F496 File Specification, as revised on February 24, 2016, and hereby incorporated by reference, subject to the following exclusions.

(1) Information in the "Field Edits" column.

(2) The specific member contribution rates associated with field positions 53-56 and 91-94.

(b) Employers reporting information to the Cash Balance Benefit Program shall comply with Section 1.3 of CalSTRS' Voluntary Deduction File Specification, as revised on July 1, 2015, and hereby incorporated by reference.

(c) A field that contains a dollar value must be formatted as follows:

(1) The number is reported without decimal places with the last two field positions populated by the number of cents.

(2) Use leading zeroes to populate the full breadth of the field.

(3) To report a negative number, report the last field with an uppercase alphabetical character or a symbol, coded as follows: "J" for negative values ending in 1, "K" for negative values ending in 2, and so on, with "R" for negative values ending in 9. Use "}" for negative values ending in 0.

(4) Alphabetical characters or symbols may also be used to denote positive values, but are not required.

(d) This section shall become inoperative on the date specified by the board pursuant to Section 27800.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250, 22305 and 23004, Education Code. Reference: Sections 23004, 23006, 23008 and 26301, Education Code.*

### **§ 27001. Acceptable Report - Defined Benefit Program.**

(a) A monthly report for the Defined Benefit Program is acceptable if it is reported in compliance with Section 27000, subdivision (a). Reports that fail to comply shall be rejected by CalSTRS, and will not be received.

(b) A monthly report shall contain the information as specified in Section 27000 for all employees who perform creditable service for an employer during the month.

(c) Information reported pursuant to Section 27000, subdivision (a) for one or more employees from a prior month shall be aggregated and treated as a separate report for the month to which it relates.

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(d) This section shall become inoperative on the date specified by the board pursuant to Section 27800.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250, 22305 and 23004, Education Code. Reference: Sections 23004, 23005 and 23006, Education Code.*

**§ 27002. Acceptable Report - Cash Balance Benefit Program.**

(a) A report for the Cash Balance Benefit Program is acceptable if it is reported in compliance with Section 27000, subdivision (b). Reports that fail to comply shall be rejected by CalSTRS, and will not be received.

(b) A report shall contain the information required by Section 27000, for all employees who perform creditable service for an employer during the pay period.

(c) Information reported pursuant to Section 27000, subdivision (b) for one or more employees from a prior pay period shall be aggregated and treated as a separate report for the pay period to which it relates.

(d) This section shall become inoperative on the date specified by the board pursuant to Section 27800.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250, 22305 and 26301, Education Code. Reference: Section 26301, Education Code.*

**§ 27003. Assessment of Penalties for Late Reports - Defined Benefit Program.**

(a) A monthly report received 45 or more calendar days following the month in which the creditable compensation being reported was earned shall be subject to penalties based on the number of calendar days it is late, in an amount equal to the cumulative value of interest accruing on the sum of employer and employee contributions due for the late monthly report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(b) A monthly report that is received after 5:00 p.m. Pacific Time on the 44th calendar day shall be considered to have been received on the 45th calendar day, and therefore is late.

(c) Those portions of a monthly report that adjust contributions remitted in a prior month shall be aggregated and treated as a report adjusting incorrect contributions. The report shall be late if received after 5:00 p.m. Pacific Time on the 60th calendar day following discovery by the employer or notification by the system. The penalty for a late report adjusting incorrect contributions shall be the cumulative value of interest accruing on the sum of the absolute value of the change in employer and employee contributions for each employee on the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(1) Notification by the system shall be on a form containing the following items of information and shall be delivered to the employer by mail or email: date the notification was mailed or emailed; fiscal year; member client id; member name; reporting source or unit; member code; assignment code; pay rate; pay code; earnings; contribution rate; contribution code; contribution amount; beginning and ending dates of the service period; and the business rule error number.

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(2) A final audit report delivered to the employer by mail or email shall constitute notification by the system.

(d) Those portions of a monthly report that adjust incorrect contributions for a month prior to the effective date of this article shall not be subject to the penalties provided for in this section.

(e) Those portions of a monthly report that neither increase nor decrease employer and employee contributions for an employee shall not be subject to the penalties provided for in this section.

(f) Those portions of a monthly report that adjust contributions remitted in a prior month shall not be subject to the penalties provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

(4) The adjustments are reported to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(g) Those portions of a monthly report that are otherwise late shall not be subject to the penalties provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The portions of a monthly report that are exempt under this subdivision shall be due 30 calendar days immediately following the month in which compensation is awarded and shall be subject to the penalties provided for in this section beginning on the 45th calendar day.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. The portions of a monthly report that are exempt under this subdivision shall be due 30 calendar days immediately following the month in which the period of time expires and shall be subject to the penalties provided for in this section beginning on the 45th calendar day.

(h) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, those portions of a monthly report for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on a late report provided for in subdivision (a) of this section if all of the following are true:

(1) The date the substitute or part-time position is paid matches the pay date on a published salary schedule for that position; and

(2) The pay date is no more than 31 calendar days following the last day of the month in which the

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compensation being reported was earned; and

(3) The applicable portions of the report are received no later than 44 calendar days following the pay date.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 23004, 23006 and 23008, Education Code.*

**§ 27004. Assessment of Penalties for Late Reports - Cash Balance Benefit Program.**

(a) A report received 11 or more working days following the pay period in which the salary being reported was earned shall be subject to penalties based on the number of calendar days it is late, in an amount equal to the cumulative value of interest accruing on the sum of employer and employee contributions due for the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(b) A report due on the 10th working day that is received after 5:00 p.m. Pacific Time on the 10th working day shall be considered to have been received on the 11th working day, and therefore is late.

(c) Those portions of a report that adjust contributions remitted in a prior report shall be aggregated and treated as a report adjusting incorrect contributions. The report shall be late if received after 5:00 p.m. Pacific Time on the 60th calendar day following discovery by the employer or notification by the system. The penalty for a late report adjusting incorrect contributions shall be the cumulative value of interest accruing on the sum of the absolute value of the change in employer and employee contributions for each employee on the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(1) Notification by the system shall be on a form containing the following items of information and shall be delivered to the employer by mail or email: date the notification was mailed or emailed; fiscal year; participant Client ID; participant name; reporting source or unit; earnings; contribution amount; pay schedule date; pay period end date; and the business rule error number.

(2) A final audit report delivered to the employer by mail or email shall constitute notification by the system.

(d) Those portions of a report that adjust incorrect contributions for a pay period prior to the effective date of this article shall not be subject to the penalties provided for in this section.

