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February 17, 2021

TO: All County Superintendents of Schools
District Superintendents of Schools
Community College Districts
Charter Schools

FROM: Jack Ehnes
EXECUTIVE OFFICE

SUBJECT: Employer Directive 2021-02
Supersedes Employer Directive 2020-03
Enrollment in CalSTRS Benefit Programs

PURPOSE:

This directive provides information related to membership in the Defined Benefit Program, participation in the Cash Balance Benefit Program and elections regarding other public retirement systems. Information provided is inclusive of amendments enacted by Assembly Bill 2101 (Chapter 275, Statutes of 2020).

SCOPE:

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts and any agency that employs persons subject to coverage under the CalSTRS Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit programs.

DISCUSSION:

This directive supersedes any previous information provided by CalSTRS related to the following:

- Membership in the CalSTRS Defined Benefit Program
- Participation in the CalSTRS Cash Balance Benefit Program
- Retirement system election

Any time information related to one of these topics changes, this entire directive will be superseded with an updated version so that employers only have to access one document for enrollment information related to CalSTRS' benefit programs.

UPDATES:

Assembly Bill 2101 made changes to Education Code section 22509 and the requirements for the *Retirement System Election* (ES 372) form.

If you have any questions regarding this Employer Directive, please contact your Employer Services Representative at EmployerHelp@CalSTRS.com or 877-227-5778.

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February 17, 2021

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This Employer Directive does not take precedence over the law.

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1. Enrollment when Employer Does Not Offer the Cash Balance Benefit Program and Employee is Not Already a Member of the Defined Benefit Program

This section provides information for when a person who is not already a member of the Defined Benefit Program is employed to perform creditable service pursuant to Education Code §22119.5 for an employer that does not offer the Cash Balance Benefit Program. With regards to establishing membership, CalSTRS does not determine the date of employment.

a. Community College Districts

Prior to January 1, 2020 Assembly Bill 3076 (Chapter 474, Statutes of 2004) established the only criteria for determining membership in the Defined Benefit Program for a person employed by a community college district is whether or not the person is employed as a temporary employee. However, AB 3076 did not remove references to community college districts in Education Code §22503 and §22602 in regard to substitute employment and did not list Education Code §87478 as a temporary basis of employment.

Effective January 1, 2020 Assembly Bill 1452 (Chapter 318, Statutes of 2019) removed references to community college districts in Education Code §22503 and §22602 in regard to substitute employment and included Education Code §87478 as a temporary basis of employment.

i. Temporary Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a community college district to perform creditable service pursuant to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5(b) regardless of their time base. For example, if the employee is employed to perform creditable service as a temporary employee pursuant to Education Code §87482 but is performing creditable service on a full-time basis, they are still excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5(b).

The employee may elect membership in the Defined Benefit Program at any time while employed to perform creditable service pursuant to Education Code §22515 (see Section 1.c. *Permissive Election of Membership in the Defined Benefit Program*).

ii. Non-Temporary Employment

Prior to January 1, 2020, any person who is not already a member of the Defined Benefit Program, and who is employed by a community college district to perform creditable service that is not subject to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5, is a member pursuant to Education Code §22502(b) as of the first day of the pay period following employment.

Effective January 1, 2020, Assembly Bill 1452 (Chapter 318, Statutes of 2019) amended Education Code §22502(b) to state that any person who is not already a member of the Defined Benefit Program, and who is employed by a community college

district to perform creditable service that is not subject to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5, is a member as of the first day of employment.

b. School Districts, Charter Schools and County Offices of Education

Education Code §47611 states that provisions of the Defined Benefit Program and Cash Balance Benefit Program apply to a charter school in the same manner as they apply to other public schools in the school district that granted the charter if the charter school chooses to make CalSTRS benefit programs available to employees. References to a school district in this section are inclusive of charter school employers.

i. Full-Time Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed to perform creditable service on a full-time basis, is a member pursuant to Education Code §22501(a) as of the first day of employment.

ii. Employment for 50% or More of Full Time

Prior to January 1, 2020, any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service for 50% or more of the time the employer requires for the full-time position, is a member pursuant to Education Code §22502(a) as of the first day of the pay period following employment.

Effective January 1, 2020, Assembly Bill 1452 (Chapter 318, Statutes of 2019) amended Education Code §22502(a) to state that any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service for 50% or more of the time the employer requires for the full-time position, is a member as of the first day of employment.

iii. Employment for Less than 50% of Full Time

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on a part-time basis for less than 50% of the time the employer requires for the full-time position, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5(a).

The employee may elect membership in the Defined Benefit Program pursuant to Education Code §22515 at any time while employed to perform creditable service (see Section 1.c. *Permissive Election of Membership in the Defined Benefit Program*).

iv. Substitute Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on a substitute basis, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22602(a) if the person performs less than 100 complete days of creditable service during a school year for one school district or county office of education.

The employee may elect membership in the Defined Benefit Program pursuant to Education Code §22515 at any time while employed to perform creditable service (see Section 1.c. *Permissive Election of Membership in the Defined Benefit Program*).

If the employee performs 100 or more complete days of creditable service in a school year for one school district or county office of education, the employee is a member pursuant to Education Code §22503(a) as of the first day of the pay period following the pay period in which the 100th complete day of creditable service is performed. Membership is established regardless of whether additional service is performed after the 100-day threshold is met, including when the 100-day threshold is met during the last pay period of the school year.

