

April 26, 2021

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

FROM: Jack Ehnes
EXECUTIVE OFFICE

SUBJECT: Employer Directive 2021-04
(*Supersedes Employer Directive 2020-01*)
Unused Sick Leave

PURPOSE

This directive provides information related to unused sick leave.

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 Program.

DISCUSSION

This directive provides information related to:

- How to distinguish between basic and excess sick leave.
- How sick leave is converted to service credit.
- How the cost of that service credit is funded.
- How to report and correct information related to unused sick leave.

Any time information related to unused sick leave changes, this entire directive will be superseded with an updated version, so employers only have to access one document for unused sick leave information.

NOTE: This directive is for informational purposes only, and the information contained in this directive is subject to change without notice. While CalSTRS makes reasonable effort to provide accurate information in its publications, such information is not meant to replace the law or provide legal, financial, tax or other advice. If, at any time, the information in this directive conflicts with current law, the law takes precedence.

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1. Basic Sick Leave vs. Excess Sick Leave

Chapter 275, Statutes of 2020 (Assembly Bill 2101), amends Education Code section 22170.5, to clarify what constitutes basic sick leave vs. excess sick leave.

Basic sick leave is defined as “the days of paid leave of absence due to illness or injury granted by each employer that are not excess sick leave days.” **Excess sick leave** is defined as “the day or total number of days of paid leave of absence due to illness or injury granted by each employer in excess of 12 days per school year.”

Based on these definitions, basic sick leave is limited to 12 days in a school year per employee, per employer. Sick leave earned by an employee for an employer in excess of 12 days in a school year is considered *excess* sick leave and must be tracked and reported separately (see *3.a.i. Tracking Sick Leave*). Additionally, subdivision (e) has been added to Education Code section 22717 to clarify that members may not receive service credit in another public retirement system for the same unused sick leave days.

2. Converting Unused Sick Leave to Service Credit

Education Code section 22717 requires CalSTRS credit a member at service retirement for each day of accumulated and unused sick leave days for which full salary is allowed and to which the member was entitled on the member’s final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school term in which the member earned creditable compensation pursuant to Section 22119.2 or 22119.3. CalSTRS must accept certification from each employer with which the member has accumulated sick leave days for this period, provided the leave has not been transferred to another employer.

a. Non-State Employees

Education Code section 22717 requires CalSTRS convert unused sick leave to service credit by dividing the unused sick leave days by the employee’s base days during the member’s most recent year of creditable service.

Education Code section 22106.2 defines **base days** as the number of days of creditable service the employer requires the member’s class of employees to perform in a school year to earn one year of service credit.

Base days may not include any school or legal holidays and may not be less than the full-time minimum standard required by Education Code section 22138.5. Standards in Section 22138.5 that are expressed only in terms of hours must be divided by six to determine the number of base days. In any event, base days may never be less than 175 days.

b. State Employees

Education Code section 22717 requires CalSTRS credit 0.004 years of service for each day of unused sick leave certified for members who are last employed with the state in a position in which there are no contracted base service days. Employers must only report days of unused sick leave that were accrued by the member during the normal course of their employment subject to coverage by the Defined Benefit Program.

3. Funding the Cost of Service Credit from Unused Sick Leave

The cost of converting basic sick leave to service credit is considered funded by the 0.25% contribution employers make on creditable compensation pursuant to Education Code section 22951. Education Code section 22718 requires CalSTRS bill employers for the present value of unused excess sick leave that is converted to service credit.

Education Code section 22156.1 defines **present value** as the amount of money needed on the effective date of retirement to reimburse the system for the actuarially determined cost of the portion of a member's retirement allowance attributable to unused excess sick leave days. The present value on the effective date of retirement shall equal the number of unused excess sick leave days divided by the number of base days, multiplied by the prior year's compensation earnable multiplied by the present value factor.

Education Code section 22156.5 defines **prior year's compensation earnable** as the compensation earnable for the most recent school year in which the member earned service credit that precedes the last school year in which the member earned service credit.

