

Title 5. Education

Division 3. Teachers' Retirement System

Chapter 1. Teacher's Retirement System

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

§ 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.

(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 calendar 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. The start of the 90-calendar day period shall be no earlier than the first date on which all of the following are true:

(A) The exclusive representative has completed its ratification process for the written employment agreement.

(B) The county superintendent of schools has adopted the agreement or the district's governing board has voted to approve the written employment agreement or has otherwise adopted that agreement.

(C) The employment agreement's provisions are operative.

(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 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.

(i) Those portions of a monthly report that are otherwise late shall not be subject to the penalties provided for in this section under any of the following circumstances:

(1) The employer's operations were impaired because of a natural, human-made or war-caused emergency under the conditions defined by the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) if ~~all~~ both of the following are true:

(A) The penalty is directly related to the employer's impaired operations during the emergency event.

(B) System staff possess documentation of such an emergency event.

(2) The employer reported information under direction given by the system in accordance with Education Code section 22325~~7~~ or 22326, or both.

(3) The penalty is demonstrably a result of an outage of CalSTRS' secure employer website or a constraint of the pension administration system.

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.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 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

(4) The adjustments are reported to the system within 90 calendar 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. The start of the 90-calendar day period shall be no earlier than the first date on which all of the following are true:

(A) The exclusive representative has completed its ratification process for the written employment agreement.

(B) The county superintendent of schools has adopted the agreement or the district's governing board has voted to approve the written employment agreement or has otherwise adopted that agreement.

(C) The employment agreement's provisions are operative.

(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.

(i) Those portions of a report that are otherwise late shall not be subject to the penalties provided for in this section under any of the following circumstances:

(1) The employer's operations were impaired because of a natural, human-made or war-caused emergency under the conditions defined by the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) if ~~all~~ both of the following are true:

(A) The penalty is directly related to the employer's impaired operations during the emergency event.

(B) System staff possess documentation of such an emergency event.

(2) The employer reported information under direction given by the system in accordance with Education Code section 22325, or 22326, or both.

(3) The penalty is demonstrably a result of an outage of CalSTRS' secure employer website or a constraint of the pension administration system.

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

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

2. Amendment of subsection (c)(1) filed 8-26-2016; operative 10-1-2016 (Register 2016, No. 35).

§ 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:

(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 calendar 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. The start of the 90-calendar day period shall be no earlier than the first date on which all of the following are true:

(A) The exclusive representative has completed its ratification process for the written employment agreement.

(B) The county superintendent of schools has adopted the agreement or the district's governing board has voted to approve the written employment agreement or has otherwise adopted that agreement.

(C) The employment agreement's provisions are operative.

(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.

(g) Contributions that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section under any of the following circumstances:

(1) The employer's operations were impaired because of a natural, human-made or war-caused emergency under the conditions defined by the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) if ~~all~~ both of the following are true:

(A) The penalty and interest are directly related to the employer's impaired operations during the emergency event.

(B) System staff possess documentation of such an emergency event.

(2) The employer submitted contributions under direction given by the system in accordance with Education Code section 22325~~7~~ or 22326, or both.

(3) The penalty and interest are demonstrably a result of an outage of CalSTRS' secure employer website or a constraint of the pension administration system.

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.

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

2. Amendment of subsection (a), new subsections (a)(1)-(a)(2)(B), amendment of subsections (b)(1), (e)(3) and (f)(1)-(2) and amendment of Note filed 2-26-2016; operative 3-1-2016 pursuant to Government Code section 11343.4(b)(3) (Register 2016, No. 9).

§ 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 calendar 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. The start of the 90-calendar day period shall be no earlier than the first date on which all of the following are true:

(A) The exclusive representative has completed its ratification process for the written employment agreement.

(B) The county superintendent of schools has adopted the agreement or the district's governing board has voted to approve the written employment agreement or has otherwise adopted that agreement.

(C) The employment agreement's provisions are operative.

(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.

(f) Contributions that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section under any of the following circumstances:

(1) The employer's operations were impaired because of a natural, human-made or war-caused emergency under the conditions defined by the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) if ~~all~~ both of the following are true:

(A) The penalty and interest are directly related to the employer's impaired operations during the emergency event.

(B) System staff possess documentation of such an emergency event.

(2) The employer submitted contributions under direction given by the system in accordance with Education Code section 22325~~5~~ or 22326, or both.

(3) The penalty and interest are demonstrably a result of an outage of CalSTRS' secure employer website or a constraint of the pension administration system.

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

1. New section filed 4-2-2012; operative 7-1-2012 pursuant to Government Code section 11343.4 (Register 2012, No. 14).

§ 27010. Interest accrues on the unpaid amount due

(a) Balances not paid in full within 30 calendar days after the invoice date are subject to regular interest from the initial invoice date until the balance is paid in full.

(b) Balances are paid in full when both of the following occur:

(1) The employer has sufficient moneys on deposit in the Teachers' Retirement Fund to pay the invoice in full.

(2) The employer informs CalSTRS which moneys on deposit will be applied to that invoice.

(c) This section shall not apply if an assessment of penalties, interest or both is reversed.

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