



# Benefits and Services Committee

## Item Number 5 – Open Session

**Subject:** Subrogation Claims Overview

**Presenter(s):** Sukha Chima / Reina Minoya

**Item Type:** Information

**Date & Time:** August 31, 2022 – 15 minutes

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**Attachment(s):** None

**PowerPoint(s):** Subrogation Claims Overview

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### **Purpose**

The purpose of this item is to provide an overview of the CalSTRS subrogation process for Disability and Survivor Benefits and information relating to recoveries in subrogation over the last five calendar years.

### **Discussion**

The Appeals Committee and the Benefits & Services Committee expressed interest in learning more about CalSTRS subrogation. This informational item will provide an overview of the legal basis, assessment approach and five-year data points.

Education Code section 24500 provides CalSTRS' subrogation rights:

*§ 24500. Right of recovery from third person or entity on behalf of plan: If a disability retirement allowance, disability allowance, family allowance, or survivor benefit allowance is payable under this part due to the injury to or death of a member and the injury or death is the proximate consequence of the act of a third person or entity, other than the member's employer, the board may recover from that person or entity on behalf of the plan, an amount equal to the actuarial equivalent of benefits the system paid and became obligated to pay under the plan because of the injury to or death of the member less any amounts the system may be obligated to pay under the plan without regard to the actions of the third party. In determining the amount, the system may be obligated to pay without regard to the actions of the third party, the system shall base the actuarial equivalent only on creditable compensation and service credit earned by the member prior to the date the disability retirement allowance, disability allowance, family allowance, or*

*survivor benefit allowance becomes payable. This chapter shall be deemed to create a right of subrogation only to amounts the system paid and became obligated to pay as disability retirement allowances, disability allowances, family allowances, or survivor benefit allowances.*

Essentially, when a CalSTRS member is injured as a result of a third-party act and that member is approved for disability retirement, CalSTRS is statutorily authorized to recover the actuarial equivalent of benefits CalSTRS is obligated to pay by way of the disability retirement, less any amounts CalSTRS would have paid if not for the third-party injury. In other words, this actuarial equivalent is the difference between the disability retirement benefits CalSTRS is obligated to pay minus the service retirement benefits the member would otherwise have been entitled to receive had the third-party injuries not occurred. Similarly, the subrogation statutes also permit recovery from responsible third parties for certain survivor benefits. This latter circumstance typically arises when an active member's death is caused by a third party. The purpose of the subrogation statutes is to reimburse the Teachers' Retirement Fund for additional amounts it becomes obligated to pay as a result of a third-party.

Between 2017 and 2021, Disability Services approved an average of 388 disability applications each calendar year. Of those approvals, an average of five cases (or 1% of all disability approvals) each year were referred to the Office of the General Counsel ("OGC") with the potential to recover funds via subrogation. In total, Disability Services approved 1,939 disability applications over the past five years and there were 26 subrogation referrals to OGC over that timeframe. For Survivor Benefits, there have only been a few referrals to OGC in the five-year reporting period.

In addition to referrals from Disability and Survivor Benefits, subrogation potential is also identified through other sources, such as when CalSTRS receives subpoenas or Public Record Act requests from various parties.

This item will present how potential subrogation claims are discovered and assessed, and the process by which subrogation is administered.

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Strategic Plan Linkage:

Goal 1: Trusted stewards - Ensure a well-governed, financially sound trust fund. (FY 2022-25 Strategic Plan)

Board Policy Linkage: Education Policy: Ongoing Board Member Education, section e(iii) In-House Education Sessions.

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