

Text of Modified Proposed Regulation

Changes to the original text proposed in March 2011 are illustrated in the following manner: Regulation language originally proposed is underlined; August 2011 deletions from the language originally proposed are shown in ~~strikeout~~ using a “ - ” and additions to the language originally proposed are double-underlined. October 2011 deletions from the language originally proposed are shown in ALL CAPITALS with a double-strikeout using a “ = ” and additions to the language originally proposed are in ALL CAPITALS.

PROPOSED ADDITION OF ARTICLE 16. PENALTIES AND INTEREST FOR LATE REMITTANCES AND LATE AND UNACCEPTABLE REPORTING BY EMPLOYERS TO CHAPTER 1 OF DIVISION 3 OF TITLE 5 OF THE CALIFORNIA CODE OF REGULATIONS

§ 27000 Format for Monthly Reports

Employers shall file reports through CalSTRS’ secure employer website as follows:

(a) Employers reporting information to the Defined Benefit Plan shall comply with CalSTRS’ F496 File Specification, as revised on March 1, 2011 and hereby incorporated by reference.

(b) Employers reporting information to the Cash Balance Benefit Program shall comply with CalSTRS’ Voluntary Deduction File Specification, as revised on March 1, 2011 and hereby incorporated by reference.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Sections 23004, 23006, 23008, 26301, Education Code.

§ 27001 Acceptable Report – Defined Benefit Program

(a) A monthly report for the Defined Benefit Program is acceptable if it is reported in compliance with Section 27000, subdivision (a). Reports that fail to comply shall be rejected by CalSTRS, and will not be received.

(b) A monthly report shall contain the information as specified in Section 27000 for all employees who perform creditable service for an employer during the month.

(c) Information reported pursuant to Section 27000, subdivision (a) for one or more employees from a prior month shall be aggregated and treated as a separate report for the month to which it relates.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Sections 23004, 23005, 23006, Education Code.

§ 27002 Acceptable Report – Cash Balance Benefit Program

(a) A report for the Cash Balance Benefit Program is acceptable if it is reported in compliance with section 27000, subdivision (b). Reports that fail to comply shall be rejected by CalSTRS, and will not be received.

(b) A report shall contain the information required by section 27000, for all employees who perform creditable service for an employer during the pay period.

(c) Information reported pursuant to Section 27000, subdivision (b) for one or more employees from a prior pay period shall be aggregated and treated as a separate report for the pay period to which it relates.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: 26301, Education Code.

§ 27003 Assessment of Penalties for Late Reports – Defined Benefit Program

(a) A monthly report received 45 or more calendar days following the month in which the creditable compensation being reported was earned shall be subject to penalties based on the number of calendar days it is late, in an amount equal to the ~~GREATER OF:~~

~~(1) \$500 OR~~

~~(2) THE~~ cumulative value of interest accruing on the sum of employer and employee contributions due for the late monthly report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(b) A monthly report that is received after 5:00 p.m. Pacific Time on the 44th calendar day shall be considered to have been received on the 45th calendar day, and therefore is late.

(c) Those portions of a monthly report that adjust contributions remitted in a prior month shall be aggregated and treated as a report adjusting incorrect contributions. The report shall be late if received after 5:00 p.m. Pacific Time on the 60th calendar day following discovery by the employer or notification by the system. The penalty for a late report adjusting incorrect contributions shall be the cumulative value of interest accruing on the sum of the absolute value of the change in employer and employee contributions for each employee on the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(1) Notification by the system shall be on a form containing the following items of information and shall be delivered to the employer by mail or email: date the notification was mailed or emailed; fiscal year; member client id; member name; reporting source ~~OR~~ unit;

member code; assignment code; pay rate; pay code; earnings; contribution rate; contribution code; contribution amount; beginning and ending dates of the service period; and the business rule error number.

(2) A final audit report delivered to the employer by mail or email shall constitute notification by the system.

(d) Those portions of a monthly report that adjust incorrect contributions for a month prior to the effective date of this article shall not be subject to the penalties provided for in this section.

(e) Those portions of a monthly report that neither increase nor decrease employer and employee contributions for an employee shall not be subject to the penalties provided for in this section.

(f) Those portions of a -monthly report that adjust contributions remitted in a prior month shall not be subject to the penalties provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code; and

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(4) The adjustments are reported to the system within 690 days of the effective date of the written employment agreement OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(g) Those portions of a monthly report that are otherwise late shall not be subject to the penalties provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The portions of a monthly report that are exempt under this subdivision shall be due 30 calendar days immediately following the MONTH IN WHICH ~~DATE~~ compensation is awarded and shall be subject to the penalties provided for in this section beginning on the 45th calendar day.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive ~~INCREASE~~ CHANGE in the creditable compensation paid to a member for prior service, if that retroactive ~~INCREASE~~ CHANGE results in ~~AN INCREASE~~ A CHANGE in the amount of contributions due for that period of time. The portions of a monthly report that are exempt under this subdivision shall be due 30 calendar days immediately following

the MONTH IN WHICH ~~EXPIRATION OF~~ the period of time EXPIRES and shall be subject to the penalties provided for in this section beginning on the 45th calendar day.

