

2019 Housekeeping Proposed Language

Section 22104.8 of the Education Code is added to read:

22104.8. (a) "Annualized pay rate" means the salary or wages, as described in this part, a person could earn during a school term for an assignment if creditable service were performed for that assignment on a full-time basis.

(b) If creditable service is not performed on a full-time basis because a member is performing those activities pursuant to subdivision (d) of Section 22119.5, the annualized pay rate shall be determined as if the salary or wages have been earned at the lowest annualized pay rate of other creditable service activities performed by the member for the same employer during the same school year.

Section 22115 of the Education Code is amended to read:

22115. (a) "Compensation earnable" means the average annualized pay rate together with remuneration that is paid in addition to salary or wages, as described in this part, earned by a member creditable compensation a person could earn in a school year for creditable service performed on a full-time basis, excluding service the creditable compensation for which contributions are credited by the system to the Defined Benefit Supplement Program.

(b) The board may determine compensation earnable for persons employed on a part-time basis.

(c) If service credit for a school year is less than 1.000, compensation earnable shall be the quotient obtained when creditable compensation paid in that year is divided by the service credit for that year, except as provided in subdivision (d).

(b) Compensation earnable shall be the sum of the following:

(1) The quotient obtained when salary or wages paid in that school year is divided by the service credited for that school year. The quotient shall not exceed the highest annualized pay rate for that school year.

(2) Remuneration that is paid in addition to salary or wages for that school year.

(d) (c) If a member earns creditable compensation at multiple annualized pay rates during a school year and service credited at the highest annualized pay rate is at least 0.900 of a year, compensation earnable shall be determined as if all service credited for that year had been earned at the highest annualized pay rate. This subdivision shall be applicable only for purposes of determining final compensation. If a member earns creditable compensation at multiple pay rates during a school year and service credit at the highest pay rate is less than 0.900 of a year, compensation earnable shall be determined pursuant to subdivision (c).

(e) If creditable service is not performed on a full-time basis because a member is performing those activities pursuant to subdivision (d) of Section 22119.5, compensation earnable for those activities shall be determined as if the creditable compensation had been earned at the lowest pay rate for other creditable service activities performed by the member for the same employer during the same school year.

(f) (1) Except as provided in subdivision (g), for purposes of determining compensation earnable for a member employed by a community college prior to July 1, 1996, full time shall be defined pursuant to Section 22138.5 and pursuant to Section 20521 of Title 5 of the California

Code of Regulations, as those provisions read on June 30, 1996, if application of that definition will increase the compensation earnable or otherwise enhance the benefits of the member.

(2) For purposes of administering this subdivision, the board shall have the authority to do both of the following:

(A) Establish and implement factors and assumptions necessary to calculate and compare the benefits payable under the definition of compensation earnable described in this subdivision. Those factors and assumptions may be based on information reported by the employer, including, but not limited to, all of the following:

(i) Base hours.

(ii) Actual earnings.

(iii) Compensation earnable.

(B) Review member benefit calculations that were performed using the factors and assumptions described in subparagraph (A). If the board determines that an employer failed to identify part time service performed, the board shall consider that part time service to be performed in a part time lecture assignment as defined by the employer. If the board determines by the review of the member benefit calculations that the required information reported by the employer is inaccurate, incomplete, or the factors and assumptions were applied incorrectly, the board may recalculate member benefits using additional factors and assumptions that may include, but are not limited to, all of the following:

(i) Base hours.

(ii) Actual earnings.

(iii) Compensation earnable.

(3) This subdivision shall apply to a member employed by a community college prior to July 1, 1996, if the community college subsequently acts to reduce the minimum standard for full time as described in subdivision (c) of Section 22138.5 for the class of employees, and that community college provides written notice to the system of the act of the community college to reduce that minimum standard.

(4) This subdivision shall not apply to a member employed by a community college that has not reduced the minimum standard as described in subdivision (c) of Section 22138.5.

(g) Subdivision (f) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

Section 22119.2 of the Education Code is amended to read:

22119.2. (a) "Creditable compensation" means the following remuneration that is paid in cash by an employer to all persons in the same class of employees for performing creditable service in that position. Creditable compensation shall include:

(1) Salary or wages paid in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement.

(2) Remuneration that is paid in addition to salary or wages, provided it is paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.

(b) Creditable compensation shall include:

(1) Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence, except as provided in paragraph (4) of subdivision (e) (d).