CalSTRS does not determine what constitutes a “complete” day of creditable service in order to establish membership accordingly.

Prior to Directive 2018-04, employers may have been advised that membership pursuant to Education Code §22503(a) did not apply if an employee reached the 100-day threshold during the last pay period of the school year for the same employer and that membership should only be established if a substitute employee performed additional service for that employer in the same school year after meeting the 100-day threshold. If this occurred, membership would be established the first day of the pay period in which the additional service is performed. CalSTRS is not requesting employers retroactively adjust membership dates. Rather, employers should begin applying Education Code §22503(a) as described in the third paragraph of this section effective July 1, 2018.

v. Part-Time Hourly Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on a part-time hourly basis, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22604(a) if the person performs fewer than 60 hours of creditable service in a pay period for one school district or county office of education.

The employee may elect membership in the Defined Benefit Program pursuant to Education Code §22515 at any time while employed to perform creditable service (see Section 1.c. *Permissive Election of Membership in the Defined Benefit Program*).

If the employee performs 60 or more hours of creditable service in a pay period for one school district or county office of education, the employee is a member pursuant to Education Code §22504(a) as of the first day of the following pay period. Membership is established regardless of whether additional service is performed after the 60-hour threshold is met, including when the 60-hour threshold is met during the last pay period of the school year.

Prior to Directive 2018-04, employers may have been advised that membership pursuant to Education Code §22504(a) should only be established if the part-time hourly employee performed additional service in a pay period in the same school year for the same employer after the pay period in which the 60-hour threshold was reached.

If this occurred, membership would be established the first day of the pay period in which the additional service was performed. CalSTRS is not requesting employers retroactively adjust membership dates. Rather, employers should begin applying Education Code §22504(a) as described in the third paragraph of this section effective July 1, 2018.

vi. Part-Time Daily Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on part-time daily basis, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22604(a) if the person performs fewer than 10 days of creditable service in a pay period for one school district or county office of education.

The employee may elect membership in the Defined Benefit Program pursuant to Education Code §22515 at any time while employed to perform creditable service (see Section 1.c. *Permissive Election of Membership in the Defined Benefit Program*).

If the employee performs 10 or more days of creditable service in a pay period for one school district or county office of education, the employee is a member pursuant to Education Code §22504(a) as of the first day of the following pay period. Membership is established regardless of whether additional service is performed after the 10-day threshold is met, including when the 10-day threshold is met during the last pay period of the school year.

Prior to Directive 2018-04, employers may have been advised that membership pursuant to Education Code §22504(a) should only be established if the part-time daily employee performed additional service in a pay period in the same school year for the same employer after the pay period in which the 10-day threshold was reached. If this occurred, membership would be established the first day of the pay period in which the additional service was performed. CalSTRS is not requesting employers retroactively adjust membership dates. Rather, employers should begin applying Education Code §22504(a) as described in the third paragraph of this section effective July 1, 2018.

vii. Exchange and Sojourn Teachers

Persons serving as exchange teachers or sojourn teachers from outside of California are excluded from both membership in the Defined Benefit Program and participation in the Cash Balance Benefit Program pursuant to Education Code §22601.

Any teacher employed by an employer through the process established in Education Code §44853 or §44856 is considered an “exchange” or “sojourn” teacher irrespective of their visa status.

CalSTRS previously directed employers to report compensation for exchange and sojourn teachers using Assignment Code 62 on the F496 File. This functionality is slated to be discontinued when CalSTRS deploys its new pension administration system. In the meantime, employers may continue to report compensation for exchange and sojourn teachers but are not required to do so.

c. Permissive Election of Membership in the Defined Benefit Program

Persons who are excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5, §22602 and §22604 may elect membership in the Defined Benefit Program pursuant to Education Code §22515 at any time while employed to perform creditable service.

The election must be made on a form prescribed by the system, is irrevocable and applies to all subsequent creditable service performed for any employer. CalSTRS provides the *Permissive Membership* (ES 350) form for this purpose.

Effective January 1, 2019, the employee is eligible to elect a membership date that is no earlier than the first day of the pay period in which the election is made or the date the employee is first employed to perform creditable service subject to coverage under the Defined Benefit Program, whichever is later. For example, if an employee is first employed on January 15 and makes the election on January 20, the earliest date the employee can elect membership is January 15. If the same employee waits to make the election on February 13, the earliest date they can elect is February 1. CalSTRS must receive the completed election form within the 60 calendar days following the election and before contributions are reported. The employer must retain a copy of the election form.

d. Notification to Employees

Education Code §22455.5(b) requires employers to inform eligible employees within 30 days of the date of hire of their right to elect membership in the Defined Benefit Program pursuant to Education Code §22515. Written acknowledgement by the employee must be maintained in employer files on a form provided by the system. CalSTRS incorporates this written acknowledgement into the *Permissive Membership* (ES 350) form. Education Code §22455.5(c) states that employers are liable for employer and employee contributions and interest from the date of hire in addition to system administrative and audit costs if an audit or member’s complaint reveals noncompliance.

e. Action

<i>If...</i>	<i>Then...</i>
Employee requires membership in the Defined Benefit Program	<input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 11 on the MR87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File. No CalSTRS enrollment or reporting is required if an employee elects coverage by CalPERS pursuant to Government Code §20309 (see Section 5. <i>Retirement System Election – Electing CalPERS Coverage</i>).