(e) Those portions of a report that neither increase nor decrease employer and employee contributions for an employee shall not be subject to the penalties provided for in this section.

(f) Those portions of a report that adjust contributions remitted in a prior month shall not be subject to the penalties provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and

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(4) The adjustments are reported to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.

(g) Those portions of a report that are otherwise late shall not be subject to the penalties provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The portions of a report that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which compensation is awarded and shall be subject to the penalties provided for in this section beginning on the 11th working day.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation that requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. The portions of a report that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which the period of time expires and shall be subject to the penalties provided for in this section beginning on the 11th working day.

(h) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, those portions of a report for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on a late report provided for in subdivision (a) of this section if all of the following are true:

(1) The date the substitute or part-time position is paid matches the pay date listed on a published salary schedule for that position; and

(2) The pay date is no more than 31 calendar days following the last day of the pay period in which the compensation being reported was earned; and

(3) The applicable portions of the report are received no later than 10 working days following the pay date.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 26301, Education Code.*

### **§ 27005. Late Contributions - Defined Benefit Program.**

In order to process contributions for any given day, the contributions must be received on or before 3:00 p.m. Pacific Time. Therefore,

(a) Contributions received after 3:00 p.m. Pacific Time shall be considered to have been received on the following working day.

(b) The portion of contributions due on the fifth working day that are not received by 3:00 p.m. Pacific Time on that fifth working day shall be considered to have been received on the sixth working day, and therefore are late.

(c) The remaining portion of contributions due on the 15th working day that are not received by 3:00

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p.m. Pacific Time on that 15th working day shall be considered to have been received on the 16th working day, and therefore are late.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 23002, Education Code; and Section 4108, Commercial Code.*

**§ 27006. Late Contributions - Cash Balance Benefit Program.**

In order to process contributions for any given day, the contributions must be received on or before 3:00 p.m. Pacific Time. Therefore,

(a) Contributions received after 3:00 p.m. Pacific Time shall be considered to have been received on the following working day.

(b) Contributions due on the 10th working day that are not received by 3:00 p.m. Pacific Time on that 10th working day shall be considered to have been received on the 11th working day, and therefore are late.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Section 26303, Education Code; and Section 4108, Commercial Code.*

**§ 27007. Assessment of Penalties for Late Contributions - Defined Benefit Program.**

(a) A late contribution shall be subject to a penalty if that contribution is received after March 1 of the state fiscal year that immediately follows the state fiscal year in which the contribution was due.

(1) The penalty shall be assessed on the creditable compensation upon which the late contribution was based. For purposes of this subdivision, creditable compensation shall include only creditable compensation for which member contributions are credited under the Defined Benefit Program.

(2) The penalty shall be the greater of the following:

(A) The state appropriation rate, pursuant to Sections 22954, 22955 and 22955.1 of the Education Code, that is in effect on the first day of March immediately preceding the date the contribution was received.

(B) Five percent.

(b) Interest on late contributions shall be imposed as follows:

(1) If less than 95 percent of contributions due have been received by the sixth working day, interest shall be charged on the balance of those contributions due and compounded daily based on the regular interest rate in effect that day.

(2) For contributions received more than 15 working days after the date those contributions are due, interest shall be charged on the balance of contributions due and compounded daily based on the regular interest rate in effect that day.

(c) The penalty and interest assessed on late contributions provided for in this section shall not apply to adjustments made to contributions for a month prior to the effective date of this article.

(d) Adjustments to contributions remitted in a prior month shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

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- (1) The adjustments are made for all members of a class of employees;
  - (2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;
  - (3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and
  - (4) The adjustments are remitted to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.
- (e) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, contributions for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:
- (1) The date the substitute or part-time position is paid is based upon a published salary schedule;
  - (2) That date is no more than 31 calendar days following the last day of the month in which the compensation being reported was earned; and
  - (3) 95 percent of the contributions due are received five working days immediately following the date the substitute or part-time position is paid, and the balance of contributions due are received no more than 15 working days following the date the employee is paid.
- (f) Contributions that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section during the following periods of time:
- (1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. 95 percent of the contributions that are exempt under this subdivision shall be due five working days immediately following the month in which compensation is awarded and shall be late thereafter, and the balance of contributions are due 15 working days following the month in which compensation is awarded and shall be late thereafter.
  - (2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a member for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. 95 percent of the contributions that are exempt under this subdivision shall be due five working days immediately following the month in which the period of time expires and shall be late thereafter, and the balance of contributions shall be due 15 working days following the month in which the period of time expires and shall be late thereafter.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code. Reference: Sections 22119.2, 22119.3, 22905, 23002 and 23003, Education Code.*

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**§ 27008. Assessment of Interest on Late Contributions - Cash Balance Benefit Program.**

- (a) Interest shall be charged on contributions received more than 10 working days after the date those contributions are due and compounded daily based on the regular interest rate in effect that day.
- (b) The interest assessed on late contributions provided for in this section shall not apply to adjustments made to contributions for a pay period prior to the effective date of this article.
- (c) Adjustments to contributions remitted in a prior pay period shall not be subject to the interest assessed on late contributions provided for in this section if all of the following are true:
- (1) The adjustments are made for all members of a class of employees;
  - (2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code;
  - (3) The adjustments become effective contemporaneously with the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation; and
  - (4) The adjustments are remitted to the system within 90 days of the effective date of the written employment agreement or the effective date of the provision in the agreement providing for future increases in compensation.
- (d) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, contributions for the substitute or part-time position that are otherwise late shall not be subject to the interest assessed on late contributions provided for in this section if all of the following are true:
- (1) The date the substitute or part-time position is paid is based upon a published salary schedule;
  - (2) That date is no more than 31 calendar days following the last day of the pay period in which the compensation being reported was earned; and
  - (3) The contributions are received 10 working days immediately following the date the substitute or part-time position is paid.
- (e) Contributions that are otherwise late shall not be subject to the interest assessed on late contributions provided for in this section during the following periods of time:
- (1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The contributions that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which compensation is awarded and shall be late thereafter.
  - (2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive change in the creditable compensation paid to a participant for prior service, if that retroactive change results in a change in the amount of contributions due for that period of time. The contributions that are exempt under this subdivision shall be due 10 working days immediately following the pay period in which the period of time expires and shall be late thereafter.