~~(4)~~ ~~(2)~~ Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

~~(5)~~ ~~(3)~~ Amounts that are deducted from a member's remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

~~(6)~~ ~~(4)~~ Any other payments the board determines to be "creditable compensation."

~~(b)~~ ~~(c)~~ Any creditable compensation determined by the system to have been paid to enhance a member's benefits shall not be credited under the Defined Benefit Program. Contributions on that compensation shall be credited to the Defined Benefit Supplement Program. A presumption by the system that creditable compensation was paid to enhance a member's benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member's benefits may be reversed.

~~(e)~~ ~~(d)~~ "Creditable compensation" does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5 or 22119.6.

(3) Remuneration that is paid in addition to salary or wages if it is not paid to all persons in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed pursuant to paragraph (2) of subdivision (a).

(4) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(5) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer and is not deducted from the member's salary.

(6) Fringe benefits provided by an employer.

(7) Expenses paid or reimbursed by an employer.

(8) Severance pay, including lump-sum and installment payments, or money paid in excess of salary or wages to a member as compensatory damages or as a compromise settlement.

(9) Any other payments the board determines not to be "creditable compensation."

~~(d)~~ ~~(e)~~ An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision ~~(a)~~ or ~~(e)~~ **(a), (b), or (d)** may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

~~(e)~~ ~~(f)~~ For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

~~(f)~~ **(g)** This definition of “creditable compensation” reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member’s career, consistent treatment of compensation among an entire class of employees, consistent treatment of compensation for the position, preventing adverse selection, and excluding from compensation earnable remuneration that is paid to enhance a member’s benefits. The system shall determine the appropriate crediting of contributions between the Defined Benefit Program and the Defined Benefit Supplement Program according to these principles, to the extent not otherwise specified pursuant to this part.

~~(g)~~ **(h)** The section shall become operative on July 1, 2002.

~~(h)~~ **(i)** This section shall not apply to a member subject to the California Public Employees’ Pension Reform Act of 2013.

Section 22119.3 of the Education Code is amended to read:

22119.3. (a) “Creditable compensation” for members who are subject to the California Public Employees’ Pension Reform Act of 2013 means ***the following*** remuneration that is paid ***in cash by an employer for performing creditable service in that position*** each pay period ***the*** creditable service is performed: ~~for that position. Creditable compensation shall be paid in cash by an employer to all persons in the same class of employees in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement. Creditable compensation shall include:~~

(1) Salary or wages.

(2) Remuneration that is paid in addition to salary or wages, provided it is paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.

(b) Creditable compensation shall be paid to all persons in the same class of employees in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement, and shall include:

(1) Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence, except as provided in paragraph (4) of subdivision ~~(b)~~ **(c)**.

(2) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(3) Amounts that are deducted from a member’s remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Notwithstanding paragraphs (6) and (8) of subdivision (c) of Section 7522.34 of the Government Code, remuneration that is paid for creditable service that exceeds one year in a school year.

~~(b)~~ **(c)** “Creditable compensation” does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

(2) Remuneration that is paid for service that is not creditable service pursuant to Section 22119.5 or 22119.6.

(3) Remuneration that is not paid each pay period in which creditable service is performed for that position.

(4) Remuneration that is paid in exchange for the relinquishment of unused accumulated leave.

(5) Payments, including, but not limited to, those for participation in a deferred compensation plan; to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and for contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code when the cost is covered by an employer.

(6) Fringe benefits provided by an employer.

(7) Expenses paid or reimbursed by an employer.

(8) Severance pay, including lump sum and installment payments, or money paid in excess of salary or wages to a member as compensatory damages or as a compromise settlement.

(9) Creditable compensation determined by the system to have been paid to enhance a member's benefit.

(10) Compensation paid to the member in lieu of benefits provided to the member by the employer or paid directly by the employer to a third party other than the system for the benefit of the member.

(11) Any one-time or ad hoc payments made to a member.

(12) Any employer-provided allowance, reimbursement, or payment, including, but not limited to, one made for housing, vehicle, or uniform.

(13) Any bonus paid in addition to compensation described in subdivision (a).

(14) Any other payments the board determines not to be "creditable compensation."