<i>If...</i>	<i>Then...</i>
Employee does not require membership in the Defined Benefit Program	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Notify the employee within 30 days of hire of their right to elect membership in the Defined Benefit Program pursuant to Education Code §22515 and provide the employee the <i>Permissive Membership</i> (ES 350) form.
Employee permissively elects membership in the Defined Benefit Program	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Verify the chosen membership date is no earlier than the first day of the pay period in which the election is made or the date the employee is first employed to perform creditable service subject to coverage under the Defined Benefit Program, whichever is later. <input checked="" type="checkbox"/> Ensure CalSTRS receives the completed election form within 60 calendar days of the date the election is made and retain a copy. <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 81 on the MR87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File.

<i>If...</i>	<i>Then...</i>
<p>Employee does not permissively elect membership in the Defined Benefit Program</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Retain a copy of the employee’s <i>Permissive Membership</i> (ES 350) form acknowledging notification of their right to elect membership. <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Nonmember” using Transaction Code 02 on the MR87 File or Remote Employer Access Program. If the employee is already enrolled as a nonmember based on employment with another employer, no enrollment is required. <input checked="" type="checkbox"/> Report compensation to the Defined Benefit Program using Member Code 02 on the F496 File. <p>If the employee is employed as a substitute, part-time hourly or part-time daily employee:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Monitor the employee’s creditable service for mandatory membership in the Defined Benefit Program. <p>If the employee’s basis of employment changes to require membership in the Defined Benefit Program or the employee’s creditable service as a substitute, part-time hourly or part-time daily employee requires membership in the Defined Benefit Program:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 11 on the MR87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File. <p>If the employee’s creditable service later requires membership in the Defined Benefit Program based on their employment with another employer or a <i>Permissive Membership</i> (ES 350) form processed by another employer:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Begin reporting and remitting contributions to the Defined Benefit Program using Member Code 01 on the F496 File for creditable service performed on or after the employee’s membership date.

2. Enrollment when Employer Offers the Cash Balance Benefit Program and Employee is Not Already a Member of the Defined Benefit Program

This section provides information for when a person who is not already a member of the Defined Benefit Program is employed to perform creditable service pursuant to Education Code §22119.5 for an employer that offers the Cash Balance Benefit Program. With regards to establishing membership, CalSTRS does not determine the date of employment.

a. Community College Districts

i. Temporary Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a community college district to perform creditable service pursuant to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5(b) regardless of their time base. For example, if the employee is employed to perform creditable service as a temporary employee pursuant to Education Code §87482 but is performing creditable service on a full-time basis, they are still excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5(b).

The employee's creditable service is subject to coverage by the Cash Balance Benefit Program pursuant to Education Code §26400 (see Section 2.c. *Required Participation in the Cash Balance Benefit Program*).

The employee may elect membership in the Defined Benefit Program at any time while employed to perform creditable service pursuant to Education Code §22515 (see Section 2.d. *Permissive Election of Membership in the Defined Benefit Program*).

ii. Non-Temporary Employment

Prior to January 1, 2020, any person who is not already a member of the Defined Benefit Program, and who is employed by a community college district to perform creditable service that is not pursuant to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5, is a member pursuant to Education Code §22502(b) as of the first day of the pay period following employment and is ineligible to participate in the Cash Balance Benefit Program.

Effective January 1, 2020, Assembly Bill 1452 (Chapter 318, Statutes of 2019) amended Education Code §22502(b) to state that any person who is not already a member of the Defined Benefit Program, and who is employed by a community college district to perform creditable service that is not subject to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5, is a member as of the first day of employment.

b. School Districts, Charter Schools and County Offices of Education

Education Codes §47611 states that provisions of the Defined Benefit Program and Cash Balance Benefit Program apply to a charter school in the same manner as they apply to other

public schools in the school district that granted the charter if the charter school chooses to make CalSTRS benefit programs available to employees. References to a school district in this section are inclusive of charter school employers.

i. Full-Time Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed to perform creditable service on a full-time basis, is a member pursuant to Education Code §22501(a) as of the first day of employment and is ineligible to participate in the Cash Balance Benefit Program.

ii. Employment for 50% or More of Full Time

Prior to January 1, 2020, any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service for 50% or more of the time the employer requires for the full-time position, is a member pursuant to Education Code §22502(a) as of the first day of the pay period following employment and is ineligible to participate in the Cash Balance Benefit Program.

Effective January 1, 2020, Assembly Bill 1452 (Chapter 318, Statutes of 2019) amended Education Code §22502(a) to state that any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service for 50% or more of the time the employer requires for the full-time position, is a member as of the first day of employment and is ineligible to participate in the Cash Balance Benefit Program.

iii. Employment for Less than 50% of Full Time

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service for less than 50% of the time the employer requires for the full-time position, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5(a).

The employee's creditable service is subject to coverage by the Cash Balance Benefit Program pursuant to Education Code §26400 (see Section 2.c. *Required Participation in the Cash Balance Benefit Program*).

