

CALIFORNIA CODE OF REGULATIONS
TITLE 5. EDUCATION
DIVISION 3. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. TEACHERS' RETIREMENT SYSTEM
ARTICLE 16. MEMBER'S RIGHT TO INTERNAL INFORMAL APPEAL OF A
DETERMINATION BY CALSTRS STAFF OF ADMINISTRATIVE REMEDIES
RELATING TO A RIGHT
TO A BENEFIT OR OBLIGATION

§ 27100. Definitions.

(a) For purposes of this article, an applicant seeking an administrative remedy is defined as any member, former member, participant, former participant, or beneficiary who exercises the right to requesting request a review of internal decisions made or appealing, with respect to payment of allowances, benefits or refunds, or with respect to crediting service, or correction of records, pursuant to Parts 13, 13.5 and 14 of Division 1 of Title 1 of the Education Code ~~and Title 5, Division 3, Chapter 1, section 20520 of the California Code of Regulations.~~

(b) For purposes of this article, Program Executive is defined as the CalSTRS Executive, or ~~his/her~~ their designee, overseeing the program division Program Area to which the administrative matter was assigned, as deemed appropriate by the System, pursuant to Section 22301 of the Education Code.

(c) For purposes of this article, a Decision means a decision designated as final by a Director of the Program Area program division, or ~~his/her~~ their designee, to which the administrative matter was assigned, as deemed appropriate by the System.

(d) For purposes of this article, a Determination means a determination made by the Program Executive, the Director of Audit Services, or ~~his/her~~ their designee.

(e) For purposes of this article, System Headquarters is defined by Education Code section 22375.

~~(f) For purposes of this article, a Field Office is a retirement counseling office defined by Education Code section 22303 which is either established by contract or by the System.~~

Note: Authority cited: California Constitution, Article XVI, Section 17; and Section 22219, Education Code. Reference: Sections 22107, 22108, 22146, 22161.5, 22174, ~~22303~~, 22375 and 26132, Education Code.

§ 27101. Administrative Remedy for Benefits & Services and Financial Services

(a) Any applicant who disagrees with a Decision, excluding audit findings in which a Determination has been issued to the applicant as referenced in section 27102, may request a review of that Decision by the Program Executive ("Executive Review"). The request for Executive Review ~~review~~ must:

- (1) Be made in writing;
- (2) Be addressed to the Program Executive;
- (3) State all facts, any basis in the Education Code or other law that applicant believes are relevant, and any other pertinent information, which may include but is not limited to medical records, which the applicant relies on to dispute the Decision.

(A) The stated facts, law, and pertinent information, which may include but is not limited to medical records, must be submitted with all documentary evidence applicable to the disputed Decision. ~~If there is no documentary evidence, the writing should expressly state there is an absence of such evidence.~~

(B) It is the applicant's burden to show that the facts, law, and pertinent information would provide a legal basis for CalSTRS to reverse the Decision.

(4) Within forty-five (45) days after the date of the disputed ~~written~~ Decision, be received by the System Headquarters ~~or by a CalSTRS Field Office~~ or at the following email address: [CalSTRSInternalReview@calstrs.com].

~~(b) CalSTRS will inform the applicant of the applicant's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, notify the applicant that the applicant has a right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.~~

~~(be) If the applicant's request for Executive Review review by a Program Executive ("Executive Review") does not contain additional information or legal basis for review beyond the facts and/or documentary evidence previously provided to or obtained by the program area and merely repeats information previously provided, the applicant's request for Executive Review by the Program Executive shall be denied and the applicant may request an administrative hearing. The Program Executive may consult with CalSTRS staff prior to denying applicant's request for Executive Review.~~

~~(cd) If the Program Executive determines that the applicant has provided sufficient additional information or legal basis for review, the Program Executive will review the Decision and take make one of the following actions Determinations:~~

~~(1) Based upon review of the law and facts, including any additional information provided by applicant, find that the applicant has not provided a legal basis to reverse the Decision and has therefore failed to meet ~~his or her~~ their legal burden. The Program Executive shall inform the party in writing of the Determination and the applicant's right to an administrative hearing.~~