~~(e)~~ **(d)** (1) Except for purposes of calculating credited service in the Defined Benefit Program and for reporting ~~compensation-earnable~~ **annualized pay rate** on or after January 1, 2013, creditable compensation in any fiscal year shall not exceed:

(A) One hundred twenty percent of the "contribution and benefit base," as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is not included in the federal system.

(B) One hundred percent of the "contribution and benefit base," as determined under Section 430(b) of the Social Security Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose service is included in the federal system pursuant to any changes in state or federal law enacted on or after January 1, 2013.

(2) The system shall adjust the limit based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February in the fiscal year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average for the month of February of the previous year rounded to the nearest thousandth. Notwithstanding paragraph (1) of subdivision (d) of Section 7522.10 of the Government Code, the adjustment shall be effective annually on July 1, beginning July 1, 2014.

(3) The Legislature reserves the right to modify the requirements of this subdivision with regard to all members subject to this subdivision, except that the Legislature may not modify these provisions in a manner that would result in a decrease in benefits accrued prior to the effective date of the modification.

(4) This subdivision shall apply to compensation paid during the 2013–14 fiscal year and each fiscal year thereafter.

~~(d)~~ **(e)** An employer or individual who knowingly or willfully reports compensation in a manner inconsistent with subdivision ~~(a) or (b)~~ **(a), (b), or (c)** may be subject to prosecution for fraud, theft, or embezzlement in accordance with the Penal Code. The system may establish procedures to ensure that compensation reported by an employer is in compliance with this section.

~~(e)~~ **(f)** For purposes of this section, remuneration shall be considered paid if distributed to any person in the same class of employees who meets the qualifications or requirements specified in a publicly available written contractual agreement, including, but not limited to, a collective bargaining agreement or an employment agreement, as a condition of receiving the remuneration.

~~(f)~~ **(g)** This definition of “creditable compensation” reflects sound principles that support the integrity of the retirement fund. Those principles include, but are not limited to, consistent treatment of compensation throughout a member’s career, consistent treatment of compensation among an entire class of employees, consistent treatment of compensation for the position, preventing adverse selection, and excluding from creditable compensation remuneration that is paid to enhance a member’s benefits. The system shall determine the appropriate crediting of contributions according to these principles, to the extent not otherwise specified pursuant to this part. A presumption by the system that creditable compensation was paid to enhance the member’s benefits may be rebutted by the member or by the employer on behalf of the member. Upon receipt of sufficient evidence to the contrary, a presumption by the system that creditable compensation was paid to enhance the member’s benefits may be reversed.

Section 22121 of the Education Code is amended to read:

22121. (a) “Credited service” means service for which the required contributions have been paid and service for which required contributions would have been paid in absence of the limit prescribed by Section 401(a)(17) of Title 26 of the United States Code as described in Section 22317.5.

(b) “Credited service” for members who are subject to the California Public Employees’ Pension Reform Act of 2013 means service for which required contributions have been paid and service for which required contributions would have been paid in absence of the limit established by subdivision ~~(e)~~ **(d)** of Section 22119.3.

(c) “Credited service” for the limited purpose of determining eligibility for benefits pursuant to Section 22134.5, 24203.5, or 24203.6 also includes up to two-tenths of one year of service granted pursuant to Section 22717.

Section 22138.5 of the Education Code is amended to read:

22138.5. (a) (1) “Full time” means the days or hours of creditable service the employer requires to be performed by a class of employees in a school term in order to earn the ~~compensation earnable as defined in Section 22115~~ **annualized pay rate as defined in Section 22104.8** and specified under the terms of a collective bargaining agreement or employment agreement. For the purpose of crediting service under this part, “full time” may not be less than the minimum standard specified in this section. Each collective bargaining agreement or employment agreement that applies to a member subject to the minimum standard specified in either paragraph (5) or (6) of subdivision (c) shall specify the number of hours of creditable service that

equals “full time” pursuant to this section for each class of employee subject to either paragraph and make specific reference to this section, and the district shall submit a copy of the agreement to the system.

(2) The copies of each agreement shall be submitted electronically in a format determined by the system that ensures the security of the transmitted member data.

(3) The copies shall be electronically submitted annually to the system on or before July 1, or on or before the effective date of the agreement, whichever is later.

(b) The minimum standard for full time in prekindergarten through grade 12 is as follows:

(1) One hundred seventy-five days per school term or 1,050 hours per school term, except as provided in paragraphs (2) and (3).