(h) For an employees employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, those portions of a monthly report for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on a late report provided for in subdivision (a) of this section if all of the following are true:

(1) The date the SUBSTITUTE OR part-time position is paid matches the pay date on a published salary schedule for that position; and

(2) The pay date is no more than 31~~0~~ calendar days following the last day of the month in which the compensation being reported was earned; and

(3) The applicable portions of the report are received no later than 44 calendar days following the pay date.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Sections 23004, 23006, 23008, Education Code.

§ 27004 Assessment of Penalties for Late Reports – Cash Balance Benefit Program

(a) A report received 11 or more working days following the pay period in which the salary being reported was earned shall be subject to penalties based on the number of calendar days it is late, in an amount equal to the ~~GREATER OF:~~

~~(1) \$500 OR~~

~~(2) THE~~ cumulative value of interest accruing on the sum of employer and employee contributions due for the late report compounded daily, based on the regular interest rate in effect that day, until the report is received.

(b) A report due on the 10th working day that is received after 5:00 p.m. Pacific Time on the 10th working day shall be considered to have been received on the 11th working day, and therefore is late.

(C) THOSE PORTIONS OF A REPORT THAT ADJUST CONTRIBUTIONS REMITTED IN A PRIOR REPORT SHALL BE AGGREGATED AND TREATED AS A REPORT ADJUSTING INCORRECT CONTRIBUTIONS. THE REPORT SHALL BE LATE IF RECEIVED AFTER 5:00 P.M. PACIFIC TIME ON THE 60TH CALENDAR DAY FOLLOWING DISCOVERY BY THE EMPLOYER OR NOTIFICATION BY THE SYSTEM. THE PENALTY FOR A LATE REPORT ADJUSTING INCORRECT CONTRIBUTIONS SHALL BE THE CUMULATIVE VALUE OF INTEREST ACCRUING ON THE SUM OF THE ABSOLUTE VALUE OF THE CHANGE IN EMPLOYER AND EMPLOYEE CONTRIBUTIONS FOR EACH EMPLOYEE ON THE LATE REPORT COMPOUNDED DAILY, BASED ON THE REGULAR INTEREST RATE IN EFFECT THAT DAY, UNTIL THE REPORT IS RECEIVED.

(1) NOTIFICATION BY THE SYSTEM SHALL BE ON A FORM CONTAINING THE FOLLOWING ITEMS OF INFORMATION AND SHALL BE DELIVERED TO THE EMPLOYER BY MAIL OR EMAIL: DATE THE NOTIFICATION WAS MAILED OR EMAILED; FISCAL YEAR; PARTICIPANT CLIENT ID; PARTICIPANT NAME; REPORTING SOURCE OR UNIT; EARNINGS; CONTRIBUTION AMOUNT; PAY SCHEDULE DATE; PAY PERIOD END DATE; AND THE BUSINESS RULE ERROR NUMBER.

(2) A FINAL AUDIT REPORT DELIVERED TO THE EMPLOYER BY MAIL OR EMAIL SHALL CONSTITUTE NOTIFICATION BY THE SYSTEM.

(eD) Those portions of a report that adjust incorrect contributions for a pay period prior to the effective date of this article shall not be subject to the penalties provided for in this section.

(eE) Those portions of a report that neither increase nor decrease employer and employee contributions for an employee shall not be subject to the penalties provided for in this section.

(eF) Those portions of a report that adjust contributions remitted in a prior month shall not be subject to the penalties provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code; and

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(4) The adjustments are reported to the system within 690 days of the effective date of the written employment agreement OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(fG) Those portions of a report that are otherwise late shall not be subject to the penalties provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. The portions of a report that are exempt under this subdivision shall be due ~~TEN~~ 10 working days immediately following the ~~DATE~~ PAY PERIOD IN WHICH compensation is awarded and shall be subject to the penalties provided for in this section beginning on the 11th working day.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation that requires a retroactive ~~INCREASE-CHANGE~~ in the creditable compensation paid to a member for prior service, if that retroactive ~~INCREASE-CHANGE~~ results in ~~AN INCREASE-A~~ CHANGE in the amount of contributions due for that period of time. The portions of a report that

are exempt under this subdivision shall be due ~~TEN~~ 10 working days immediately following the PAY PERIOD IN WHICH EXPIRATION OF the period of time EXPIRES and shall be subject to the penalties provided for in this section beginning on the 11th working day.