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*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214,*

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*22250 and 22305, Education Code. Reference: Section 26303, Education Code.*

**§ 27009. Right to an Administrative Hearing.**

An administrative hearing shall be available to an employer that reports directly to the system when there is disagreement over the assessment of penalties, interest, or both, pursuant to this article. A written request for an administrative hearing and the reasons therefore must be received by the System at its headquarters within 90 days of the mailing of written notice of such penalties, interest, or both. If no request for an administrative hearing is made within the time prescribed, the penalties, interest, or both assessed shall be final and any right to an administrative hearing or judicial review shall be deemed forfeit and waived.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22219, 22250 and 22305, Education Code. Reference: Sections 23010 and 26303.5, Education Code.*

**Article 16. Member's Right to Internal Informal Appeal of a Determination by CalSTRS Staff of a Right to a Benefit or Obligation**

**§ 27100. Definitions.**

(a) For purposes of this article, an applicant seeking an administrative remedy is defined as any member, former member, participant, former participant, or beneficiary requesting review or appealing with respect to payment of allowances, benefits or refunds, or with respect to crediting service, or correction of records pursuant to Parts 13, 13.5 and 14 of Division 1 of Title 1 of the Education Code and Title 5, Division 3, Chapter 1, section 20520 of the California Code of Regulations.

(b) For purposes of this article, Program Executive is defined as the CalSTRS Executive, or his/her designee, overseeing the Program Area to which the administrative matter was assigned, as deemed appropriate by the System.

(c) For purposes of this article, a Decision means a decision designated as final by a Director of the Program Area, or his/her designee, to which the administrative matter was assigned, as deemed appropriate by the System.

(d) For purposes of this article, a Determination means a determination made by the Program Executive, the Director of Audit Services, or his/her designee.

(e) For purposes of this article, System Headquarters is defined by Education Code section 22375.

(f) For purposes of this article, a Field Office is a retirement counseling office defined by Education Code section 22303 which is either established by contract or by the System.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Section 22219, Education Code. Reference: Sections 22107, 22108, 22146, 22161.5, 22174, 22303, 22375 and 26132, Education Code.*

**§ 27101. Administrative Remedy for Benefits & Services and Financial Services.**

(a) Any applicant who disagrees with a Decision, excluding audit findings as referenced in section 27102, may request a review of that Decision by the Program Executive. The request for review must:

(1) Be made in writing;

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(2) Be addressed to the Program Executive;

(3) State all facts, any basis in the Education Code or other law that applicant believes are relevant, and any other pertinent information, which may include but is not limited to medical records, which the applicant relies on to dispute the Decision.

(A) The stated facts, law, and pertinent information, which may include but is not limited to medical records, must be submitted with all documentary evidence applicable to the disputed Decision. If there is no documentary evidence, the writing should expressly state there is an absence of such evidence.

(B) It is the applicant's burden to show that the facts, law, and pertinent information would provide a legal basis for CalSTRS to reverse the Decision.

(4) Within forty-five (45) days after the date of the disputed written Decision, be received by the System Headquarters or by a CalSTRS Field Office or at the following email address:

[CalSTRSInternalReview@calstrs.com].

(b) CalSTRS will inform the applicant of the applicant's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, notify the applicant that the applicant has a right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

(c) If the applicant's request for review by a Program Executive ("Executive Review") does not contain additional information or legal basis for review beyond the facts and/or documentary evidence previously provided to or obtained by the program area and merely repeats information previously provided, the applicant's request for Executive Review by the Program Executive shall be denied and the applicant may request an administrative hearing. The Program Executive may consult with CalSTRS staff prior to denying applicant's request for Executive Review.

(d) If the Program Executive determines that the applicant has provided sufficient additional information or legal basis for review, the Program Executive will review the Decision and make one of the following Determinations:

(1) Based upon review of the law and facts, including any additional information provided by applicant, applicant has not provided a legal basis to reverse the Decision and has therefore failed to meet his or her legal burden. The Program Executive shall inform the party in writing of the Determination and the applicant's right to an administrative hearing.

(2) Informal fact finding is necessary in regard to the applicant's dispute with the Decision and the matter is referred to staff for investigation. The informal factual investigation may include, but is not limited to, inquiries made to the applicant and requests for further documentary evidence pursuant to Education Code sections 22207, 22250, 22450, 24003, 24103, and 26002. The applicant must in good faith cooperate with and respond to staff.

(A) The applicant must respond in writing, either through mail, facsimile or email, to any inquiries made and/or requests for further documentary evidence. If the applicant fails to respond in writing or produce documentary evidence within forty-five (45) days after the inquiry or request was made, the applicant shall be deemed to have waived the right to pursue any additional administrative remedies. Accordingly, the Decision will be deemed to be a Determination by the Program Executive.

(B) At the discretion of the Program Executive an extension to respond to any inquiries made and/or

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requests for further documentary evidence may be granted if the request for an extension is made prior to the last day to respond, in writing, and received at the System Headquarters, at a CalSTRS field office, or at the following email address: [CalSTRSInternalReview@calstrs.com].

(C) Upon completion of the informal factual investigation, the Program Executive will conduct a review of the additional information, the legal basis for review that applicant believes are relevant, and the information gathered through investigation. The review may include consultation with, including but not limited to, staff, the Ombudsman, a Legal Services representative, and a representative from the relevant program area. After the review is complete, the Program Executive shall make a Determination and shall inform the applicant in writing within fifteen (15) days. If the applicant disagrees with the Program Executive's Determination under subdivisions d(1) or d(2)(C) of this section, the applicant may request an administrative hearing.

(e) The request for an administrative hearing shall be directed to CalSTRS Legal Services within ninety (90) days of the date of the Determination signed by the Program Executive. The request shall be in writing and mailed to the following address: CalSTRS Legal Services, PO Box 15275, MS #3, Sacramento, CA 95851. If the applicant fails to make a written request for administrative hearing within the time prescribed, the Program Executive's Determination shall be final and the right to an administrative hearing shall be deemed waived.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22219 and 26002, Education Code. Reference: Sections 22207, 22250, 22303, 22375, 22450, 22455, 24003, 24103, 26002, 26132 and 26301, Education Code; and Sections 11415.40 and 11505(b), Government Code.*

### **§ 27102. Administrative Remedy for Audits.**

(a) If an applicant, as defined in Section 27100, subdivision (a) or an entity, including but not limited to a public agency or employer, is affected by the preliminary findings of an audit pursuant to Education Code section 22206, the applicant or the entity may provide a written response to the preliminary audit findings. A final audit report is a Determination and is not subject to internal review by a Program Executive ("Executive Review") or the Director of Audit Services.