(2) (A) One hundred ninety days per school term or 1,520 hours per year for all principals and program managers, including advisers, coordinators, consultants, and developers or planners of curricula, instructional materials, or programs, and for administrators, except as provided in subparagraph (B).

(B) Two hundred fifteen days per school term or 1,720 hours per school term including school and legal holidays pursuant to the policy adopted by the employer’s governing board for administrators at a county office of education.

(3) One thousand fifty hours per school term for teachers in adult education programs.

(c) The minimum standard for full time in community colleges is as follows:

(1) One hundred seventy-five days per school term or 1,050 hours per school term, except as provided in paragraphs (2), (3), (4), (5), and (6). Full time includes time for duties the employer requires to be performed as part of the full-time assignment for a particular class of employees.

(2) One hundred ninety days per school term or 1,520 hours per school term for all program managers and for administrators, except as provided in paragraph (3).

(3) Two hundred fifteen days per school term or 1,720 hours per school term including school and legal holidays pursuant to the policy adopted by the employer’s governing board for administrators at a district office.

(4) One hundred seventy-five days per school term or 1,050 hours per school term for all counselors and librarians.

(5) Five hundred twenty-five instructional hours per school term for all instructors employed on a part-time basis, except instructors specified in paragraph (6). If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(6) Eight hundred seventy-five instructional hours per school term for all instructors employed in adult education programs. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51 of Division 7 of Title 3, the minimum standard shall be increased appropriately by the number of office hours required annually for the class of employees.

(d) The board has final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified in this section.

(e) This section shall become operative on July 1, 2013.

Section 22510 of the Education Code is repealed:

22510. Members who on January 1, 1976, are in state service positions according to former Section 13948 as it read on December 31, 1975, or who are employees of the Trustees of the California State University, may elect in writing prior to July 1, 1976, not to continue as members of this system and to transfer membership to the Public Employees' Retirement System. Failure to execute and file the election, which shall be received in the office of this system by the close of business on June 30, 1976, shall be deemed a decision to remain a member of the plan.

Section 22511 of the Education Code is repealed:

22511. Members eligible to elect under Section 22510 and who elect to retain membership in the plan shall be eligible only for those benefits available for all other members and shall not be eligible for the benefits of the Berryhill Total Compensation Act, as amended, except for the reduced hospitalization insurance premiums. These members shall not be considered eligible for any additional benefits that may accrue to other state employees.

Section 22512 of the Education Code is repealed:

22512. If a member elects membership in the Public Employees' Retirement System under Section 22510, this election shall not be counted as a break in service if employment is continuous.

Section 22513 of the Education Code is repealed:

22513. Members of the Defined Benefit Program who elect membership in the Public Employees' Retirement System and have achieved plan vesting according to Section 22156 shall retain the vested rights to survivor and disability benefits under this part until they qualify for the similar benefits in the Public Employees' Retirement System.

Section 22514 of the Education Code is repealed:

22514. Members who have not achieved plan vesting shall become eligible for benefits under the Defined Benefit Program when total service under the Defined Benefit Program and the Public Employees' Retirement System equals the minimum required under Sections 23801 and 23804. These members shall retain vested rights to survivor and disability benefits under this plan until they qualify for the similar benefits under the Public Employees' Retirement System.

Section 22701 of the Education Code is amended to read:

22701. (a) Service performed prior to July 1, 1972, shall be credited according to the provisions of law in effect at the time service was performed.

(b) Creditable service performed on or after July 1, 1972, and credited under the Defined Benefit Program, shall be credited in the proportion that the member's creditable compensation salary or wages, as described in this part, for that service bears to the member's compensation earnable annualized pay rate.

Section 22708 of the Education Code is amended to read:

22708. (a) The calculations of retirement allowances under this part for state employees in the personal leave program shall include credit for service that would have been credited had the employee not been in the personal leave program. The costs that result from the increased service credit shall be paid for by the employer in a manner prescribed by the system.

(b) The calculations of a retirement allowance under this part for a state employee subject to mandatory furloughs shall include earnings, contributions, and ~~compensation earnable~~ ***annualized pay rates*** that would have been reported had the employee not been subject to mandatory furloughs. The employer shall pay the cost of the increased service credit that results from these inclusions in a manner prescribed by the system pursuant to Section 22909.