The employee may elect membership in the Defined Benefit Program at any time while employed to perform creditable service pursuant to Education Code §22515 (see Section 2.d. *Permissive Election of Membership in the Defined Benefit Program*).

iv. Substitute Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on a substitute basis, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22503(b).

The employee's creditable service is subject to coverage by the Cash Balance Benefit Program pursuant to Education Code §26400 (see Section 2.c. *Required Participation in the Cash Balance Benefit Program*).

The employee may elect membership in the Defined Benefit Program at any time while employed to perform creditable service pursuant to Education Code §22515 (see Section 2.d. *Permissive Election of Membership in the Defined Benefit Program*).

v. Part-Time Hourly Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on a part-time hourly basis, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22504(c).

The employee's creditable service is subject to coverage by the Cash Balance Benefit Program pursuant to Education Code §26400 (see Section 2.c. *Required Participation in the Cash Balance Benefit Program*).

The employee may elect membership in the Defined Benefit Program at any time while employed to perform creditable service pursuant to Education Code §22515 (see Section 2.d. *Permissive Election of Membership in the Defined Benefit Program*).

vi. Part-Time Daily Employment

Any person who is not already a member of the Defined Benefit Program, and who is employed by a school district or county office of education to perform creditable service on a part-time daily basis, is excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22504(c).

The employee's creditable service is subject to coverage by the Cash Balance Benefit Program pursuant to Education Code §26400 (see Section 2.c. *Required Participation in the Cash Balance Benefit Program*).

The employee may elect membership in the Defined Benefit Program at any time while employed to perform creditable service pursuant to Education Code §22515 (see Section 2.d. *Permissive Election of Membership in the Defined Benefit Program*).

vii. Exchange and Sojourn Teachers

Persons serving as exchange teachers or sojourn teachers from outside of California are excluded from both membership in the Defined Benefit Program and participation in the Cash Balance Benefit Program pursuant to Education Code §22601.

Any teacher employed by an employer through the process established in Education Code §44853 or §44856 is considered an "exchange" or "sojourn" teacher irrespective of their visa status.

CalSTRS previously directed employers to report compensation for exchange and sojourn teachers using Assignment Code 62 on the F496 File. This functionality is slated to be discontinued when CalSTRS deploys its new pension administration system. In the meantime, employers may continue to report compensation for exchange and sojourn teachers but are not required to do so.

c. Required Participation in the Cash Balance Benefit Program

Any person who is not already a member of the Defined Benefit Program, and who is employed to perform creditable service is a participant of the Cash Balance Benefit Program pursuant to Education Code §26400 for creditable service performed for that employer if any of the following conditions exist:

- The person is employed by a school district or county office of education to perform creditable service for less than 50% of the time the employer requires for the full-time position or as a substitute, part-time hourly or part-time daily employee.
- The person is employed by a community college district to perform creditable service pursuant to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5.

Participation begins as of the first day of creditable service or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

i. Election for Coverage by the Federal Social Security Act or Alternative Retirement Plan in Lieu of Participating in the Cash Balance Benefit Program

Education Code §26400 allows an employee who is not already a member of the Defined Benefit Program to elect coverage by the federal Social Security Act or to participate in an alternative retirement plan offered by the employer in lieu of participating in the Cash Balance Benefit Program if the employer's governing board's action to provide the Cash Balance Benefit Program gives employees the right to elect such coverage.

An election for coverage by the federal Social Security Act or an alternative retirement plan in lieu of participating in the Cash Balance Benefit Program is subject to the following requirements:

- The election must be made on a properly executed form prescribed by the system and filed with the employer within 60 calendar days of the first day of creditable service or the date, or effective date, of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.
- The employer must submit the form within 60 calendar days after the date of the employee's signature and retain a copy. CalSTRS provides the *Cash Balance Benefit Program Election* (CB 533) form for the purpose of making this election.
- The election is effective as of the first day of creditable service for the employer or the effective date of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.

If an employer's governing board provides coverage by the federal Social Security Act subsequent to an action to provide the Cash Balance Benefit Program, an employee may elect coverage by the federal Social Security Act in lieu of participating in the Cash Balance Benefit Program pursuant to Education Code §26400. The election must be made on a properly executed form prescribed by the system within 60 calendar days of the date, or effective date, of the governing board's action to provide coverage under the federal Social Security Act, whichever is later.

Employees may not elect coverage by an alternative retirement plan offered by an employer subsequent to an action to provide the Cash Balance Benefit Program.

An election for coverage by the federal Social Security Act or an alternative retirement plan offered by the employer does not preclude the employee from later electing to participate in the Cash Balance Benefit Program for subsequent creditable service performed for the employer so long as the employee remains eligible and the employer continues to offer the Cash Balance Benefit Program.

ii. Change in Basis of Employment or Membership Status

Prior to Directive 2018-04, employers may have been advised that an employee was unable to participate in the Cash Balance Benefit Program if the employee was employed to perform creditable service on a full-time basis for another employer.

Prior to January 1, 2020, if an employee's basis of employment with the employer changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Education Code §22501 or §22502, creditable service performed for that employer shall no longer be covered by the Cash Balance Benefit Program, federal Social Security Act or alternative retirement plan offered by the employer and shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the pay period in which the change in the basis of employment occurred.