Education Code section 22156.2 defines **present value factor** as an overall average rate based upon the demographics of members who recently retired under the Defined Benefit Program and regular interest that shall determine present value on the effective date of retirement.

The present value factor is published each spring in the annual *Interest and Contribution Rates and Present Value Factor* directive available online at CalSTRS.com/employer-and-administrative-directives.

a. Action

i. Tracking Sick Leave

To ensure all unused sick leave converted to service credit is funded, Education Code section 22724 requires employers deduct the days of sick leave used by a member from their accumulated and unused sick leave balance according to the following order:

1. Accumulated and unused sick leave days existing on July 1, 1986, if any.
2. Basic sick leave days granted on or after July 1, 1986.

3. Excess sick leave days granted on or after July 1, 1986.

ii. Estimating the Present Value (Cost) of Unused Excess Sick Leave

Employers should estimate the present value (cost) of unused excess sick leave using the following formula:

$$\frac{\text{Unused Excess Sick Leave Days}}{\text{Base Days}} \div \frac{\text{Prior Year's Compensation Earnable}}{\text{Present Value Factor}} \times \text{Present Value} = \text{Present Value (Cost)}$$

To confirm the prior year's compensation earnable, please contact us at ExpressBenReport@CalSTRS.com.

You may submit the estimated payment to CalSTRS together with the certified *Express Benefit Report* (see 4.a.ii. *Submitting the Express Benefit Report*).

iii. Billing the Present Value of Unused Excess Sick Leave

Invoices for unused excess sick leave are posted on the first business day of the month under the Accounts Receivable category of the Manage Reports section of the Secure Employer Website. Employers receive a notification when a new invoice is available. Please submit your payment within 30 calendar days. Education Code section 22718 requires employers to remit the amount due within 30 calendar days after the member's retirement date or the date the employer is notified that certification of unused sick leave information is required, whichever is later.

Subsequent adjustments to reported unused excess sick leave will result in an additional bill or refund, as applicable. If payment is not received within 30 calendar days of the due date, the present value shall be recalculated to include regular interest from the due date to the date full payment is received. If the system has billed the employer for an additional amount, the employer shall remit the additional amount within 30 calendar days after the date of the billing. If payment is not received for the additional amount within 30 calendar days, the present value shall be recalculated to include regular interest from the due date to the date full payment is received.

4. Reporting Sick Leave Information

Education Code section 22717 requires employers to certify to CalSTRS a member's sick leave information within 30 days after the member's most recent retirement date, or the date the retirement application is received by CalSTRS, whichever is later. CalSTRS provides the *Express Benefit Report* (SR 0554E) form for this purpose. The form is available on CalSTRS.com and the Secure Employer Website. Members are encouraged to provide a copy of the *Express Benefit Report* form to their employer when preparing to retire.

Employers are responsible for submitting the *Express Benefit Report* even if the form is not provided by the member or the member has no remaining unused sick leave to report.

a. Action

i. Checking for Retirement Status

Employers receive notification from the Secure Employer Website when an employee's account status changes from "member" to "retired." Employers are able to check for account status changes for multiple members, by report unit or report source, using the Status Change tab of the Employer Notification section of the Secure Employer Website. Employers without access to the Secure Employer Website should contact their county office of education for assistance.

ii. Submitting the Express Benefit Report

The *Express Benefit Report* form is available on CalSTRS.com and the Secure Employer Website and includes instructions on how to complete and submit the form. CalSTRS must receive the form within 30 days after the member's most recent retirement date, or the date the member's retirement application is received, whichever is later.

iii. Correcting Previously Reported Sick Leave Information

Employers can make corrections to previously reported sick leave information using the *Employment Termination or Sick Leave Data Correction* (SR 0559) form, available on CalSTRS.com and the Secure Employer Website. Employers may make changes to previously reported sick leave information at any time, as needed. However, corrections to sick leave data resulting from a CalSTRS audit must be reported within 60 days of notification from CalSTRS.

If you have questions regarding this Employer Directive, please contact the ExpressBenReport@CalSTRS.com mailbox.