(c) For purposes of subdivision (b), “mandatory furloughs” means time during which a member identified below is directed to be absent from work without pay because of an Executive order in the 2008–09 and 2009–10 fiscal years:

(1) A person subject to an Executive order requiring a mandatory furlough for state employees.

(2) A person who is excepted from the definition of “state employee” in subdivision (c) of Section 3513, or who is an officer or employee of the executive branch of state government who is not a member of the civil service, and who is subject to an Executive order requiring a mandatory furlough for state employees.

Section 22710 of the Education Code is amended to read:

22710. (a) Service shall be credited under this part, upon payment of the contributions required under Sections 22901 and 22950, for that time during which a member is excused from performance of creditable service and for which the member receives workers’ compensation, or compensation from an insurance carrier of the employer, due to injury or illness that arose out of and in the course of the member’s employment. ~~Service for that time shall be credited in the proportion that the creditable compensation paid to the member bears to the compensation earnable by the member.~~

~~(b) Service credited pursuant to this section shall be credited in the proportion that the compensation paid to the member bears to the member’s annualized pay rate.~~

~~(b) (c) The amount of creditable compensation paid to the member used to credit service pursuant to this section shall not exceed the compensation earnable by the member during what the member’s annualized pay rate would have been but for~~ the period of absence specified in subdivision (a).

Section 23102 of the Education Code is amended to read:

23102. Prior to the system paying a refund of accumulated retirement contributions under this part, the employer shall certify that the member’s employment has been terminated ***in a format prescribed by the system*** unless the employment was terminated 12 months or more prior to the date the ~~member signed the~~ refund application ***is received by the system’s headquarters office***.

Section 23301 of the Education Code is amended to read:

23301. A corporation, trust, eleemosynary charitable organization, parochial institution, or public entity may be designated as a beneficiary under this part, but they shall not be designated as option beneficiaries, except a trust as defined in Section 22149.

Section 24203.8 of the Education Code is added to read:

24203.8. (a) An allowance payable to a member employed by a community college prior to July 1, 1996, shall be based on the definition of full time pursuant to Section 22138.5 and Section 20521 of Title 5 of the California Code of Regulations, as those provisions read on June 30, 1996, if application of that definition will increase the allowance payable to the member.

(b) For the purpose of administering this section, the board shall have the authority to do both of the following:

(1) Establish and implement factors and assumptions necessary to calculate and compare the benefits payable to an eligible member. Those factors and assumptions may be based on information reported by the employer, including, but not limited to, all of the following:

(A) Base hours.

(B) Actual earnings.

(C) Annualized pay rate.

(2) Review calculations that were performed using the factors and assumptions described in paragraph (1). If the board determines that an employer failed to identify part-time service performed, the board shall consider that part-time service to be performed in a part-time lecture assignment as defined by the employer. If the board determines that the required information reported by an employer is inaccurate, incomplete, or the factors and assumptions were applied incorrectly, the board may recalculate the allowance payable to a member using additional factors and assumptions that may include, but are not limited to, all of the following:

(i) Base hours.

(ii) Actual earnings.

(iii) Annualized pay rate.

(c) This section shall apply to a member employed by a community college prior to July 1, 1996, if the community college subsequently acts to reduce the minimum standard for full time as described in subdivision (c) of Section 22138.5 for the class of employees, and that community college provides written notice to the system of the act of the community college to reduce that minimum standard.

(d) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

Section 24209 of the Education Code is amended to read:

24209. (a) Upon retirement for service following reinstatement, the member shall receive a service retirement allowance equal to the sum of both of the following:

(1) An amount equal to the monthly allowance the member was eligible to receive immediately preceding the most recent reinstatement, exclusive of any amounts payable pursuant to Section 22714 or 22715, increased by the improvement factor that would have been applied to the allowance if the member had not reinstated.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24202.6, 24203, 24203.5, or 24206 based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the most recent reinstatement, the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation.

(b) If the total amount of credited service accrued, other than that accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in paragraphs (1), for members who initially retired on or after January 1, 1999, and (2) of subdivision (a) shall be calculated pursuant to Section 24203.5.

(c) If the total amount of credited service accrued, other than that accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, upon retirement for service following reinstatement, a member who retired pursuant to Section 24213, and received the terminated disability allowance for the prior retirement, shall receive a service retirement allowance equal to the sum of the following:

(1) An amount based on the credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, prior to the effective date of the disability allowance, the member's age at the prior retirement increased by the factor provided in Section 24203.5, and projected final compensation.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24202.6, 24203.5, or 24206 based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the reinstatement, the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

~~(d) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (f) of Section 22115.~~

(d) Benefits calculated pursuant to this section shall not take into consideration the benefit comparison described in Section 24203.8.