Effective January 1, 2020, Assembly Bill 1452 (Chapter 318, Statutes of 2019) amended Education Code §22501 and §22502 such that, if an employee's basis of employment with the employer changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Education Code §22501 or §22502, creditable service performed for that employer shall no longer be covered by the Cash Balance Benefit Program, federal Social Security Act or alternative retirement plan offered by the employer and shall be subject to coverage by the Defined Benefit Program as of the first day of employment.

If an employee elected coverage by the federal Social Security Act or an alternate retirement plan and later becomes a member of the Defined Benefit Program pursuant to Education Code §22501, §22502, §22503 or §22504 based on employment with another employer, the employee's service requires coverage by the Defined Benefit Program as of the employee's membership date. As of that date, the employee is unable to continue coverage by the federal Social Security Act or the alternative retirement plan. The employee may elect to participate in the Cash Balance Benefit Program for creditable service performed for the employer that offers the Cash Balance Benefit

Program if the employee's basis of employment for that employer is eligible for participation.

If an employee is participating in the Cash Balance Benefit Program and later simultaneously becomes a member of the Defined Benefit Program pursuant to Education Code §22501, §22502, §22503 or §22504 based on employment with another employer, the employee will continue to participate in the Cash Balance Benefit Program with the first employer, while also participating in the Defined Benefit Program with the second employer.

d. Permissive Election of Membership in the Defined Benefit Program

Persons who are excluded from mandatory membership in the Defined Benefit Program pursuant to Education Code §22601.5, §22602 or §22604 may elect membership in the Defined Benefit Program pursuant to Education Code §22515 at any time while employed to perform creditable service.

The election must be made on a form prescribed by the system, is irrevocable and applies to all subsequent creditable service performed for any employer, whether covered by Cash Balance, Social Security or an alternate retirement plan. CalSTRS provides the *Permissive Membership* (ES 350) form for this purpose.

Effective January 1, 2019, the employee is eligible to elect a membership date that is no earlier than the first day of the pay period in which the election is made or the date the employee is first employed to perform creditable service subject to coverage under the Defined Benefit Program, whichever is later. For example, if an employee is first hired on January 15 and makes the election on January 20, the earliest date the employee can elect membership is January 15. If the same employee waits to make the election on February 13, the earliest date they can elect is February 1. CalSTRS must receive the completed election form within the 60 calendar days following the election and before contributions are reported. The employer must retain a copy of the election form.

e. Notification to Employees

Education Code §26300(a) requires employers to provide employees all of the following within 10 working days following the date of employment or the date, or effective date, of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later:

- Information related to the rights and responsibilities of the employee and employer under the Cash Balance Benefit Program.
- Information related to benefits payable under the Cash Balance Benefit Program.
- Information related to the employee's ability to elect coverage by the Defined Benefit Program pursuant to Education Code §22515.

The employer must retain written acknowledgement that the employee received the required information on a form prescribed by the system. CalSTRS provides the *Cash Balance Benefit Program Election* (CB 533) form for this purpose.

If an employee is eligible to elect coverage by the federal Social Security Act or an alternative retirement plan offered by the employer in lieu of participating in the Cash Balance Benefit Program, Education Code §26300(c) requires the employer to provide the employee all of the following within 10 working days following the first day of creditable service for the employer or the date, or effective date, of the employer’s governing board’s action to provide the Cash Balance Benefit Program, whichever is later:

- Information related to the employee’s right to elect coverage by the federal Social Security Act or an alternative retirement plan offered by the employer in lieu of participating in the Cash Balance Benefit Program.
- The rights and responsibilities of the employer and employee under the federal Social Security Act or the alternative retirement plan.
- The benefits payable under the federal Social Security Act or the alternative retirement plan.

f. Action

<i>If...</i>	<i>Then...</i>
Employee requires membership in the Defined Benefit Program	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 11 on the MR87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File. <p>No CalSTRS enrollment or reporting is required if a member elects coverage by CalPERS pursuant to Government Code §20309 (see Section 5. <i>Retirement System Election – Electing CalPERS Coverage</i>).</p>
Employee permissively elects membership in the Defined Benefit Program	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Verify the chosen membership date is no earlier than the first day of the pay period in which the election is made or the date the employee is first employed to perform creditable service subject to coverage under the Defined Benefit Program, whichever is later. <input checked="" type="checkbox"/> Ensure CalSTRS receives the completed election form within 60 calendar days of the date the election is made and retain a copy. <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 81 on the MR87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File.

