

California Code of Regulations
Title 5. Education. Division 3. Teachers' Retirement System.
Chapter 1. Teachers' Retirement System.
Article 15.5. Penalties and Interest for Late Remittances and Late and Unacceptable Reporting by Employers.
Amendments to § 27000, 27001 and 27002
and
Chapter 3. Employer Reporting.
Article 1. Employer Direct Reporting.
Amendments to § 27702 and 27703
and
Article 2. Format for Employer Reports

Notice published March 8, 2019

NOTICE OF PROPOSED RULEMAKING

The California State Teachers' Retirement System ("CalSTRS") and the Teachers' Retirement Board ("board") propose to adopt amendments to regulations described here after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

The Teachers' Retirement Board will hold a hearing:

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| Date and Time | 4:00 p.m. April 24, 2019 Please arrive promptly for check in before the scheduled start time. The hearing will be closed once each speaker has provided testimony. |
| Location | California State Teachers' Retirement System Boardroom 100 Waterfront Place West Sacramento, CA 95605 |
| Purpose | To receive written or oral comments about this action. Comments are limited to five minutes each and must not repeat comments already received in written or verbal form. |
| Accessibility | The hearing room is accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or visual impairments upon advance request. |

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed regulatory action to CalSTRS. The written comment period closes on **April 22,**

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2019. CalSTRS will only consider written comments received at CalSTRS' address as reflected below by that date . Submit comments to:

Sal Sanchez
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
E-Mail: Regulations@CalSTRS.com

AUTHORITY AND REFERENCE

All Authority and Reference citations are to the California Education Code unless otherwise stated.

The Teachers' Retirement Board has exclusive authority to administer CalSTRS under Article XVI, section 17 of the California Constitution.

Section 22207 authorizes the board to perform any acts necessary for the administration of CalSTRS and the plan in carrying into effect the provisions of the Teachers' Retirement Law, California Education Code sections 22000 through 28101.

Section 22213 provides that the board shall regulate the duties of employers, employing agencies and other public authorities.

Section 22214 provides that the board may take any action it deems necessary to ensure the continued right of members or beneficiaries to receive monthly payments.

Section 22250 provides that the board and its officers and employees shall discharge their duties with respect to the system and the plan solely in the interest of its members, participants and beneficiaries, and for the exclusive purpose of providing benefits and defraying reasonable costs of administering the plan.

Section 22305 provides that any rules and regulations adopted by the board have the force and effect of law.

Section 22455 requires a county superintendent of schools or employing agency to furnish any further information concerning any member or beneficiary the board may require. Section 22455 further requires that any information or reports required to be submitted to the system be submitted in a form, including, but not limited to, electronic transmission, as directed by the system.

Section 23004 requires a county superintendent of schools or employing agency to submit a report monthly to the system containing information the board requires in the administration of the plan. Section 23004 further requires that monthly report be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted member data.

Section 26301 requires employers to report contributions, along with all other information required by the system. Section 26301 further provides that the board shall assess penalties for late and unacceptable submission of reports for the Cash Balance Benefit Program.

These amendments to the regulations further interpret and make specific Education Code sections 22457, 22717, 22717.5, 22718, 23004, 23006, 23008, 26301 and 26302.

The board approved the proposed amendments on January 31, 2019, and directed CalSTRS staff to give public notice and schedule a public hearing held by the CalSTRS Chief Executive Officer.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Chapter 17 of Part 13 of the Education Code requires that penalties and interest be assessed on employers for late or inaccurate contributions and reports. Effective July 1, 2012, the Penalties and Interest Regulations (Article 15.5, Chapter 1, Division 3, Title 5 of the California Code of Regulations) were adopted by the board to ensure consistent and transparent assessment of penalties and interest. A key component of these regulations required that employers comply with the CalSTRS F496 and Voluntary Deduction File (VDF) specifications when submitting monthly reports.

CalSTRS has embarked on a pension administration system modernization effort, known as the Pension Solution project, that will result in the replacement of the F496 and the VDF with a new file format (NFF). CalSTRS' pension administration system plays an essential role in the organization's ability to fulfill its constitutional fiduciary responsibilities as well as its mission of securing the financial future and sustaining the trust of California's educators. The existing system is inflexible, increasingly expensive to maintain, and requires CalSTRS to undertake an increasing number of manual business processes.