(b) CalSTRS will inform the applicant or entity of the applicant's or entity's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings and provide notification of the right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

(c) If an applicant or entity disagrees with the final audit Determination, the applicant or entity may request an administrative hearing. The request for an administrative hearing shall be directed to the CalSTRS Legal Services within ninety (90) days from the date of the final audit Determination. The request shall be in writing and mailed to the following address: CalSTRS Legal Services, PO Box 15275, MS #3, Sacramento, CA 95851. If an applicant or entity fails to request an administrative hearing within the time prescribed, such Determination or action shall be final and the right to an administrative hearing shall be deemed waived.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Section 22219, Education Code.*

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*Reference: Sections 22206 and 22375, Education Code; and Section 11505(b), Government Code.*

**§ 27103. Administrative Hearing.**

Following the timely receipt of an administrative hearing request, the CalSTRS Legal Services or the Attorney General's Office will process the request for hearing in accordance with the provisions of Education Code section 22219, subdivision (b) relating to administrative litigation.

*Note: Authority cited: California Constitution, Article XVI, Section 17; Section 22219, Education Code; and Section 11501, Government Code. Reference: Section 22219, Education Code.*

## **Chapter 2. Compensation**

### **Article 1. General Provisions**

**§ 27200. Members Affected by This Chapter.**

This chapter applies to members who are not subject to the California Public Employees' Pension Reform Act of 2013 (Article 4 [commencing with Section 7522] of Chapter 21 of Division 7 of Title 1 of the Government Code).

*Note: Authority cited: Section 22305, Education Code. Reference: Sections 22119.2 and 22305, Education Code.*

**§ 27201. Effective Date.**

The provisions of Articles 2 through 4 and Section 27602 of Article 5 of this chapter are effective beginning with compensation that is earned for service performed on or after January 1, 2015. The provisions of Sections 27600 and 27601 are effective on or after January 1, 2015, regardless of the date service was performed.

*Note: Authority cited: Sections 22213 and 22305, Education Code. Reference: Section 22213, Education Code.*

### **Article 2. Class of Employees**

**§ 27300. Basis of Establishment of a Class of Employees.**

(a) One or more employees constitute a class of employees pursuant to Section 22112.5 of the Education Code on the basis of any of the following:

(1) Similarity of the job duties being performed.

(A) Job duties are those activities described as creditable service in Section 22119.5 of the Education Code.

(B) The job duties grouped within each paragraph and subdivision of Section 22119.5 of the Education Code are deemed similar for the purposes of this subdivision.

(C) An employer may establish a class that is comprised of employees whose assignment is a combination of two or more job duties.

(D) Employees performing similar job duties who are also performing activities that are related to, and

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an outgrowth of, the instructional and guidance program of the school belong to the class of employees performing the similar job duties, unless they are placed in a separate class pursuant to subparagraph (C).

(E) If an employer establishes a class comprised of one employee, the employer must demonstrate that job duties for that class are in common use by at least two other employers.

(2) Employment in the same type of program.

(A) A program is either of the following:

(i) An educational program established pursuant to state or federal law.

(ii) An educational program established under a Local Control and Accountability Plan pursuant to Section 52060 of the Education Code.

(B) One or more employees may be considered a separate class because they work in a separate program as defined in subparagraph (A) from other employees who have similar job duties.

(3) The employees share other similarities related to the nature of the work being performed.

*NOTE: Authority cited: Sections 22112.5, 22119.2, 22213 and 22305, Education Code. Reference: Sections 22112.5 and 22119.5, Education Code.*

### **§ 27301. Prohibited classes of employees.**

(a) An employer may not establish a class of employees that is distinguished by any of the following:

(1) The retirement benefit formula or retirement program.

(2) A minimum or maximum threshold for age or service credit.

(3) The characterization or restructuring of compensation, in the absence of the criteria described in Section 27300.

(4) An option or requirement for one or more employees who perform similar job duties to work a longer or shorter day, or work more or fewer days per year, performing similar job duties, in the absence of the criteria described in paragraph (2) of subdivision (a) of Section 27300, except as provided in subdivision (c) of Section 22138.5 of the Education Code for the minimum standard for full time in community colleges.

(5) Performing only activities related to, and an outgrowth of, the instructional and guidance program of the school, because those activities must be performed in addition to other activities described in Section 22119.5 of the Education Code in order to be creditable service.

*Note: Authority cited: Sections 22305, 22112.5, 22119.2, 22207, and 22213, Education Code. Reference: Sections 22112.5, 22119.5, and 22138.5, Education Code.*

## **Article 3. Creditable Compensation**

### **§ 27400. Salary.**

(a) Salary is compensation that meets all of the following requirements:

(1) Is paid in cash by an employer to an employee in accordance with a publicly available written contractual agreement.

(2) Is paid for the performance of creditable service activities described in Section 22119.5 of the

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Education Code.

(3) Is any of the following:

(A) Explicitly characterized as salary in the agreement, and used as a basis for future pay increases.

(B) Paid to perform creditable service activities that are related to, and an outgrowth of, the instructional and guidance program of the school.

(C) Paid to perform creditable service activities that are related to the examination, selection, in-service training, mentoring, or assignment of teachers, principals, or other similar personnel involved in the instructional program.

(4) Paid without a requirement by the employer for proof of expenditure.

(b) The employer must establish a compensation earnable for all assignments for which an employee will earn salary.

(1) If an employer provides compensation in exchange for performing activities described in subparagraph (B) or (C) of paragraph (3) of subdivision (a), the compensation is for service, and the employer must establish a compensation earnable for those activities.

(c) If compensation is restructured into salary, regardless of how it was paid previously, the compensation will be considered salary beginning on the effective date of the restructure.

(d) Salary includes amounts deducted from salary at the discretion of the employee.

*NOTE: Authority cited: Sections 22119.2, 22119.5, 22138.5, 22207, 22213, 22214, 22215, 22305 and 22458, Education Code. Reference: Sections 22115, 22119.2, 22119.5, 22138.5 and 22138.6, Education Code.*

**§ 27401. Remuneration that is paid in addition to salary.**

(a) Remuneration in addition to salary is compensation that meets all of the following requirements:

(1) Is paid in cash in accordance with a publicly available written contractual agreement where applicable and required by law.

(2) Is not associated with the performance of additional service.

(A) When the contractual full time is based on load credits or a similar non-time based measure, additional service includes any service that is associated with earning those credits.

(3) Is paid to all persons who are in a class of employees, in the same dollar amount, same percentage of salary or same percentage of amount being distributed.