<i>If...</i>	<i>Then...</i>
<p>Employee requires participation in the Cash Balance Benefit Program</p>	<ul style="list-style-type: none"> <li data-bbox="634 317 1468 449"> <input checked="" type="checkbox"/> Notify the employee within 10 working days of the date of employment or the date, or effective date, of the employer’s governing board’s action to provide the Cash Balance Benefit Program, whichever is later, of all of the following: <ul style="list-style-type: none"> <li data-bbox="729 468 1468 562"> <input checked="" type="checkbox"/> Information related to the rights and responsibilities of the employee and employer under the Cash Balance Benefit Program. <li data-bbox="729 581 1468 653"> <input checked="" type="checkbox"/> Information related to benefits payable under the Cash Balance Benefit Program. <li data-bbox="729 669 1468 764"> <input checked="" type="checkbox"/> Information related to the employee’s ability to elect membership in the Defined Benefit Program pursuant to Education Code §22515. <li data-bbox="634 783 1468 877"> <input checked="" type="checkbox"/> Retain a copy of the employee’s acknowledgement of receiving the required information on the <i>Cash Balance Benefit Program Election</i> (CB 533) form. <p data-bbox="634 917 1468 1012">If the employee is able to elect coverage by the federal Social Security Act or an alternative retirement plan in lieu of participating in the Cash Balance Benefit Program:</p> <li data-bbox="634 1031 1468 1163"> <input checked="" type="checkbox"/> Notify the employee within 10 working days of the first day of creditable service or the date, or effective date, of the employer’s governing board’s action to provide the Cash Balance Benefit Program, whichever is later, of all of the following: <ul style="list-style-type: none"> <li data-bbox="729 1182 1468 1314"> <input checked="" type="checkbox"/> Information related to the employee’s right to elect coverage by the federal Social Security Act or an alternative retirement plan offered by the employer in lieu of participating in the Cash Balance Benefit Program. <li data-bbox="729 1333 1468 1428"> <input checked="" type="checkbox"/> The rights and responsibilities of the employer and employee under the federal Social Security Act or the alternative retirement plan. <li data-bbox="729 1446 1468 1514"> <input checked="" type="checkbox"/> The benefits payable under the federal Social Security Act or the alternative retirement plan.

<i>If...</i>	<i>Then...</i>
<p>Employee elects coverage by the federal Social Security Act or an alternative retirement plan</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enroll the employee as an “Alternative Retirement Program Participant” using Transaction Code 87 on the Remote Employer Access Program. This transaction cannot be completed using the MR87 File. <input checked="" type="checkbox"/> Report compensation to the Defined Benefit Program using Member Code 02 on the F496 File. <p>If the employee’s creditable service requires coverage by the Defined Benefit Program based on a change in the employee’s basis of employment, mandatory membership due to employment with another employer or a permissive election of membership:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Close the employee’s Alternative Retirement Program sub-account using Transaction Code 82 on the Remote Employer Access Portal. This transaction cannot be completed using the MR 87 File. <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 11 on the MR 87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File.
<p>Employee does not elect membership in the Defined Benefit Program and Employee does not elect coverage by the federal Social Security Act or an alternative retirement plan</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enroll the employee as a “Cash Balance Benefit Program Participant” using Transaction Code 06 on the MR87 File or Remote Employer Access Program. <input checked="" type="checkbox"/> Report and remit contributions to the Cash Balance Benefit Program using the VDF File. No Member Code is required on VDF contribution lines. <input checked="" type="checkbox"/> Report compensation to the Defined Benefit Program using Member Code 02 on the F496 File. <p>If the employee’s creditable service requires coverage by the Defined Benefit Program based on a change in the employee’s basis of employment or a permissive election of membership:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Enroll the employee as a “Defined Benefit Program Member” using Transaction Code 11 on the MR 87 File or Remote Employer Access Program. This transaction automatically closes the employee’s Cash Balance Benefit Program sub-account. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File. <p>No CalSTRS enrollment or reporting is required if an employee elects coverage by CalPERS pursuant to Government Code §20309 (see Section 5. <i>Retirement System Election – Electing CalPERS Coverage</i>).</p>

3. Enrollment When Employee is Already a Member of the Defined Benefit Program

Once an employee becomes a member of the Defined Benefit Program, all subsequent creditable service performed for any employer requires coverage by the Defined Benefit Program, except as follows:

- If the member becomes employed in a position that requires coverage by another public retirement system, the member may be eligible to elect that service be covered by the Defined Benefit Program in lieu of the other retirement system (see Section 4. *Retirement System Election – Electing CalSTRS Defined Benefit Program Coverage*).
- If the member becomes employed by an employer that offers the Cash Balance Benefit Program, the member may be eligible to elect to participate in the Cash Balance Benefit Program for creditable service performed for that employer (see Section 3.a. *Election to Participate in the Cash Balance Benefit Program by a Member of the Defined Benefit Program*).

a. Election to Participate in the Cash Balance Benefit Program by a Member of the Defined Benefit Program

Prior to Directive 2018-04, employers may have been advised that an employee was unable to participate in the Cash Balance Benefit Program if the employee was employed to perform creditable service on a full-time basis for another employer.

Education Code §26401 allows a member of the Defined Benefit Program to elect to participate in the Cash Balance Benefit Program for creditable service performed for an employer that offers the Cash Balance Benefit Program if all employment for that employer meets either of the following requirements:

- The member is employed by a school district or county office of education to perform creditable service for less than 50% of the time the employer requires for the full-time position or as a substitute, part-time hourly or part-time daily employee.
- The member is employed by a community college district to perform creditable service pursuant to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5.

An election to participate in the Cash Balance Benefit Program made pursuant to Education Code §26401 is subject to the following requirements:

- The election must be made on a properly executed form prescribed by the system and filed with the employer within 60 calendar days of the first day of employment or the date, or effective date, of the employer's governing board's action to provide the Cash Balance Benefit Program, whichever is later.
- The employer must submit a copy of the signed election form to CalSTRS and retain a copy. CalSTRS provides the *Cash Balance Benefit Program Election (CB 533)* form for the purpose of making this election.