The F496 and VDF files are authorized pursuant to sections 23004 and 26301 of the Education Code, which require employers to submit a report monthly or each pay period, respectively, (monthly report) to CalSTRS containing information the board may require in the administration of the Teachers' Retirement Plan. In addition, section 22455 of the Education Code requires county superintendents and other employing agencies to furnish any information concerning any member or beneficiary the board may require in a form, including electronic transmission, as directed by CalSTRS.

Part of this information is necessary to uniquely identify the employees for whom contributions are being remitted so that CalSTRS can accurately record and attribute the creditable service they have performed and the associated contributions for that service. In addition, mail and email addresses are necessary to comply with statute requiring CalSTRS to provide members with an annual statement of their account. Lastly, the other information that CalSTRS requires from employers is necessary to correctly and accurately calculate benefits, determine benefit eligibility or determine the effective date of those benefits.

Pension Solution is a multi-year project with completion anticipated in fiscal year 2022-23. The second of three implementation phases is currently scheduled for the fall of 2021. This second implementation will include the NFF, which consists of a contribution file and an employment file, and require the corresponding changes to CalSTRS regulations. The Contribution File, which replaces the existing F496 and VDF files, is associated with monthly payroll and contribution reporting. The Employment File, which replaces the current MR87, address and accounts

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receivable files, is associated with new hires, leaves, terminations, retirements, deaths, installment payments, address changes and other demographic changes. Most data fields that are contained in the existing F496 and VDF files are being carried forward into either the new Employment File or the new Contribution File.

No other nonmonetary benefits, such as the protection of public health and safety, worker safety or the environment; the prevention of discrimination; the promotion of fairness or social equity; or an increase in transparency in business and government are anticipated.

The regulations proposed in this rulemaking action make specific the Education Code as it relates to the required submission of data from employers to the system. CalSTRS evaluated whether the proposed regulations were inconsistent or incompatible with existing state regulations and found that there are no overlapping provisions with other state regulations. Thus, the proposed regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

CalSTRS has made the following initial determinations, as required by the California Administrative Procedure Act and Office of Administrative Law regulations:

1. Mandate on local agencies and school districts:

None. The proposed amendments to the regulations do not place a mandate on local agencies or school districts. CalSTRS has determined that the regulations proposed do not constitute a mandate on school districts or other local agencies. The regulations do not mandate a new program or require a higher level of service in an existing program. These amendments affect school employers (including school districts, community college districts and county offices of education). They provide an updated format for existing responsibilities, the proper reporting of employee compensation to CalSTRS via an encrypted format provided by the system and the submission of member information required to provide benefits.

2. Cost or savings to any state agency:

None. The proposed amendments to the regulations are part of a larger technology project replacing the CalSTRS legacy pension administration system (the Pension Solution project). The regulations coincide with the new technology and are not themselves expected to result in any costs or savings to any state agency.

3. Cost to any local agency or school district which must be reimbursed in accordance with California Government Code sections 17500 through 17630:

None. While CalSTRS is aware that there will be a fiscal impact to employers, these costs, as noted above, are not considered state-mandated reimbursable claims. The California Supreme Court established that “new program or higher level of service” means an underlying program of services to the public. Although the proposed regulations would impose costs for reporting information to CalSTRS under the NFF, the reporting requirements do not constitute a program or service to the public. Also, the court has established that contributions to public retirement systems are not programs to the public, but instead are part of the compensation of employees. Similarly, the

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information that is required to be reported under the proposed regulations, as with the existing regulations, is part of the process of accepting contribution payments and does not constitute a program in itself.

4. Other nondiscretionary cost or savings imposed on local agencies:

There are 90 employers that report contribution information directly to CalSTRS. Of those 90 employers, 13 use custom payroll software. CalSTRS estimates that those 13 employers would incur costs in the range of \$50,000 to \$400,000 each associated with updating their software. An additional five employers that do not report contribution information directly to CalSTRS also use custom payroll systems and are expected to make similar updates, with a similar cost range, in order to remain compatible with their respective county offices of education. Based on feedback from all vendors with whom CalSTRS has met, CalSTRS anticipates that the 77 employers that report contribution information directly to CalSTRS using partner agency or vendor-supported payroll software would be covered by an updated release and would not incur additional costs.

