

**California Code of Regulations**

**Title 5. Education  
Division 3. Teachers' Retirement System  
Chapter 3. Employer Reporting  
Article 1. Employer Direct Reporting**

*Notice published April 24, 2015*

**NOTICE OF PROPOSED RULEMAKING**

The California State Teachers' Retirement System ("CalSTRS") and the Teachers' Retirement Board ("board") propose to adopt new regulations, in the form of sections 27700 through 27705 in new Article 1 of new Chapter 3, Division 3, Title 5 of the California Code of Regulations, after considering all comments, objections and recommendations regarding the proposed action.

**PUBLIC HEARING**

The Teachers' Retirement Board has delegated the authority to hold a public hearing to the Chief Executive Officer. The CEO will hold a hearing:

Date and Time            10:00 a.m.  
                                      June 17, 2015

Please arrive promptly for check in by 10:00 a.m. The hearing will be closed once each speaker has provided his or her 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 to the  
                                      Regulations Specialist.

## **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory actions to CalSTRS. The written comment period closes at **5:00 p.m. on June 8, 2015**. CalSTRS will only consider written comments received at CalSTRS' address as reflected below by that time. Submit comments to:

Ellen Maurizio  
Regulations Specialist, Legislative Affairs  
California State Teachers' Retirement System  
P.O. Box 15275, MS-14  
Sacramento, CA 95851-0275  
Fax: (916) 414-1993  
E-Mail: [Regulations@CalSTRS.com](mailto:Regulations@CalSTRS.com)

## **AUTHORITY AND REFERENCE**

Section 22207 of the California Education Code authorizes the Teachers' Retirement 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 of the Education Code provides that the board shall regulate the duties of employers, employing agencies and other public authorities.

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

Section 22458 of the Education Code requires that employers provide CalSTRS with information regarding the compensation to be paid to employees subject to the Defined Benefit Program annually as determined by the board. These regulations specify the provision of these documents by districts as part of an application to become a direct report to the system.

Section 23004 of the Education Code authorizes the board to approve a school district or community college district to submit a report monthly to the system containing information as the board may require in the administration of the plan.

These regulations make the criteria for acceptance by the board under section 23004 specific.

The board approved the proposed regulations on April 1, 2015, and authorized CalSTRS to give public notice and schedule a public hearing before the board.

## **INFORMATIVE DIGEST**

Section 23004 of the Education Code authorizes the board to approve a school district or community college district to submit a report monthly to the system containing information as the board may require in the administration of the plan. The monthly report must be submitted electronically in an encrypted format provided by the system that ensures the security of the transmitted member data.

The regulations proposed in this rulemaking action would make specific section 23004 of the Education Code by defining the criteria the board will use to approve or disapprove a district as a direct report, and the circumstances under which the board may withdraw its approval.

The proposed regulations provide quantifiable standards a district must meet prior to acceptance as a direct report. When met, the standards demonstrate a track record of fiscal stability and independence, adherence to accreditation standards, ability to transmit files in the format required by the Education Code and compliance with key provisions of the Teachers' Retirement Law and related regulations.

These regulations are specific to CalSTRS and there are no comparable federal regulations or statutes. CalSTRS searched other state regulations that related to the topics addressed in these regulations and concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

It is the broad intent of these regulations to allow districts to report directly to CalSTRS when the direct reporting relationship is likely to increase efficiency. Allowing school districts and community college districts to report directly to CalSTRS as provided under existing law removes the middleman—the county superintendent—who is otherwise required by law to report to the system on behalf of district-level employers.

Anticipated benefits of these regulations include improved process efficiencies for school districts, county offices and CalSTRS. These regulations set a high bar to ensure the full benefit of this efficiency is realized by allowing only districts that will not require the expenditure of additional staff time or other resources to become direct reports. Allowing districts who have met the standards laid out in these regulations will minimize the likelihood that direct reporting employers will fail to comply with reporting standards and governing laws, will require an undue level of intervention by CalSTRS staff, or will lose their status as accredited, fiscally independent, or fiscally accountable institutions.

Districts who meet the standards of these proposed regulations are independent, have the tools to report directly to CalSTRS, and possess the relevant understanding of the Teachers' Retirement Law to report directly.

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, are anticipated.

The regulations proposed in this rulemaking action make specific the Education Code as it relates to the board's authority to approve school districts or community college districts to report directly to CalSTRS. 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.
2. COST OR SAVINGS TO ANY STATE AGENCY:  
None.

3. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE (“GC”) SECTIONS 17500 THROUGH 17630:

None.

4. OTHER NONDISCRETIONARY COST OR SAVINGS IMPOSED ON LOCAL AGENCIES:

None.

5. COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE:

None.

6. SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES:

None.

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 regulations only affect CalSTRS and CalSTRS-covered employers.

8. RESULTS OF THE ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Adoption of these regulations will not:

- Create or eliminate jobs within California;
- Create new businesses or eliminate existing businesses within California;
- Affect the expansion of businesses currently doing business within California.
- Affect worker safety or the state’s environment.

These regulations will not affect the health and welfare of California residents, except to the extent that they provide improved process efficiencies for school districts, county offices and CalSTRS. These regulations set a high bar to ensure the full benefit of this efficiency is realized by allowing only districts that will not require the expenditure of additional staff time or other resources to become direct reports.

9. SIGNIFICANT EFFECT ON HOUSING COSTS:

None.

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 by the statute that these regulations are clarifying.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with paragraph (13) of subdivision (a) of section 11346.5 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.

CalSTRS weighed the option of continuing to approve district-level employers as direct reports on a case-by-case basis. CalSTRS determined that well-defined standards for acceptance and removal, established through regulation, would allow for a streamlined and clear application process, allowing CalSTRS to more effectively implement its authority to allow district-level employers to directly report and enabling employers to understand prior to application what is required to become a direct reporting entity.

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 administrative action may be directed to:

Ellen Maurizio  
Regulations Specialist, Legislative Affairs  
California State Teachers' Retirement System  
P.O. Box 15275, MS-14  
Sacramento, CA 95851-0275  
Telephone: (916) 414-1994  
Fax: (916) 414-1993  
E-Mail: [Regulations@CalSTRS.com](mailto:Regulations@CalSTRS.com)

The backup contact person for these inquiries is:

Joycelyn Martinez-Wade  
Manager, Legislative Affairs  
California State Teachers' Retirement System  
P.O. Box 15275, MS-14  
Sacramento, CA 95851-0275  
Telephone: (916) 414-1994  
Fax: (916) 414-1993  
E-Mail: [Regulations@CalSTRS.com](mailto: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 the Regulations Specialist using the contact information listed above.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

CalSTRS will have the entire rulemaking file available for public inspection and copying throughout the rulemaking process at its offices at the address listed above. 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 the Regulations Specialist using the contact information listed above.

In addition, each of the above documents is available for viewing on the CalSTRS website at [www.CalSTRS.com/regulations](http://www.CalSTRS.com/regulations).

#### **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 [www.CalSTRS.com/regulations](http://www.CalSTRS.com/regulations) or contact Ellen Maurizio 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 offices at the address listed above. In addition, the Final Statement of Reasons will be posted on the CalSTRS website at [www.CalSTRS.com](http://www.CalSTRS.com).

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

The Notice of Proposed Rulemaking, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout are posted on the CalSTRS website at [www.CalSTRS.com/regulations](http://www.CalSTRS.com/regulations).