- The election is effective as of the first day of the pay period following the pay period in which the election is made, if the election was made prior to January 1, 2020.
- If the election was made on or after January 1, 2020, the election is effective as of the first day of employment or the effective date of the employer's governing boards' action to provide the Cash Balance Benefit Program, whichever is later.

i. Change in Basis of Employment

Prior to January 1, 2020, Education Code §26401 provided that if the participant's basis of employment with the employer no longer meets the requirements for participation in the Cash Balance Benefit Program, creditable service performed for that employer shall be subject to coverage by the Defined Benefit Program as of the first day of the pay period following the pay period in which the change in the basis of employment occurred.

Effective January 1, 2020, Assembly Bill 1452 (Chapter 318, Statutes of 2019) amended Education Code §22501 and §22502 such that, if an employee's basis of employment with the employer changes to employment that is subject to mandatory membership in the Defined Benefit Program pursuant to Education Code §22501 or §22502, creditable service performed for that employer shall no longer be covered by the Cash Balance Benefit Program, federal Social Security Act or alternative retirement plan offered by the employer and shall be subject to coverage by the Defined Benefit Program as of the first day of employment.

A change in the participant's basis of employment for one employer has no bearing on the participant's ability to continue to participate in the Cash Balance Benefit Program for creditable service performed for another employer.

ii. Notification to Employees

Education Code §26300 requires employers to provide members eligible to elect to participate in the Cash Balance Benefit Program in lieu of the Defined Benefit Program information and forms provided by the system to assist the employee in making an election. CalSTRS provides the *Cash Balance Benefit Program Election* (CB 533) form for this purpose.

b. Action

<i>If...</i>	<i>Then...</i>
<p>Employer does not offer the Cash Balance Benefit Program or Member is not eligible to participate in the Cash Balance Benefit Program</p>	<p><input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using the F496 File. No additional enrollment is required.</p> <p>No CalSTRS enrollment or reporting is required if the member elects coverage by CalPERS pursuant to Government Code §20309 (see Section 5. <i>Retirement System Election – Electing CalPERS Coverage</i>). If an enrollment or reporting is submitted to CalSTRS prior to receipt of an employee’s election for CalPERS coverage, contact your Employer Services Representative for assistance.</p>
<p>Member is eligible to participate in the Cash Balance Benefit Program</p>	<p><input checked="" type="checkbox"/> Provide the member the <i>Cash Balance Benefit Program Election</i> (CB 533) form and information about their right to elect to participate in the Cash Balance Benefit Program.</p>
<p>Member elects to participate in the Cash Balance Benefit Program</p>	<p><input checked="" type="checkbox"/> Retain a copy of a member’s election on the <i>Cash Balance Benefit Program Election</i> (CB 533) form and mail the original form to CalSTRS.</p> <p><input checked="" type="checkbox"/> Enroll the member as a “Cash Balance Benefit Program Participant” using Transaction Code 86 on the MR87 File or Remote Employer Access Program.</p> <p><input checked="" type="checkbox"/> Report and remit contributions to the Cash Balance Benefit Program using the VDF File.</p> <p><input checked="" type="checkbox"/> Report compensation to the Defined Benefit Program using Member Code 02 on the F496 File.</p> <p>If the member’s basis of employment changes and the member is no longer eligible to participate in the Cash Balance Benefit Program:</p> <p><input checked="" type="checkbox"/> Close the member’s Cash Balance Benefit Program sub-account using Transaction Code 83 on the Remote Employer Access Portal. This transaction cannot be completed on the MR87 File.</p> <p><input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File.</p>

<i>If...</i>	<i>Then...</i>
Member does not elect to participate in the Cash Balance Benefit Program	<p><input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using the F496 File. No additional enrollment is required.</p> <p>No CalSTRS enrollment or reporting is required if the member elects coverage by CalPERS pursuant to Government Code §20309 (see Section 5. <i>Retirement System Election – Electing CalPERS Coverage</i>). If an enrollment or reporting is submitted to CalSTRS prior to receipt of an employee’s election for CalPERS coverage, contact your Employer Services Representative for assistance.</p>

4. Retirement System Election – Electing CalSTRS Defined Benefit Program Coverage

A member of the Defined Benefit Program who becomes employed to perform service that requires coverage by another public retirement system may elect to have that service subject to coverage by the Defined Benefit Program in lieu of the other public retirement system if certain requirements are met.

a. School District, Charter School, Community College District and County Office of Education Employees

Education Code §22508(a) allows a member of the Defined Benefit Program who is employed by a school district, community college district or county office of education to perform service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, to elect to have that service subject to coverage by the Defined Benefit Program in lieu of the other retirement system.

Education Codes §47611 states that provisions of the Defined Benefit Program and Cash Balance Benefit Program apply to a charter school in the same manner as they apply to other public schools in the school district that granted the charter if the charter school chooses to make CalSTRS benefits programs available to employees. References to a school district in this directive are inclusive to charter school employers.

b. State Employees

Education Code §22508(b) allows a member of the Defined Benefit Program who is employed by the state to perform service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, to elect to have that service subject to coverage by the Defined Benefit in lieu of the other retirement system if any of the following conditions exists:

- The employee is represented by a state bargaining unit that represents educational consultants, professional educators or librarians employed by the state.