CalSTRS anticipates that no system upgrades are necessary for submission of information under the Employment File because this information can be submitted via a secure employer website portal. Some savings are anticipated by transitioning from paper forms to electronic transactions for several business processes.

5. Cost or savings in federal funding to the state:

None. These regulations do not relate to any federal program.

6. Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states:

None. The proposed amendments are of interest to businesses within or outside the state that provide payroll software services to California school employers; however, the regulations do not place any mandate on those businesses or regulate those businesses in any way.

7. Cost impacts on a representative private person or business:

The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed amendments do not affect private persons or businesses.

8. Results of the economic impact assessment/analysis:

These regulations are not anticipated to have any direct, indirect or induced effect on California businesses. Specifically:

- The action will not have any effect on the creation or elimination of jobs within the state.
- The action will not affect the creation of new businesses or the elimination of existing businesses within the state.

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- The action will not affect the expansion of businesses currently doing business within the state.
- The action will have no effect on worker safety and the state's environment.

These regulations will not affect the health and welfare of California residents.

The proposed action will clarify the standards for, and promote clear and consistent reporting of, compensation by public school employers.

As stated in the Informative Digest/Policy Statement Overview, the proposed regulations provide an updated format for correct reporting for county offices of education and school and community college district employers filing reports with CalSTRS and help ensure that retirement and other benefits payable to educators are based on properly reported data.

9. Significant effect on housing costs:

None. The proposed amendments do not relate directly or indirectly to housing costs.

10. Small business determination:

The board has determined that the proposed regulations do not affect small business as small businesses are not governed or affected, either directly or indirectly, by the statute that these regulations are clarifying.

CONSIDERATION OF ALTERNATIVES

In accordance with paragraph (13) of subdivision (a) of section 11346.5 of the Government Code, CalSTRS and the board must determine that no reasonable alternative considered or otherwise identified and brought to its attention would be:

- More effective in carrying out the purpose for which the action is proposed,
- As effective and less burdensome to affected private persons than the proposed action, or
- More cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CalSTRS and the board invite interested persons to present any statements or arguments that would support an alternative to the proposed regulations in the form of written comments or by providing testimony at the public hearing.

CONTACT PERSON

Inquiries concerning the proposed action may be directed to:

Sal Sanchez
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
Telephone: (916) 414-1994
E-Mail: Regulations@CalSTRS.com

The backup contact person for these inquiries is:

John Maradik-Symkowitz
Governmental Relations
California State Teachers' Retirement System
P.O. Box 15275, MS-14
Sacramento, CA 95851-0275
Telephone: (916) 414-1994
E-Mail: Regulations@CalSTRS.com

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to CalSTRS using the contact information listed above.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The rulemaking file is available for public inspection and copying throughout the rulemaking process at CalSTRS headquarters at 100 Waterfront Place, West Sacramento, CA, 95605. As of the date this notice is published in the California Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement (STD 399).

Copies of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact Statement are available at no charge by contacting CalSTRS using the contact information listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the board may adopt the proposed regulations substantially as described in this notice or may, on its own motion or at the recommendation of any interested person, modify the proposed regulations.

If the board makes modifications that are sufficiently related to the original proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. The board will accept written comments on the modified regulations for 15 days after the date on which they are made available. Please refer to

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www.CalSTRS.com/regulations or contact CalSTRS using the contact information listed above for copies of modifications, if any.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, CalSTRS will have the Final Statement of Reasons available for public inspection and copying at its headquarters, located at 100 Waterfront Place, West Sacramento, CA, 95605. Upon filing of the amended regulations with the Secretary of State, the Final Statement of Reasons will also be available temporarily on the CalSTRS website at www.CalSTRS.com/approved-regulations.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the proposed amendments to the regulations in underline and strikeout are posted on the CalSTRS website at www.CalSTRS.com/regulations.