Section 24209.3 of the Education Code is amended to read:

24209.3. (a) Notwithstanding subdivision (a) of Section 24209, and exclusive of any amounts payable during the prior retirement for service pursuant to Section 22714, or 22715:

(1) A member who retired, other than pursuant to Section 24210, 24211, 24212, or 24213, and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, prior to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(B) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the most

recent reinstatement, using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation.

(2) A member who retired pursuant to Section 24210 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, prior to the effective date of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and indexed final compensation to the effective date of the initial service retirement.

(B) An amount calculated pursuant to this chapter based on the credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, after termination of the disability retirement, excluding credited service accrued or granted subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(C) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the most recent reinstatement, using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation.

(3) A member who retired pursuant to Section 24211 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) The greater of (i) the disability allowance the member was eligible to receive immediately prior to termination of that allowance, excluding the children's portion, or (ii) an amount calculated pursuant to this chapter based on credited service accrued prior to the effective date of the disability allowance, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation earnable, or a combination of both.

(B) An amount equal to either of the following:

(i) For a member who was receiving a benefit pursuant to subdivision (a) of Section 24211, an amount calculated pursuant to this chapter based on credited service accrued at the time of the retirement pursuant to Section 24211, excluding credited service accrued or granted prior to the effective date of the disability allowance or pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(ii) For a member who was receiving a benefit pursuant to subdivision (b) of Section 24211, an amount calculated pursuant to this chapter based on projected service at the time of the retirement pursuant to Section 24211, excluding credited service accrued or granted prior to the effective date of the disability allowance or pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(C) An amount based on any credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), at the time of the retirement pursuant to Section 24211, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(D) An amount calculated pursuant to this chapter based on credited service accrued subsequent to the most recent reinstatement, including credited service accrued or granted pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service at the time of the retirement pursuant to Section 24212 or 24213, including credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service accrued subsequent to the most recent reinstatement, including credited service accrued or granted pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than projected service, or service that accrued or was granted pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than the number of years

required to be eligible for an increased allowance pursuant to this chapter or Section 22134.5, the amounts identified in this section shall be calculated pursuant to the section authorizing the increased benefit.

(c) For members receiving an allowance pursuant to Section 24410.5 or 24410.6, the amount payable pursuant to this section shall not be less than the amount payable to the member as of the effective date of reinstatement.

(d) The amount payable pursuant to this section shall not be less than the amount that would be payable to the member pursuant to Section 24209.

(e) For purposes of determining an allowance increase pursuant to Sections 24415 and 24417, the calendar year of retirement shall be the year of the subsequent retirement if the final compensation used to calculate the allowance pursuant to this section is higher than the final compensation used to calculate the allowance for the prior retirement.

(f) The allowance paid pursuant to this section to a member receiving a lump-sum payment pursuant to Section 24221 shall be actuarially reduced to reflect that lump-sum payment.

~~(g) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (f) of Section 22115.~~

(g) Benefits calculated pursuant to this section shall not take into consideration the benefit comparison described in Section 24203.8.

Section 24211 of the Education Code is amended to read:

24211. When a member who has been granted a disability allowance under this part after June 30, 1972, returns to employment subject to coverage under the Defined Benefit Program and performs:

(a) Less than three years of creditable service after termination of the most recent disability allowance, the member shall receive a retirement allowance which is the sum of the allowance calculated on credited service accrued after the termination date of the disability allowance, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable or projected final compensation, or a combination of both, plus the greater of either of the following:

(1) A service retirement allowance calculated on credited service accrued as of the effective date of the disability allowance, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation to the termination date of the disability allowance.

(2) The disability allowance the member was eligible to receive immediately prior to termination of the most recent disability allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the most recent disability allowance, the member shall receive a retirement allowance that is the greater of the following:

(1) A service retirement allowance calculated on all actual and projected service, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter

19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(2) The disability allowance the member was eligible to receive immediately prior to termination of the most recent disability allowance, excluding children's portions.

