

California Code of Regulations
Title 5. Education.
Division 3. Teachers' Retirement System.
Chapter 2.5. Compensation for 2% at 62 Members.
Article 1. Creditable Compensation.
Section 27650

Notice published July 21, 2023

NOTICE OF PROPOSED RULEMAKING

The California State Teachers' Retirement System ("CalSTRS") and the Teachers' Retirement Board ("board") propose to adopt the regulations described hereunder, after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Teachers' Retirement Board will hold a public hearing:

Date and Time	1:00 p.m. September 14, 2023 The hearing may be rescheduled to occur as early as 8:00 a.m. or as late as 4:00 p.m. as it is incorporated into the board's agenda. Please consult the agenda for the meeting, which will be available at www.CalSTRS.com/teachers-retirement-board by September 1, 2023, to confirm the exact time at which the hearing will be held. Please arrive promptly for check in before the scheduled start time. The hearing will conclude once each speaker present has provided testimony.
Location	California State Teachers' Retirement System Boardroom 100 Waterfront Place West Sacramento, CA 95605
Purpose	To receive oral or written comments about this action. Comments are limited to five minutes per person and must not repeat comments already received in written or verbal form.
Accessibility	The hearing room is accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or visual impairments upon advance request.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to CalSTRS. The written comment period closes on **September 13, 2023**. CalSTRS will only consider written comments received at CalSTRS' address as reflected below by that date. Submit comments to:

Sal Sanchez
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
E-Mail: Regulations@CalSTRS.com

AUTHORITY AND REFERENCE

The board has exclusive authority to administer CalSTRS under Article XVI, section 17 of the California Constitution.

Education Code section 22305 provides that any rules and regulations adopted by the board have the force and effect of law.

Education Code section 22119.3 requires that creditable compensation be paid "each pay period the creditable service is performed" in order for it to be creditable to CalSTRS for 2% at 62 Defined Benefit (DB) members.

Education Code section 26139.5 requires that salary be paid "each pay period in cash by an employer to a participant for creditable service performed" in order for it to be creditable to CalSTRS for Cash Balance (CB) Benefit Program participants subject to the Public Employees' Pension Reform Act of 2013 (PEPRA).

These proposed regulations further interpret and make specific Education Code sections 22119.3 and 26139.5

The board approved the proposed regulations on March 1, 2023, and directed CalSTRS staff to give public notice and schedule a public hearing before the board.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

There are instances in which a member or participant may perform routine and regular service outside of a regular pay period, such as the beginning of the school term, where it is not clear whether compensation for such service would be considered to meet the definition of "creditable compensation" for 2% at 62 DB members or the definition of "salary" for CB participants subject to PEPRA. The proposed regulations ensure that members' and participants' compensation is credited in the manner intended by existing law, even when those members or participants perform creditable service for a school term outside of a regular pay period by providing employers with greater clarity on how to treat those unique situations.

No other nonmonetary benefits, such as the protection of public health and safety, worker safety or the environment; the prevention of discrimination; the promotion of fairness or social equity; or an increase in transparency in business and government are anticipated.

The regulations proposed in this rulemaking action make specific the Education Code as it relates to creditable compensation or salary being paid “each pay period the creditable service is performed” or “each pay period in cash by an employer to a participant for creditable service performed,” respectively, in order for it to be creditable. CalSTRS evaluated whether the proposed regulations were inconsistent or incompatible with existing state regulations and found that there are no overlapping provisions with other state regulations. Thus, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

CalSTRS has made the following initial determinations, as required by the California Administrative Procedure Act and Office of Administrative Law regulations:

1. Mandate on local agencies and school districts:

None. The proposed regulations do not place a mandate on local agencies or school districts. CalSTRS has determined that the regulations proposed do not constitute a mandate on school districts or other local agencies. They clarify existing requirements for the proper reporting of employee compensation to CalSTRS.

2. Cost or savings to any state agency:

None. The proposed regulations are not expected to result in costs or savings to any state agency.

3. Cost to any local agency or school district which must be reimbursed in accordance with California Government Code sections 17500 through 17630:

None. The proposed regulations do not place a mandate on local agencies or school districts, and there would be no costs incurred by these entities.

4. Other nondiscretionary cost or savings imposed on local agencies:

None. There are no requirements imposed on local agencies, and therefore, there are no other nondiscretionary costs or savings.

5. Cost or savings in federal funding to the state:

None. These regulations do not relate to any federal program.

6. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:

None. The proposed regulations do not affect businesses.

7. Cost impacts on a representative private person or business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed regulations do not affect private persons or businesses.

8. Results of the economic impact assessment/analysis:

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These regulations are not anticipated to have any direct, indirect or induced effect on California businesses. Specifically:

- The action will not have any effect on the creation or elimination of jobs within the state.
- The action will not affect the creation of new businesses or the elimination of existing businesses within the state.
- The action will not affect the expansion of businesses currently doing business within the state.
- The action will have no effect on worker safety and the state's environment.

This regulatory action will not affect the health and welfare of California residents.

As stated in the Informative Digest/Policy Statement Overview, the proposed regulations will further clarify and make specific the statutory requirements that compensation be paid “each pay period the creditable service is performed” or “each pay period in cash by an employer to a participant for creditable service performed” in order to be creditable to CalSTRS for 2% at 62 DB members and CB participants subject to PEPRAs, respectively. This conforms to the Teachers’ Retirement Board’s policy to support regulations that improve the delivery of benefits and services and provide more effective and efficient administration of the retirement plan.

9. Significant effect on housing costs:

None. The proposed regulations do not relate directly or indirectly to housing costs.

10. Small business determination:

The board has determined that the proposed regulations do not affect small business as small businesses are not governed or affected, either directly or indirectly, by the statutes that these regulations are clarifying.

CONSIDERATION OF ALTERNATIVES

In accordance with paragraph (13) of subdivision (a) of Government Code section 11346.5, CalSTRS and the board must determine that no reasonable alternative considered or otherwise identified and brought to its attention would be:

- More effective in carrying out the purpose for which the action is proposed,
- As effective and less burdensome to affected private persons than the proposed action, or
- More cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CalSTRS and the board invite interested persons to present any statements or arguments that would support alternatives to the proposed regulations in the form of written comments or by providing testimony at the public hearing.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

Notice of Proposed Rulemaking: CalSTRS 2% at 62 Compensation Paid Each Pay Period

Sal Sanchez
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
Telephone: (916) 414-1994
E-Mail: Regulations@CalSTRS.com

The backup contact person for these inquiries is:

John Maradik-Symkowick
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
Telephone: (916) 414-1994
E-Mail: Regulations@CalSTRS.com

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to CalSTRS using the contact information listed above.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The rulemaking file is available for public inspection and copying throughout the rulemaking process at CalSTRS headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. As of the date this notice is published in the California Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement (STD 399).

Copies of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement are available at no charge by contacting CalSTRS using the contact information listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this notice or may, on its own motion or at the recommendation of any interested person, modify the proposed regulations.

If the board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. The board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please refer to www.CalSTRS.com/regulations or contact CalSTRS using the contact information listed above for copies of modifications, if any.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, CalSTRS will have the Final Statement of Reasons available for public inspection and copying at its headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. Upon filing of the amended regulations with the Secretary of State, the Final Statement of Reasons will also be available temporarily on the CalSTRS website at www.CalSTRS.com/approved-regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the proposed regulations are posted on the CalSTRS website at www.CalSTRS.com/regulations.