



California State Teachers'
Retirement System
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November 30, 2020

TO: All County Superintendents of Schools
District Superintendents of Schools
Community College Districts and
Other Employing Agencies

FROM: Jack Ehnes
EXECUTIVE OFFICE

SUBJECT: Employer Directive 2020-06
Changes to the Definition of "Leave of Absence" made by Chapter 275,
Statutes of 2020, (Assembly Bill 2101)
Supersedes the Leave of Absence section in Employer Directive 2016-02

PURPOSE:

This directive notifies employers of changes to Education Code section 22144.3 contained in Chapter 275, Statutes of 2020 (Assembly Bill 2101), which becomes effective January 1, 2021, and applies retroactively to January 1, 2016.

SCOPE:

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts and any agency that employs persons to perform creditable service under the CalSTRS Defined Benefit and Defined Benefit Supplement programs.

DISCUSSION:

Education Code sections 22119.2 and 22119.3 define "creditable compensation" as it pertains to CalSTRS 2% at 60 members and CalSTRS 2% at 62 members, respectively. Specifically, Education Code sections 22119.2(b)(1) and 22119.3(b)(1) define "creditable compensation" to include: "Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence,"

To specify what types of employer-approved compensated leaves of absences were creditable to CalSTRS, Chapter 123, Statutes of 2015 (Assembly Bill 991), added Section 22144.3 to the Education Code and previously defined "leave of absence" as "a period of leave to which a member is entitled that is expressly authorized or required by Chapter 4 (commencing with Section 44800) of Part 25 Division 3 of Title 2, or Chapter 1 (commencing with Section 87000) or Chapter 3 (commencing with Section 87400) of Part 51 of Division 7 of Title 3." This narrowed the definition of "leave of absence" and excluded certain types of leaves, including paid administrative leave, from being creditable to CalSTRS, effective January 1, 2016.

AB 2101 amends Education Code section 22144.3 to remove the requirement that a leave of absence be “expressly authorized” by specific sections of the Education Code, effectively reverting back to the statute as it read prior to January 1, 2016, in regard to other employer-approved leave. Consequently, this change allows remuneration that is paid for any employer-approved compensated leave of absence to be creditable to CalSTRS.

Action

Report compensation and remit the associated contributions for use of employer-approved compensated leaves of absence that meet the amended definition of “leave of absence” as stated in Education Code section 22144.3.

Report employer-approved compensated leaves of absence that were taken between January 1, 2016, and December 31, 2020, but which were previously excluded from the definition of “leave of absence,” and remit the associated contributions.

Important: When possible, please submit reporting adjustments for employer-approved compensated leaves of absence that were taken between January 1, 2016, and December 31, 2020, using a Supplemental File.

Penalties and Interest

Penalties and interest will automatically be assessed on any late reporting and late remittance of contributions. However, reporting and contributions that are late due to a change in statute that requires a retroactive change to creditable compensation are exempt from penalties and interest, if reports and contributions are submitted within the allotted timeframe, and CalSTRS can waive the assessed penalties and interest.

Section 27003 of Title 5 of the California Code of Regulations stipulates that reporting for a retroactive change in creditable compensation due to a statutory requirement is due 30 calendar days immediately following the month in which the statutory change is effective, and will be subject to penalties on the 45th calendar day.

Section 27007 of Title 5 of the California Code of Regulations stipulates that 95% of contributions for a retroactive change in creditable compensation due to a statutory requirement are due five working days, and the balance of contributions is due 15 working days, immediately following the month in which the statutory change is effective.

For CalSTRS to waive the penalties and interest that will be assessed on the late reporting and late remittance of contributions for employer-approved compensated leaves of absence that were taken between January 1, 2016, and December 31, 2020, please ensure reporting adjustments and contributions are submitted accordingly:

	Due	Penalties Assessed on
Adjusted Reporting	March 2, 2021	March 17, 2021, after 5pm
95% of Contributions	February 5, 2021, by 3pm	February 5, 2021, after 3pm
Balance of Contributions	February 22, 2021, by 3pm	February 22, 2021, after 3pm

If reporting adjustments and/or contributions for employer-approved leaves of absence that were taken between January 1, 2016, and December 31, 2020, are submitted to CalSTRS after the above dates CalSTRS will not waive the penalties assessed. The penalties will be assessed back to the new reporting and contribution due dates and not back to when the leave was originally taken.

Employers are prohibited from making member contributions on creditable compensation. Employers should make a good-faith effort to reach out to former employees about any previously excluded leaves of absence and only report those leaves for which both employer and member contributions are remitted.

When submitting a dispute for penalties and interest assessed on the late reporting and late remittance of contributions for employer-approved leaves of absence taken between January 1, 2016, and December 31, 2020, please include supporting documentation to validate the type of leave and that the leave was taken during that period.

For more information regarding penalties and interest, please contact Contributions@calstrs.com.

This Employer Directive does not take precedence over the law. To view AB 2101 in its entirety, please go to <http://leginfo.legislature.ca.gov>.

If you have any questions regarding this employer directive, please contact EmployerHelp@CalSTRS.com.