

September 18, 2012

TO: All County Superintendents of Schools  
District Superintendents of Schools  
County Offices of Education and  
Charter School Administrators

FROM: Jack Ehnes  
Chief Executive Officer

SUBJECT: Employer Directive 2012-04  
Reduction of Instructional Year and the Full-Time Minimum Standard for  
Prekindergarten through Grade 12 Employers

**PURPOSE**

The purpose of this directive is to notify employers of the change to Education Code Section 22138.5 contained in Chapter 38, Statutes of 2012 (SB 1016 – Committee on Budget and Fiscal Review).

**SCOPE**

The provisions set forth in this section of Chapter 38, Statutes of 2012, applies to all prekindergarten through grade 12 school districts, county offices of education and charter schools.

**EFFECTIVE DATE**

This section of Chapter 38 will become operative on *December 15, 2012* and shall sunset on July 1, 2015 **only** if the Schools and Local Public Safety Protection Act of 2012, **is NOT** approved by the voters at the November 6, 2012 statewide general election.

If the Schools and Local Public Safety Protection Act of 2012 **IS** approved by the voters at the November 6, 2012 statewide general election, this section of SB 1016 will not become operative.

**DISCUSSION**

Compensation earnable represents the compensation the employee would earn if he or she worked full-time. Full-time is defined as the number of days or hours required for full-time employment. While this may vary by employer or class of employees, Education Code section 22138.5, in part, establishes the minimum standards for full-time in prekindergarten through

grade 12. In no circumstance can the base days be below the minimum standard as described in Education Code 22138.5.

Chapter 38 authorizes prekindergarten through grade 12 school districts, county offices of education or charter schools only to reduce the minimum number of days of instruction by up to 15 days for the 2012-13 or the 2013-14 fiscal years, effectively reducing the instructional year minimum to no less than 160 days (or equivalent number of instructional hours, equal to the number of days of instruction times six). Chapter 38 does not impact community colleges.

If a school district, county office of education or charter school authorizes the number of instructional days to be reduced for the 2012-13 or 2013-14 fiscal years, the following also shall occur:

- The minimum standard for full-time will be reduced to the number of days of instruction provided by that school district, county office of education or charter school and the number of hours of instruction equal to the number of days of the instruction multiplied by six.
- A full day of service must be based on a six hour day; therefore six hours per day must be used when calculating the full-time equivalent.
- CalSTRS members will receive creditable compensation at the reduced minimum standard for full-time in order to earn the compensation earnable, thereby not impacting their service credit earned for the effected school year.
- The implementation of a reduction in number of instructional days or hours must be achieved through the bargaining process, if the authorizing school district, county office of education or charter school is subject to collective bargaining.

### **ACTION**

If an employer reduces the number of base days required for a class of employees, the employer must:

- ✓ Report the reduced compensation earnable for the school year.
- ✓ Report the actual earnings of each employee.
- ✓ Calculate the full-time equivalent using only a six-hour day.

As a result of lowering the employee's compensation earnable during these years, if the employee fulfills the base days the employee will earn one full year of service credit.

For example, if an employer mandates that the base days for a class of employees will be reduced from 175 days (1,050 hours) to 160 days (960 hours), the employer would calculate the new compensation earnable rate of pay by multiplying the employee's daily rate x 160 (the new base day total).

If you have any questions or need additional information, please contact your county office of education or CalSTRS representative.