(c) The allowance shall be increased by an amount based on any credited service accrued or granted pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) If the total amount of credited service, other than projected service or credited service that accrued or was granted pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in subdivisions (a) to (c), inclusive, shall be calculated pursuant to Sections 24203.5 and 24203.6.

~~(e) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (f) of Section 22115.~~

~~***(e) Benefits calculated pursuant to this section shall not take into consideration the benefit comparison described in Section 24203.8.***~~

(f) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

Section 24309 of the Education Code is amended to read:

24309. (a) A member may change or cancel the election of an option made pursuant to Section 24307. The change or cancellation shall be on a properly executed form provided by the system and received at the system's headquarters office within 30 days after the date of the member's signature and, if applicable, the spouse's signature, and no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system. The change or cancellation shall become effective as of the date of the member's signature or the day prior to the member's benefit effective date, whichever is earlier. Except as provided in subdivision (g) of Section 24307, both of the following shall apply:

(1) Any change to an election of an option shall be made according to Section 24307 and shall be considered a new preretirement election of an option.

(2) Regardless of how the member elects to receive his or her **service** retirement allowance, a change made to an election of an option or a cancellation of an option shall result in the reduction of that allowance by an amount determined by the board to be the actuarial equivalent of the coverage the member received as a result of the preretirement election and that does not result in any adverse funding to the plan.

(b) If the option beneficiary designated in the preretirement election of an option pursuant to Section 24307 dies prior to the member's retirement, the preretirement election shall be canceled as of the day following the date of death and the member's subsequent retirement allowance under this part shall be subject to the allowance reduction prescribed in this section.

(c) If the option elected pursuant to Section 24307 is “Option 8” as described in paragraph (7) of subdivision (a) of Section 24300 or the compound option as described in paragraph (4) of subdivision (a) of Section 24300.1, a member may cancel the designation of an option beneficiary. If the member cancels the designation of the option beneficiary or the option beneficiary predeceases the member prior to the member’s retirement, the member may elect to receive that portion of the retirement allowance without modification for the option or elect one or multiple new or existing option beneficiaries as described in Section 24307. Any change or cancellation of the designation of the option beneficiary under this subdivision shall result in the allowance reduction prescribed in this section.

Section 25024 of the Education Code is amended to read:

25024. (a) Upon the termination of all employment to perform creditable service subject to coverage under the plan for a reason other than retirement, disability, or death, a member shall be eligible for a termination benefit under the Defined Benefit Supplement Program. The member’s employer, or employers if the member has multiple employers, shall certify on a form prescribed by the system that the member’s employment has been terminated, unless the member’s termination of employment occurred 12 consecutive months or more prior to the date the member signed the application for a Defined Benefit Supplement termination benefit.

(b) A member shall submit an application for a termination benefit on a form prescribed by the system. If a member submits an application for a refund of contributions under the Defined Benefit Program, pursuant to Section 23103, that application shall also be deemed an application for a termination benefit. If a member cancels the application for a refund of contributions under the Defined Benefit Program, the application for the termination benefit shall also be deemed to have been cancelled.

(c) The member’s employer or employers shall certify in a format prescribed by the system that the member’s employment has been terminated, unless the member’s termination of employment occurred 12 consecutive months or more prior to the date the application for a termination benefit is received by the system’s headquarters office.

~~(e)~~ (d) The termination benefit shall be a lump-sum payment that is equal to the balance of credits in the member’s Defined Benefit Supplement account.

~~(d)~~ (e) Upon distribution of the termination benefit, no further benefit shall be payable to the member or the member’s beneficiary under the Defined Benefit Supplement Program.

~~(e)~~ (f) A partial distribution of the balance of credits in a member’s Defined Benefit Supplement account shall not be made, except as provided in Section 25009, 25015, 25016, or 25022.

Section 27201 of the Education Code is amended to read:

27201. (a) All creditable service subject to coverage by the Cash Balance Benefit Program and all service with the participant’s last employer or employers that is creditable service under the Defined Benefit Program shall terminate prior to application for a termination benefit under this part.

(b) All employers with which the participant is employed to perform creditable service subject to coverage by the plan shall certify on a form in a format prescribed by the system that the participant’s employment has been terminated unless the employment was terminated 12

months or more prior to the date the *termination benefit application is received by the system's headquarters office* member signed the termination application.

Section 27202 of the Education Code is amended to read:

27202. *A participant shall apply* Application for a termination benefit under this part *shall be made* on *an application a* form prescribed by the system.

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