



California State Teachers'  
Retirement System  
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January 29, 2016

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

FROM: Jack Ehnes  
Chief Executive Officer

SUBJECT: Employer Directive 2016-02  
Changes in the Teachers' Retirement Law made by Chapter 123, Statutes of 2015,  
(Assembly Bill 991)

### **PURPOSE**

This directive notifies employers of changes to Education Code sections contained in Chapter 123, Statutes of 2015 (Assembly Bill 991), which effect employers and became effective 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 (DB), Defined Benefit Supplement, and Cash Balance (CB) Benefit programs.

### **DISCUSSION**

Chapter 123 makes various technical, conforming or minor changes to the Teachers' Retirement Law.

### **Defined Benefit (DB) Changes**

#### **Leave of Absence**

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(a)(3) and 22119.3(a)(1) previously defined creditable compensation to include: "Remuneration that is paid for the use of sick leave, vacation and other employer-approved leave..."

Chapter 123 amends these sections to clarify that in order for employer-approved leave to be creditable, it must be a compensated leave of absence. Education Code sections 22119.2(a)(3) and 22119.3(a)(1) now 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 further clarify what types of employer-approved compensated leaves of absences are creditable to CalSTRS, Chapter 123 adds Section 22144.3 to the Education Code to define "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."

Examples of a "leave of absence" that would fall within this definition include, but are not limited to, pregnancy-related leave, service as an elected officer of an employee organization, and leave for travel or study if beneficial to students and the employer.

**Action**

Only report compensation for use of sick leave, vacation leave and compensated leaves of absence that meet the definition as stated in Education Code section 22144.3.

**Permissive Election**

Education Code section 22515 outlines that individuals who are excluded from mandatory membership pursuant to Education Code sections 22601.5, 22602 and 22604 may permissively elect membership into the CalSTRS DB Program at any time while employed to perform creditable service subject to coverage under that program. Chapter 123 amends Education Code section 22515 to clarify the permissive election of membership into the DB Program is irrevocable until the member terminates employment and receives a refund of accumulated contributions.

Therefore, once an individual has elected membership into the CalSTRS DB Program, all subsequent creditable service must be reported to CalSTRS until the member terminates membership by refunding his or her contributions.

**Action**

Pursuant to Education Code section 22455.5(b), inform part-time and substitute employees within 30 days of hire that they may permissively elect membership into the DB Program at any time; however, you must also inform the newly hired employee that if he/she is already a member of CalSTRS DB Program, he/she is not eligible to make a permissive election.

**Service Credit for Elected Officers of Employee Organizations**

Education Code sections 22711, 44987 and 87768.5 outline the conditions that must be met in order for a member to be granted service credit for time during which he or she serves as an elected officer of an employee organization while on compensated leave of absence. Previously, these sections stated the maximum amount of service credit a member may earn as an elected officer shall not exceed 12 calendar years.

Chapter 123 amends Education Code sections 22711(b), 44987(a) and 87768.5 to clarify that a member may earn up to a maximum of 12 years of accumulated service credit while serving as an elected officer for a local employee organization and granted an employer-approved compensated leave of absence.

**Action**

Do not submit contributions for service performed as an elected officer after the member has earned 12 years of accumulated service credit for serving as an elected officer. When reporting members' service performed as an elected officer, report under the appropriate Assignment Code for elected officers and remit contributions at the established rate.

**Retirement Incentive Program Requirement**

Education Code section 22714(a) outlines the criteria that both the CalSTRS members and employers must meet for members to receive a retirement incentive. Chapter 123 Statutes of 2015, adds paragraph (2) to Education Code section 22714(a) to specify the required Retirement Incentive Program documentation must be received by CalSTRS no later than 30 calendar days after the last day of the window period for retirement, as established by the employer for incentive eligibility. Additional information regarding the Retirement Incentive Program, including the documents required to be submitted, will be addressed in a separate Directive.

**Action**

Submit all required documentation pursuant to Education Code section 22714 so that it is received by CalSTRS no later than 30 calendar days after the last day of the window period for retirement.

**Cash Balance (CB) Benefit Changes**

**Establishment of the CB Benefit Program**

Education Code sections 22001.5 and 26000 establish the creation of the CB Benefit Program to provide a retirement plan for persons employed to perform creditable service on a part-time basis.

Chapter 123 amends Education Code sections 22001.5 and 26000 to clarify the CB Benefit Program was established for persons who are performing creditable service:

- For less than 50 percent of a full-time position for an employer, excluding community college districts, offering the CB Benefit Program.
- On temporary basis, pursuant to Education Code sections 87474, 87478, 87480, 87481, 87482 or 87482.5, for a community college district offering the CB Benefit Program.
- As a substitute employee for an employer offering the CB Benefit Program.

**Action**

Amendments to Education Code sections 22001.5 and 26000 are for clarification purposes only. No employer action is needed.

**Eligibility to Participate in the CB Benefit Program**

Education Code sections 26400 and 26401 outline the eligibility requirements that must be met in order for a person to become a participant of the CB Benefit Program.

Chapter 123 makes technical amendments to Education Code sections 26400 and 26401 to reorganize and clarify when persons are eligible to participate in the CB Benefit Program, and when participants' service is no longer covered under the CB Benefit Program due to changes in basis of employment.

Chapter 123 clarifies that a person employed on a part-time or substitute basis for less than 50 percent of a full-time position for an employer offering the CB Benefit Program, or on a temporary basis with a community college offering the CB Benefit Program, shall become a participant of the CB Benefit Program, provided that person has not elected to have his or her service covered by another retirement system offered by his or her employer.

When participants' basis of employment changes to employment that is subject to mandatory membership in the DB Program pursuant to Education Code section 22501, 22502, 22503 or 22504 during one school year with the same employer, the service for that employer shall no longer be covered under the CB Benefit Program as of the last day of the pay period in which the change in employment basis occurred.

**Action**

Only report employees eligible for the CB Benefit Program if they meet the requirements described in Education Code sections 26400 or 26401.

**CB Lump-Sum Retirement Benefit – Separation-From-Service Requirement**

Education Code section 26806 establishes the normal form of CB retirement benefit is a lump-sum payment.

Chapter 123 amends Education Code section 26806 to prohibit a lump-sum retirement benefit from being paid before 180 calendar days have elapsed following the date of termination of employment. If a participant who applies to receive his or her CB retirement benefit as a lump-sum payment returns to work in any CalSTRS-covered position in either the DB or CB Benefit program during this 180-day separation-from-service period, the retirement application will be automatically canceled, and the participant will not receive a benefit.

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**Action**

The description of amendments to Education Code section 26806 is for information purposes only. No employer action is needed.

This employer directive does not take precedence over the law. To view Chapter 123 in its entirety, please go to <http://leginfo.legislature.ca.gov>.

If you have any questions regarding this employer directive, please contact your CalSTRS Member Account Services Representative.