(gH) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, those portions of a report for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on a late report -provided for in subdivision (a) of this section if all of the following are true:

(1) The date the SUBSTITUTE OR part-time position is paid matches the pay date listed on a published salary schedule for that position; and

(2) The pay date is no more than 31~~0~~ calendar days following the last day of the pay period in which the compensation being reported was earned; and

(3) The applicable portions of the report are received no later than 10 working days following the pay date.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Section 26301, Education Code.

§ 27005 Late Contributions – Defined Benefit Program

In order to process contributions for any given day, the contributions must be received on or before 3:00 p.m. Pacific Time. Therefore,

(a) Contributions received after 3:00 p.m. Pacific Time shall be considered to have been received on the following working day.

(b) The portion of contributions due on the fifth working day that are not received by 3:00 p.m. Pacific Time on that fifth working day shall be considered to have been received on the sixth working day, and therefore are late.

(c) The remaining portion of contributions due on the 15th working day that are not received by 3:00 p.m. Pacific Time on that 15th working day shall be considered to have been received on the 16th working day, and therefore are late.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Section 23002, Education Code. Section 4108, Uniform Commercial Code.

§ 27006 Late Contributions – Cash Balance Benefit Program

In order to process contributions for any given day, the contributions must be received on or before 3:00 p.m. Pacific Time. Therefore,

(a) Contributions received after 3:00 p.m. Pacific Time shall be considered to have been received on the following working day.

(b) Contributions due on the 10th working day that are not received by 3:00 p.m. Pacific Time on that 10th working day shall be considered to have been received on the 11th working day, and therefore are late.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Section 26303, Education Code. Section 4108, Uniform Commercial Code.

§ 27007 Assessment of Penalties for Late Contributions – Defined Benefit Program

(a) A late contribution shall be subject to a penalty equal to 5% of the creditable compensation upon which the contribution was based if that contribution is received after March 1st of the state fiscal year that immediately follows the state fiscal year in which the contribution was due.

(b) Interest on late contributions shall be imposed as follows:

(1) If less than 95 percent of contributions due have been received by the 6th working day, interest shall be charged on the balance of those contributions due and compounded daily based on the regular interest rate in effect that day.

(2) For contributions received more than 15 working days after the date those contributions are due, interest shall be charged on the balance of contributions due and compounded daily based on the regular interest rate in effect that day.

(c) The penalty and interest assessed on late contributions provided for in this section shall not apply to adjustments made to contributions for a month prior to the effective date of this article.

(d) Adjustments to contributions remitted in a prior month shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

(1) The adjustments are made for all members of a class of employees;

(2) The adjustments are made pursuant to a written employment agreement with an employer or with an exclusive representative entered into by an employer, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code; and

(3) The adjustments become effective contemporaneously with the effective date of the written employment agreement OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(4) The adjustments are remitted~~ported~~ to the system within 60 days of the effective date of the written employment agreement OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(e) For an employee employed as a substitute teacher, or on a part-time basis or a full-time basis with an additional part-time position, contributions for the substitute or part-time position that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section if all of the following are true:

(1) The date the SUBSTITUTE OR part-time position is paid is based upon a published salary schedule; and

(2) That date is no more than 310 calendar days following the last day of the month in which the compensation being reported was earned; and

(3) 95% of the contributions due are received five working days immediately following- the date the SUBSTITUTE OR part-time position is paid, and the balance of contributions due are received no more than 15 working days following the date the employee is paid.

(f) Contributions that are otherwise late shall not be subject to the penalty and interest assessed on late contributions provided for in this section during the following periods of time:

(1) The period of time beginning on the date an application for workers' compensation is filed with the Workers' Compensation Appeals Board until the date compensation is awarded, if the awarded compensation increases the amount of contributions due for that period of time. 95% of the contributions that are exempt under this subdivision shall be due five working days immediately following the ~~DATE~~ MONTH IN WHICH compensation is awarded and shall be late thereafter, and the balance of contributions are due 15 working days following the ~~DATE~~ MONTH IN WHICH compensation is awarded and shall be late thereafter.

(2) Any period of time that directly results from the operation of a state or federal statute or regulation which requires a retroactive ~~INCREASE~~ CHANGE in the creditable compensation paid to a member for prior service, if that retroactive ~~INCREASE~~ CHANGE results in ~~AN INCREASE~~ A CHANGE in the amount of contributions due for that period of time. 95% of the contributions that are exempt under this subdivision shall be due five working days immediately following the MONTH IN WHICH ~~EXPIRATION OF~~ the period of time EXPIRES and shall be late thereafter, and the balance of contributions shall be due 15 working days following the MONTH IN WHICH ~~DATE COMPENSATION IS AWARDED~~ THE PERIOD OF TIME EXPIRES and shall be late thereafter.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Sections 23002, 23003, Education Code.