(4) Is paid in the same manner to all members of the class of employees, and is not available in an alternative form that is subject to choice on an individual basis by an employee or an employer.

(5) Is paid without a requirement by the employer for proof of expenditure.

(6) Is paid contingent on either of the following:

(A) Availability of funds.

(B) Meeting any of the following qualifications or requirements:

(i) Possession or attainment of a certificate, license, special credential or advanced degree.

(ii) Career or service longevity.

(iii) Hiring, transfer or retirement.

(iv) Employment in a position that is hazardous or difficult to staff.

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- (v) Employment in an assignment in which the number of students enrolled exceeds the contractual class size maximum.
- (vi) Achievement of a performance benchmark.
- (b) If compensation is restructured into remuneration in addition to salary, regardless of how it was paid previously, the compensation is remuneration in addition to salary beginning on the effective date of the restructure.
- (c) Remuneration in addition to salary does not include the following as described in Sections 27501 and 27502:
  - (1) Cash paid by an employer to an employee who receives cash in lieu of a fringe benefit, or cash in lieu of an expense paid or reimbursed by the employer.
  - (2) Cash paid by an employer on behalf of an employee for a fringe benefit, expense or reimbursement.
  - (3) Cash paid by an employer to an employee that is the remainder from money allocated for fringe benefits or expenses that are paid by the employer.

*NOTE: Authority cited: Sections 22119.2, 22119.5, 22207, 22213, 22214, 22215, 22305 and 22458, Education Code. Reference: Section 22119.2, Education Code.*

## **Article 4. Noncreditable Compensation**

### **§ 27500. Amounts not deducted from a member's salary.**

- (a) Compensation paid in addition to salary that is contingent upon the purchase of any of the items described in paragraph (5) of subdivision (a) of Section 22119.2 of the Education Code is deemed covered by the employer and is not creditable compensation.

*Note: Authority cited: Sections 22305, 22119.2, 22207, 22213, and 22250, Education Code. Reference: Sections 22119.2, 22458, and 24950, Education Code.*

### **§ 27501. Fringe benefit.**

- (a) A fringe benefit is any of the following:
  - (1) A good or service for which the cost is paid to a third party or otherwise covered by the employer.
  - (2) Compensation allocated to an employee to cover a personal or business expense that could otherwise be provided in the form of a good or service as specified in paragraph (1).
  - (3) Cash in lieu of, or cash remaining from, a good or service as specified in paragraph (1).
- (b) If any part of creditable compensation is restructured into a fringe benefit, that amount will not be considered creditable compensation beginning with the effective date of the restructure.

*Note: Authority cited: Sections 22305 and 22119.2, Education Code. Reference: Section 22119.2, Education Code.*

### **§ 27502. Expenses paid or reimbursed by an employer.**

- (a) An expense paid by an employer includes any of the following:
  - (1) Compensation allocated to an employee to cover a cost the employee is expected to incur in the course of performing duties for that employer, which could otherwise be covered by the employer or

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provided in the form of a reimbursement of the cost.

(2) Cash paid directly to a third party or a cost that is otherwise covered by the employer.

(3) Cash in lieu of, or cash remaining from, compensation allocated to cover a cost pursuant to paragraph (1).

(b) An expense reimbursed by an employer is cash paid to the employee that meets all the following requirements:

(1) There is a business connection to the expenditure.

(2) The employee is required to provide documentation or accounting of the expenditure to the employer.

(3) The employee is required to return excess reimbursements or advances to the employer if actual incurred expenses are less than the amount reimbursed or advanced.

(c) If any part of creditable compensation is restructured into an expense paid or reimbursed by the employer, that amount will not be considered creditable compensation beginning with the effective date of the restructure.

*Note: Authority cited: Sections 22305 and 22119.2, Education Code. Reference: Section 22119.2, Education Code.*

## **Article 5. Appropriate Crediting of Contributions**

### **§ 27600. Consistent treatment of compensation.**

(a) In assessing the consistency of an increase that occurs during the period of time specified in subdivision (f), an increase is consistent if the employer demonstrates that it is due to any of the following:

(1) A restructure of compensation that is a permanent change, as indicated by not meeting either of the criteria for inconsistency described in subdivision (d).

(2) A salary deferral due to a reduction in school funds.

(3) A commensurate percentage increase in compensation earnable for the majority of members employed by the same employer.

(4) A change in duties required of the employee that is incorporated in the first contract for the immediate successor to the position.

(5) An increase in responsibility of the employee that is incorporated in the first contract for the immediate successor to the position.

(6) Attainment of an educational or performance benchmark.

(7) An increase that establishes pay parity as demonstrated by any of the following:

(A) Commensurate compensation earnable for that same position in the past.

(B) Commensurate compensation earnable for other employees performing similar duties for the same employer or other employers.

(8) A commensurate compensation earnable for the immediate successor.

(9) A commensurate compensation earnable for the immediate predecessor.

(10) More education or experience than the immediate predecessor.

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(11) An increase in compensation that is required to recruit for a position which is directly responding to a specific time-bound financial crisis, not to exceed 150 percent of the base compensation earnable of the predecessor in the position or the most similar position prior to the crisis. For the purposes of this paragraph, a specific time-bound financial crisis is, for school districts, a negative certification of financial obligations pursuant to Section 1240 of the Education Code or, for community college districts, a finding of serious hardship of financial condition as defined in subdivision (c) of Section 59204 of Subchapter 4, Chapter 10, Division 6 of this Title.

(b) In assessing the consistent treatment of compensation for a position, if the successor's compensation earnable is lower than the member's, the member's compensation shall not be presumed to be inconsistent solely by reason of the reduced successor pay.

(c) In assessing the consistency of an increase that occurs during the period of time specified in subdivision (f), an increase that is not due to any of the circumstances listed in subdivision (a) is presumed to be inconsistent.

(d) A restructure of compensation pursuant to paragraph (1) of subdivision (a) is inconsistent if either of the following applies:

(1) The restructure is effective on or after January 1, 2016, and is outside of that employer's standard bargaining or employment contract negotiation time frames.

(2) The restructure is implemented for a class of one, and the change is reversed upon hire and negotiation of the first contract of the immediate successor.

(e) Notwithstanding subdivision (a), if there is determined to be a pattern of late career changes that result in additional compensation that the system determines was paid to enhance a member's benefits, such as, but not limited to, assignment of duties or responsibilities by an employer to employees during the final compensation period, the additional compensation for those duties is presumed to be inconsistent.