~~(2) Determine that additional Informal fact finding is necessary in regard to the applicant's dispute with the Decision and refer the matter is ~~referred~~ to staff for further investigation. ~~This The informal factual~~ investigation may include, but is not limited to, inquiries made to the applicant and requests for further documentary evidence ~~pursuant to Education Code sections 22207, 22250, 22450, 24003, 24103, and 26002~~. The applicant must timely and in good faith cooperate with and respond to staff.~~

~~(A) The applicant must respond in writing, either through mail, facsimile or email as directed by staff, to any inquiries made and/or requests for further documentary evidence. If the applicant fails to respond in writing or produce documentary evidence within forty-five (45) days after the inquiry or request ~~is~~ was made, the applicant shall be deemed to have waived the right to pursue any additional administrative remedies, including administrative hearings, and the Determination shall be final. ~~Accordingly, the Decision will be deemed to be a Determination by the Program Executive.~~~~

~~(B) At the discretion of the Program Executive an extension of up to 45 days to respond to any inquiries made and/or requests for further documentary evidence under this subdivision may be granted, for cause, if the request for an extension is made in writing prior to the last day to respond, ~~in writing~~, and received at the System Headquarters, ~~at a CalSTRS field office~~, or at the following email address: [CalSTRSInternalReview@calstrs.com].~~

~~(C) Upon completion of the informal factual investigation, the Program Executive will conduct a review of the additional information, the legal basis for review that applicant believes are relevant, and the information gathered through investigation matter. The review may include consultation with, including but not limited to, staff, the Ombudsman, a Legal Services representative, and the Office of the General Counsel ~~a representative from the relevant program area~~. After the review is complete, the Program Executive shall make a Determination and shall inform the applicant in writing within fifteen (15) days of the Determination. If the applicant disagrees with the ~~Program Executive's~~ Determination under subdivisions ~~(c)d(1) or (c)d(2)(C)~~ of this section, the applicant may request an administrative hearing.~~

(d) CalSTRS will inform the applicant of the applicant's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, notify the applicant that the applicant has a right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

(e) ~~The~~ Any request for an administrative hearing shall be directed to CalSTRS ~~Legal Services Office of the General Counsel~~ within ninety (90) days of the date of the Determination signed by the Program Executive. The request shall be in writing and mailed to ~~the following address:~~ CalSTRS ~~Legal Services Office of the General Counsel~~, PO Box 15275, MS #3, Sacramento, CA 95851 or emailed to LegalServices@CalSTRS.com. If the applicant fails to make a written request for administrative hearing within the time prescribed, the ~~Program Executive's~~ Determination shall be final and the right to an administrative hearing shall be deemed waived.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22219 and 26002, Education Code. Reference: Sections 22207, 22250, ~~22303~~, 22375, 22450, 22455, 24003, 24103, 26002, ~~26132~~ and 26301, Education Code; and Sections 11415.40 and 11505(b), Government Code.

§ 27102. Administrative Remedy for Audits

(a) ~~If an applicant, as defined in Section 27100, subdivision (a) or an entity, including but not limited to a public agency or employer, is affected by the preliminary findings of an audit~~ An employer audited pursuant to Education Code section 22206 shall cooperate in good faith with CalSTRS and provide all information as requested in a timely manner. ~~, the applicant or the entity~~ Such employer may provide a written response to the ~~preliminary audit findings~~ draft audit report within 30 days following the date of the draft audit report. A final audit report is a Determination and is not subject to internal review by a Program Executive ("Executive Review") or the Director of Audit Services.

(b) The employer shall make reasonable efforts to communicate to its employees and former employees that it is the subject of an audit by CalSTRS and shall post a copy of the final audit report on its website and direct any communications regarding the audit to the employer.

(c) Within 90 days following the date of the final audit report, the employer shall submit to CalSTRS a certification that includes a complete list identifying all members impacted by the final audit report findings.