- The employee is excluded from the definition of “state employee” in Government Code §3513 but performing, supervising or managing work similar to work performed by employees represented by a state bargaining unit that represents educational consultants, professional educators or librarians.
- The employee is employed in a position not covered by civil service and in the executive branch of government, but performing, supervising or managing work similar to work performed by employees represented by a state bargaining unit that represents educational consultants, professional educators or librarians.

c. Employees of the Board of Governors of the California Community Colleges

Education Code §22508.5(a) allows a vested member of the Defined Benefit Program who is employed by a community college district, and who subsequently is employed by the Board of Governors of the California Community Colleges to perform duties that are subject to membership in a different public retirement system, to elect to have that service subject to coverage by the Defined Benefit Program in lieu of the other retirement system.

d. Election

Education Code §22509 specifies that an election made pursuant to Education Code §22508 or §22508.5 is subject to the following requirements:

- The election shall be made on a form prescribed by the system within 60 calendar days of the date of hire. CalSTRS provides *the Retirement System Election* (ES 372) form for this purpose.
- *Prior to January 1, 2021*, the employer was required to submit the completed election form to CalSTRS within 60 calendar days after the date of the employee’s signature, and a copy was required to be submitted to the other retirement system.
Effective January 1, 2021, the employer must submit the original completed and signed election form to CalSTRS within 60 calendar days after the date of the employee’s signature. The employer must retain a copy of the employee’s signed election form.
- The election is effective as of the first day of employment, is irrevocable and applies to all creditable service performed for that employer in that position.

An election made pursuant to Education Code §22508 or §22508.5 applies only to service performed for the position for which the election is made. Each time an employee is employed in a new position, their eligibility to elect Defined Benefit Program coverage pursuant to Education Code §22508 and §22508.5 should be evaluated.

e. Notification to Employees

Education Code §22509(a) requires employers to notify eligible employees of their right to elect coverage by the Defined Benefit Program within 10 working days of the date of hire pursuant to Education Code §22508 or §22508.5. The employer is also required to make available to eligible employees written information provided by each retirement system concerning benefits to assist the employee in making an election.

f. Action

<i>If...</i>	<i>Then...</i>
Employee is not eligible to elect Defined Benefit Program coverage for the position	CalSTRS requires no action.
Employee is eligible to elect Defined Benefit Program coverage for the position	<input checked="" type="checkbox"/> Provide the employee information about the Defined Benefit Program and the other retirement system and a <i>Retirement System Election</i> (ES 372) form within 10 working days of the date of hire.
Employee elects Defined Benefit Program coverage for the position	<input checked="" type="checkbox"/> Ensure CalSTRS receives the original completed and signed <i>Retirement System Election</i> (ES 372) form within 60 calendar days after the date of the employee’s signature. <input checked="" type="checkbox"/> Retain a copy of the signed <i>Retirement System Election</i> (ES 372) form. <input checked="" type="checkbox"/> Report and remit contributions to the Defined Benefit Program using Member Code 01 on the F496 File. Since the employee is already a member of the Defined Benefit Program, no enrollment is required.
Employee does not elect Defined Benefit Program coverage for the position	CalSTRS requires no action.

5. Retirement System Election – Electing CalPERS Coverage

A member of the California Public Employees’ Retirement System who is employed to perform creditable service that requires coverage by the CalSTRS Defined Benefit Program may be eligible to elect that their service be creditable to CalPERS in lieu of the CalSTRS Defined Benefit Program. The election is made with CalPERS pursuant to Government Code §20309 within 60 days of the date of hire. Government Code §20309 requires the employer to submit a copy of the member’s election to CalSTRS.

Creditable service that “requires coverage” by the CalSTRS Defined Benefit Program includes:

- Employment by a school district or county office of education to perform creditable service on a full-time basis.
- Employment by a school district or county office of education to perform creditable service for 50% or more of the time the employer requires for the full-time position.

- Employment by a community college district to perform creditable service that is not subject to Education Code §87474, §87478, §87480, §87481, §87482 or §87482.5.
- Any employment to perform creditable service for any employer after becoming a member of the CalSTRS Defined Benefit Program.

a. Action

<i>If...</i>	<i>Then...</i>
Employee is a CalPERS member	<input checked="" type="checkbox"/> Refer to CalPERS regarding the employee’s eligibility to elect CalPERS coverage pursuant to Government Code §20309.
Employee is not a CalPERS member or Employee is not eligible to elect CalPERS coverage for the position	CalSTRS requires no action.
Employee elects CalPERS coverage	<input checked="" type="checkbox"/> Refer to CalPERS regarding responsibilities and required actions. <input checked="" type="checkbox"/> Provide a copy of the employee’s completed <i>Retirement System Election</i> (ES 372) form to CalSTRS. No CalSTRS reporting or enrollment is required. If a CalSTRS enrollment is completed or contributions are reported and remitted to CalSTRS prior to receipt of the member’s election, contact your CalSTRS Employer Services representative for assistance.