(f) (1) For a member whose initial final compensation after his or her most recent retirement is calculated using a period of 36 or 12 consecutive months pursuant to Section 22134, 22134.5 or 22135 of the Education Code, the period of time is seven years preceding and including the last day used to calculate final compensation.

(2) For a member whose initial final compensation after his or her most recent retirement is calculated using nonconsecutive periods of time due to a reduction in school funds as permitted by Education Code section 22134, the period of time begins four years prior to the first day used to calculate final compensation and ends on the last day used to calculate final compensation.

*NOTE: Authority cited: Sections 22119.2, 22207, 22215, 22250, 22305 and 22458, Education Code.  
Reference: Sections 22112.5, 22119.2, 22458 and 22905, Education Code.*

### **§ 27601. Appropriate crediting of contributions.**

(a) Upon determination that compensation was treated inconsistently, except in cases where an adjustment to the crediting of contributions would not result in a change to a member's final compensation, CalSTRS shall limit the amount of contributions that are credited to the Defined Benefit Program during the period of time specified in subdivision (b).

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(1) If the inconsistent treatment of compensation is the result of a restructure of compensation, the employer shall report the amount that was restructured to the member's Defined Benefit Supplement account.

(2) If the inconsistent treatment of compensation is not attributable to a restructure, the employer shall report the portion of compensation in excess of the following thresholds to the member's Defined Benefit Supplement account:

(A) For inconsistent compensation increases concurrent with a change in position, the threshold for the fiscal year in which the inconsistent compensation increase occurred is the immediate predecessor's salary increased by the percentage calculated pursuant to paragraph (3). The resulting amount is the baseline on which the percentage increase calculated pursuant to paragraph (4) shall be applied to determine the threshold for each subsequent fiscal year.

(B) For inconsistent compensation increases not concurrent with a change in position, the threshold for the fiscal year in which the inconsistent compensation increase occurred is the member's compensation earnable for the year prior to the year in which the inconsistent increase occurred increased by the percentage calculated pursuant to paragraph (3). The resulting amount is the baseline on which the percentage increase calculated pursuant to paragraph (4) shall be applied to determine the threshold for each subsequent fiscal year.

(3) For the purposes of subparagraphs (A) and (B) of paragraph (2), the percentage increase to establish the baseline amount shall be the greater of either (A) or (B), whichever is applicable, or (C), as follows:

(A) 150 percent of the median percentage increase of the compensation earnable of the members at the member's employer between that fiscal year and the previous fiscal year, if that employer has at least 30 members.

(B) 150 percent of the median percentage increase of the compensation earnable of the members within the member's county between that fiscal year and the previous fiscal year, if the member's employer has less than 30 members.

(C) 150 percent of the median percentage increase of the compensation earnable of active members statewide, or zero, whichever is greater.

(4) For the purposes of subparagraphs (A) and (B) of paragraph (2), the percentage increase applied during each subsequent fiscal year shall be calculated as follows:

(A) For each subsequent inconsistent increase that is not concurrent with a change in position, the percentage calculated pursuant to paragraph (3) is applied to the prior year's threshold amount.

(B) For each subsequent inconsistent increase that is concurrent with a change in position, the percentage calculated pursuant to paragraph (3) is applied to the immediate predecessor's salary.

(C) For each subsequent consistent increase that is not concurrent with a change in position, the same percentage increase that the member earned is applied to the prior year's threshold amount.

(D) For each subsequent consistent increase that is concurrent with a change in position, the threshold amount is the actual compensation earnable for that new position.

(b) (1) For a member whose initial final compensation after his or her most recent retirement is calculated using a period of 36 or 12 consecutive months pursuant to Section 22134, 22134.5 or 22135 of the Education Code, the period of time shall not exceed the seven years preceding and including the

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last day used to calculate the member's final compensation.

(2) For a member whose initial final compensation after his or her most recent retirement is calculated using nonconsecutive periods of time due to a reduction in school funds as permitted by Education Code section 22134, the period of time shall not exceed the number of years that begins four years prior to the first day used to calculate final compensation and ends on the last day used to calculate final compensation.

*NOTE: Authority cited: Sections 22119.2, 22207, 22213 and 22305, Education Code. Reference: Sections 22112.5, 22119.2 and 22458, Education Code.*

### **§ 27602. Compensation that is paid a limited number of times.**

(a) Compensation is creditable to the Defined Benefit Supplement account if compensation was restructured into salary or remuneration in addition to salary as described in subdivision (c) of Section 27400 or subdivision (b) of Section 27401, and is paid a limited number of times, has a specified end date, or is otherwise not permanent.

(b) Contributions for remuneration in addition to salary that is paid pursuant to Section 27401 shall be credited to the member's Defined Benefit Supplement account if the compensation is not ongoing, as limited by either of the following:

(A) The number of times is specified in law or in a publicly available written contractual agreement.

(B) The compensation is not scheduled to continue.

*NOTE: Authority cited: Sections 22119.2, 22305 and 22458, Education Code. Reference: Sections 22119.2 and 22905, Education Code.*

## **Chapter 3. Employer Reporting**

### **Article 1. Employer Direct Reporting**

#### **§ 27700. Definitions.**

(a) As used in this chapter:

(1) Unless otherwise specifically named, "board" means the Teachers' Retirement Board.

(2) "County" means the county superintendent of schools.

(3) "County governing authority" means the county board of education, or, if in possession of the relevant authority to perform the activities specified in this Article, the county superintendent of schools.

(4) "Direct report" means an elementary, high school, or unified school district, or a community college district, that is approved to report directly to the system such information as that the Teachers' Retirement Board may require in the administration of the State Teachers' Retirement Plan.

(5) "District" means an elementary, high school, or unified school district, or a community college district.

(6) "System" means the California State Teachers' Retirement System.

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*Note: Authority cited: Sections 22207, 22213 and 22305, Education Code. Reference: Section 23004, Education Code.*

**§ 27701. Effective Date.**

(a) The regulations shall be effective for districts that are currently approved as direct reports and to those that apply or are in the process of applying to become direct reports to the Defined Benefit Program on or after January 1, 2016.

(b) The effective date of becoming a new direct report shall be July 1 of the year specified in the resolution adopted by the district governing board.

*Note: Authority cited: Sections 22207, 22213 and 22305, Education Code. Reference: Section 23004, Education Code.*

**§ 27702. Prerequisites to Approval.**

(a) A district may apply to be a direct report to the system. The Teachers' Retirement Board may approve or may deny a district as a direct report based on the criteria in subdivisions (b) and (c).