(d) Within 90 days following the date of the final audit report, if the employer disagrees with the final audit report, the employer may request an administrative hearing. The request shall be directed to the CalSTRS Office of the General Counsel in writing and mailed to CalSTRS Office of the General Counsel, PO Box 15275, MS #3, Sacramento, CA 95851 or emailed to LegalServices@CalSTRS.com. Any subsequent board decision shall be binding or considered presumptively conclusive in any future administrative or civil proceeding based on the same final audit report.

(e) If the employer fails to request an administrative hearing within 90 days following the date of the final audit report, the right to an administrative hearing shall be deemed waived, and the findings of the final audit report shall be deemed final and binding on all members impacted by the final audit report.

(f)~~(b)~~ After receipt of the certification pursuant to subdivision (c), CalSTRS will issue a Determination, to any applicants affected by any adjustments required for members identified pursuant to subdivision (c), that employer reporting errors have been identified on their account as a result of an audit. The Determination shall inform the applicant of their ~~inform the applicant or entity of the applicant's or entity's~~ right to an administrative hearing. CalSTRS will also refer them to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings and provide notification of the right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel. The Determination is not subject to internal review by a Program Executive ("Executive Review") or the Director of Audit Services, and the applicant's right to an administrative hearing shall be limited to the application of an audit finding on their account.

~~(g)~~(e) If ~~any an~~ applicant who receives a Determination pursuant to subdivision (f) ~~or entity~~ disagrees with the ~~final audit~~ Determination, the applicant ~~or entity~~ may request an administrative hearing. The request for an administrative hearing shall be directed to the CalSTRS ~~Legal Services~~ Office of the General Counsel within ~~forty-five (45) ninety (90)~~ days from the date of the ~~final audit~~ Determination. The request shall be in writing and mailed to ~~the following address:~~ CalSTRS ~~Legal Services~~ Office of the General Counsel, PO Box 15275, MS #3, Sacramento, CA 95851 or emailed to LegalServices@CalSTRS.com. If such an applicant ~~or entity~~ fails to request an administrative hearing within the time prescribed, such Determination ~~or action~~ shall be final and the right to an administrative hearing shall be deemed waived. In addition, the Determination and any subsequent committee decision shall be binding or considered presumptively conclusive in any future administrative or civil proceeding based on the same Determination.

(h) In addition to any other penalty authorized by law, employers shall be subject to a penalty that shall be assessed for each request for an administrative remedy or administrative hearing received pertaining to a member that was not timely identified under the certification required by subdivision (c) based upon the average cost for a one-day hearing, as calculated by the CalSTRS Office of the General Counsel using actual costs incurred during the previous fiscal year and made available to employers by the first day of the subsequent calendar year.

(i) For purposes of running the statute of limitations under Education Code section 22008, CalSTRS is deemed to have commenced an action on the date of the final audit report.

(j) The provisions of this section shall apply to all audits for which a draft audit report is issued on or after January 1, 2022.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Section 22219, Education Code. Reference: Sections 22206 and 22375, Education Code; and Section 11505(b), Government Code.

§ 27103. Administrative Hearing.

(a) Following the timely receipt of an administrative hearing request, the CalSTRS ~~Legal Services~~ Office of the General Counsel or the Attorney General's Office will process the request for hearing in accordance with the provisions of Education Code section 22219, subdivision (b) relating to administrative litigation.

(b) Notwithstanding any other provision of this article, in order to advance judicial efficiency and to prevent cumulative hearings, evidence, testimony, or inconsistent judgments, CalSTRS shall in its sole discretion, consistent with its fiduciary obligations to the fund, determine whether to do any or all of the following relating to administrative hearings:

(1) Consolidate or bifurcate hearings.

(2) Determine the number of days reasonably necessary for hearings.

(3) Limit the issues and evidence to be presented.

(4) Limit the number of witnesses testifying on the same or similar issues or evidence.

(5) Limit an administrative hearing in any other manner deemed reasonably necessary by CalSTRS.

(c) If CalSTRS in its sole discretion determines an entity's or applicant's request for an administrative hearing is based on a legal or factual issue that has already been decided in a prior matter, the prior ruling shall be deemed binding, and CalSTRS shall deny the request for an administrative hearing .