(b) An applicant to become a direct report shall be in compliance with all of the following requirements. Failure to comply with the requirements of this subdivision shall result in the denial of the application to become a direct report.

(1) The district has submitted the applicable resolutions by the district's governing board and the county governing authority required under Section 27703, and there has been no change to the accuracy of each of the declarations therein.

(2) The district has demonstrated the ability to successfully transmit files to the system formatted pursuant to this division.

(3) If the district was previously terminated as a direct report, more than five fiscal years have elapsed since the effective date of the termination.

(4) In the 36 months preceding its application to become a direct report, the district had an audit conducted by the system that demonstrated full compliance with reporting the following consistent with the Teachers' Retirement Law:

(A) Mandatory membership.

(B) One-time or limited-term payments reported to the Defined Benefit Supplement Program.

(C) Outgrowth activities as creditable service.

(D) Information regarding the compensation to be paid to employees, including, but not limited to, employment contracts, written agreements, salary schedules, and board minutes.

(5) A review conducted by the system demonstrates sustained compliance with all of the following over the 12-month period preceding the district's application:

(A) Responding to the system's requests for adjustments within 60 days.

(B) Providing acceptable annotations to employer-approved edits in the file layouts specified in this division electronically in an encrypted format provided by the system.

(C) Reporting full-time minimum standards consistent with a written agreement with an exclusive representative.

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(D) Providing the system with information regarding the compensation to be paid to employees within 30 days of a request by the system.

(c) The board may deny an application to become a direct report if it finds any of the following:

(1) The district has any outstanding or unresolved audit findings from the system at any point during the application process.

(2) There are any accounts receivable 30 or more days past due to the system attributable to the district at any point during the application process.

(3) If the district was previously rejected by the system from entry as a direct report due to an audit or review finding under these regulations, and the rejection occurred within the previous five fiscal years.

(d) The board may, at its discretion, defer consideration of an application until a future fiscal year.

*Note: Authority cited: Sections 22207, 22213, 22305 and 23004, Education Code. Reference: Section 22458 and 23004, Education Code.*

### **§ 27703. Documentation Required with Application to Become a Direct Report.**

(a) An applicant to become a direct report shall submit the following documentation with the following content:

(1) If contributions required to be paid by a member are picked up for the sole purpose of deferring taxes as authorized by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C.A Sec 414(h)(2)) and Section 17501 of the Revenue and Taxation Code, a resolution adopted by the district's governing board certifying its intent to pick up member contributions in compliance with those provisions and the Teachers' Retirement Law.

(2) A resolution adopted by the district's governing board resolving to become a direct report to the system and certifying each of the following.

(A) "[District] hereby elects to become a direct report to the California State Teachers' Retirement System, effective on July 1, [effective year]."

(B) "[District] has a payroll system independent of the county."

(C) The district is fiscally accountable, fiscally independent, or both, as demonstrated by including the relevant statements from either of the following subdivisions:

(i) For a school district: "[District] is [fiscally accountable as defined in Section 42647/ fiscally independent as defined in Section 42650/ both fiscally accountable and fiscally independent as defined in Sections 42647 and 42650] of the Education Code."

(ii) For a community college district: "[District] is [fiscally accountable as defined in Section 85266/ fiscally independent as defined in Section 85266.5/ both fiscally accountable and fiscally independent as defined in Sections 85266 and 85266.5] of the Education Code."

(D) "[District] has the ability to be in full compliance with the file layouts specified in Division 3 of Title 5 of the California Code of Regulations."

(E) "[District] is responsible for submitting contribution data and remitting contributions in accordance with the Teachers' Retirement Law."

(F) "[District] is responsible for submitting contribution data and remitting contributions for all adjustments to contributions that relate to service performed prior to the effective date of the direct

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reporting relationship as requested by the system or as identified by the district.”

(G) “[District] is responsible for payment of any penalty assessments for contributions and data submitted as a direct report on or after the effective date of the direct reporting relationship.”

(H) “[District] is responsible for submitting all contribution data and remitting all contributions on and after the effective date of becoming a direct report.”

(I) “For the last five fiscal years, [District] has been issued an unqualified opinion on its annual financial audit pursuant to Section 41020 or 84040 of the Education Code.”

(J) The district has maintained a status of acceptable standing with the most current accrediting body by affirming the relevant statement from either of the following subdivisions:

(i) For a school district: “[District] has not been on probationary accreditation status nor had its accreditation status withheld by the most current accreditation body sanctioned by the California Department of Education in the last five fiscal years.”

(ii) For a community college district: “[District] has not been ordered to show cause or been subject to the equivalent strictest sanctions applied from the most current accreditation body sanctioned by the Board of Governors of the California Community Colleges in the last five fiscal years.”

(K) “[District] shall notify the system within three business days if its payroll operations are no longer independent of the county or if its fiscally accountable status or fiscal independence is revoked. If any of these occur, the district shall cease submitting contribution data and remitting contributions to the system directly and shall resume submitting contribution data and remitting contributions through [County] effective on the date following revocation.”

(L) The relevant statement from either of the following subdivisions:

(i) For a school district: “[District] shall notify the system within three business days if it is placed on one-year probationary accreditation status or has its accreditation status withheld or an equivalent status by the accrediting body.”

(ii) For a community college district, “[District] shall notify the system within three business days if it is ordered to show cause or is placed on an equivalent status or sanction by the accrediting body.”

(M) “If [district] is terminated as a direct report, [County] shall be responsible for submitting or remitting any missed reports, adjustments, contributions, penalties, and interest associated with the time period that the district was a direct report.”

(N) “[District] may terminate the direct reporting relationship only when the system, the district, and [County] have agreed to the employer terminating the relationship.”

(3) A resolution adopted by the county governing authority authorizing the district to become a direct report to the system and certifying each of the following:

(A) “On [date district's governing board approved resolution], [District] elected to become a direct report to the system effective on July 1, [effective year].”

(B) “[District] meets the eligibility requirements of the system, as specified on a resolution adopted by the district's governing board to become a direct report pursuant to paragraph (2) of subdivision (a) of Section 27703 of the California Code of Regulations.”

(C) “[County] is not responsible for submitting contribution data and remitting contributions, including adjustments to contribution data and contributions made prior to the effective date of [District]”

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becoming a direct report.”

(D) “[County] is not responsible for any penalty or interest assessments for contributions and data submitted by [District] as a direct report on or after the effective date of becoming a direct report for the duration of the direct reporting relationship.”

(E) “If [District] is terminated as a direct report, [County] is responsible for submitting and remitting any and all reports, adjustments, contributions, penalties and interest to the system.”

(F) “[County] shall notify the system within three business days of revocation should the district's fiscally accountable status or fiscal independence be revoked, and shall resume submitting contribution data and remittance on behalf of the district on the revocation effective date.”

*Note: Authority cited: Sections 22207, 22213, 23004 and 22305, Education Code. Reference: Section 23004, Education Code.*

#### **§ 27704. Termination of Direct Reporting Relationship.**

(a) The system may initiate termination of a direct reporting relationship at any time if any of the criteria or requirements for approval or responsibilities as a direct report are not met.

(b) The system may terminate the direct reporting relationship if the district does not respond through compliance to an audit finding by the system by the due date specified on the audit determination letter, or through appeal within 90 days.

(c) The district may voluntarily terminate the direct reporting relationship only when the system, the district's governing body, and the county governing authority have mutually agreed to terminate the relationship, documented by a resolution specifying the effective date of the termination and approved by the district governing body, the county governing authority, and the Chief Executive Officer of the system or his or her designee. The resolution shall certify each of the following:

(1) “WHEREAS, [District] desires to terminate the relationship as a direct report that reports Defined Benefit contribution data and remits contributions directly to CalSTRS; and”

(2) “WHEREAS, the system Chief Executive Officer or his or her designee authorizes the District to terminate the relationship to report directly to the system; and”

(3) “WHEREAS, [County] does hereby affirm that [County] is responsible for submitting and remitting any and all reports, adjustments, contributions, penalties and interest beginning on the effective date of the termination and covering all time periods, including the period that [District] was a direct report to the system.”

(4) “THEREFORE, BE IT RESOLVED that the California State Teachers' Retirement System and [County] authorize [District] to discontinue as a direct report to the system.”

*Note: Authority cited: Sections 22207, 22213, 23004 and 22305, Education Code. Reference: Section 23004, Education Code.*

#### **§ 27705. Review of Termination of Direct Reporting Relationship.**

(a) A district may request a review of the system's decision to terminate the direct reporting relationship by the Chief Executive Officer of the system or his or her designee. The request must be submitted in writing and be received by System Headquarters or by a CalSTRS Field Office or at the following email

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address: [CalSTRSInternalReview@calstrs.com] within 30 days of the district's receipt of the relationship termination letter. The resulting decision after such a review shall be final.

*Note: Authority cited: Sections 22207, 22213, 23004 and 22305, Education Code. Reference: Section 23004, Education Code.*

## **Article 2. Format For Employer Reports**

### **§ 27800. Format for Employer Reports.**

Beginning on a date specified by the board but no earlier than October 1, 2021, and with notice issued no later than 90 days prior to that date, employers shall file reports through CalSTRS' secure employer website as follows:

(a) Employers reporting identifying member information to establish a new account or to update existing member information shall submit such information by one of the following methods:

(1) Complying with the CalSTRS' Employment File Layout, as of June 18, 2019, and hereby incorporated by reference.

(2) Entering the information specified in the CalSTRS' Employment File Layout through CalSTRS' secure employer website on a per-employee basis.

(b) Employers reporting contribution information for the Defined Benefit Program monthly or the Cash Balance Benefit Program each pay period shall comply with CalSTRS' Contribution File Layout, as of June 18, 2019, and hereby incorporated by reference.

(c) Employers unable to comply with either subdivision (a) or (b) may submit a written request for a waiver to CalSTRS.

(1) The written request for a waiver shall include the following:

(A) The name and address of the employer making the request.

(B) The reason or reasons that prevent the employer from being able to comply.

(C) A plan for compliance, including the date by which the employer will be able to comply.

(D) Acknowledgement that the employer will be responsive to any inquiries made by CalSTRS regarding their plan for compliance.

(E) The signature of the superintendent, chancellor, president, or chief executive of the employer or a designee.

(2) A waiver that includes all the information required in paragraph (1) of subdivision (c) shall be approved by the board for a period of six months, beginning on the date specified by the board pursuant to this section.

(3) The employer may submit a request for renewal of the waiver for an additional six-month period up to three additional times.

(4) Upon approval of a waiver by the board from the requirements in subdivisions (a) and (b), the employer shall file reports as follows:

(A) Employers reporting contribution information to the Defined Benefit Program shall comply with Section 1.3 of CalSTRS' F496 File Specification, as revised on February 24, 2016, and hereby incorporated by reference, subject to the following exclusions:

(i) Information in the "Field Edits" column.

(ii) The specific member contribution rates associated with field positions 53-56 and 91-94.

(B) Employers reporting contribution information to the Cash Balance Benefit Program shall comply with Section 1.3 of CalSTRS' Voluntary Deduction File Specification, as revised on July 1, 2015, and hereby incorporated by reference.

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(C) A field that contains a dollar value must be formatted as follows:

- (i) The number is reported without decimal places with the last two field positions populated by the number of cents.
- (ii) Use leading zeroes to populate the full breadth of the field.
- (iii) To report a negative number, report the last field with an uppercase alphabetical character or a symbol, coded as follows: "J" for negative values ending in 1, "K" for negative values ending in 2, and so on, with "R" for negative values ending in 9. Use "}" for negative values ending in 0.
- (iv) Alphabetical characters or symbols may also be used to denote positive values, but are not required.
- (d) This section prescribes the methods and formats by which information requested by CalSTRS shall be submitted. Unless a specific transaction is otherwise required by another statute or regulation, there is nothing within this section or referenced by this section that requires an employer to take any action.

*Note: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250, 22305, 22455, 23004 and 26301, Education Code. Reference: Sections 22455, 22457, 22717, 22717.5, 22718, 23004, 23006, 23008 and 26301, Education Code.*

**§ 27801. Acceptable Report.**

- (a) Contribution information for the Defined Benefit Program reported monthly or the Cash Balance Benefit Program reported each pay period to CalSTRS is acceptable if it is reported in compliance with subdivision (b) or (c) of Section 27800. Reports that fail to comply shall be rejected by CalSTRS, and will not be received.
- (b) A report shall contain the information as specified in Section 27800 for all employees who perform creditable service for an employer during the month or pay period.
- (c) Information reported pursuant to subdivision (b) or (c) of Section 27800 for one or more employees from a prior month or pay period shall be aggregated and treated as a separate report for the month or pay period to which it relates.
- (d) This section shall become operative on the date specified by the board pursuant to Section 27800.

*NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250, 22305, 23004 and 26301, Education Code. Reference: Sections 23004, 23005, 23006 and 26301, Education Code.*