§ 27008 Assessment of Interest on Late Contributions – Cash Balance Benefit Program

(a) Interest shall be charged on contributions received more than 10 working days after the date those contributions are due and compounded daily based on the regular interest rate in effect that day.

(B) THE INTEREST ASSESSED ON LATE CONTRIBUTIONS PROVIDED FOR IN THIS SECTION SHALL NOT APPLY TO ADJUSTMENTS MADE TO CONTRIBUTIONS FOR A PAY PERIOD PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE.

(C) ADJUSTMENTS TO CONTRIBUTIONS REMITTED IN A PRIOR PAY PERIOD SHALL NOT BE SUBJECT TO THE INTEREST ASSESSED ON LATE CONTRIBUTIONS PROVIDED FOR IN THIS SECTION IF ALL OF THE FOLLOWING ARE TRUE:

(1) THE ADJUSTMENTS ARE MADE FOR ALL MEMBERS OF A CLASS OF EMPLOYEES;

(2) THE ADJUSTMENTS ARE MADE PURSUANT TO A WRITTEN EMPLOYMENT AGREEMENT WITH AN EMPLOYER OR WITH AN EXCLUSIVE REPRESENTATIVE ENTERED INTO BY AN EMPLOYER, PURSUANT TO CHAPTER 10.7 (COMMENCING WITH SECTION 3540) OF DIVISION 4 OF TITLE 1 OF THE GOVERNMENT CODE; AND

(3) THE ADJUSTMENTS BECOME EFFECTIVE CONTEMPORANEOUSLY WITH THE EFFECTIVE DATE OF THE WRITTEN EMPLOYMENT AGREEMENT OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(4) THE ADJUSTMENTS ARE REMITTED TO THE SYSTEM WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THE WRITTEN EMPLOYMENT AGREEMENT OR THE EFFECTIVE DATE OF THE PROVISION IN THE AGREEMENT PROVIDING FOR FUTURE INCREASES IN COMPENSATION.

(D) FOR AN EMPLOYEE EMPLOYED AS A SUBSTITUTE TEACHER, OR ON A PART-TIME BASIS OR A FULL-TIME BASIS WITH AN ADDITIONAL PART-TIME POSITION, CONTRIBUTIONS FOR THE SUBSTITUTE OR PART-TIME POSITION THAT ARE OTHERWISE LATE SHALL NOT BE SUBJECT TO THE INTEREST ASSESSED ON LATE CONTRIBUTIONS PROVIDED FOR IN THIS SECTION IF ALL OF THE FOLLOWING ARE TRUE:

(1) THE DATE THE SUBSTITUTE OR PART-TIME POSITION IS PAID IS BASED UPON A PUBLISHED SALARY SCHEDULE; AND

(2) THAT DATE IS NO MORE THAN 31 CALENDAR DAYS FOLLOWING THE LAST DAY OF THE PAY PERIOD IN WHICH THE COMPENSATION BEING REPORTED WAS EARNED; AND

(3) THE CONTRIBUTIONS DUE ARE RECEIVED 10 WORKING DAYS IMMEDIATELY FOLLOWING THE DATE THE SUBSTITUTE OR PART-TIME POSITION IS PAID.

(E) CONTRIBUTIONS THAT ARE OTHERWISE LATE SHALL NOT BE SUBJECT TO THE INTEREST ASSESSED ON LATE CONTRIBUTIONS PROVIDED FOR IN THIS SECTION DURING THE FOLLOWING PERIODS OF TIME:

(1) THE PERIOD OF TIME BEGINNING ON THE DATE AN APPLICATION FOR WORKERS' COMPENSATION IS FILED WITH THE WORKERS' COMPENSATION APPEALS BOARD UNTIL THE DATE COMPENSATION IS AWARDED, IF THE AWARDED COMPENSATION INCREASES THE AMOUNT OF CONTRIBUTIONS DUE FOR THAT PERIOD OF TIME. THE CONTRIBUTIONS THAT ARE EXEMPT UNDER THIS SUBDIVISION SHALL BE DUE 10 WORKING DAYS IMMEDIATELY FOLLOWING THE PAY PERIOD IN WHICH COMPENSATION IS AWARDED AND SHALL BE LATE THEREAFTER.

(2) ANY PERIOD OF TIME THAT DIRECTLY RESULTS FROM THE OPERATION OF A STATE OR FEDERAL STATUTE OR REGULATION WHICH REQUIRES A RETROACTIVE CHANGE IN THE CREDITABLE COMPENSATION PAID TO A PARTICIPANT FOR PRIOR SERVICE, IF THAT RETROACTIVE CHANGE RESULTS IN A CHANGE IN THE AMOUNT OF CONTRIBUTIONS DUE FOR THAT PERIOD OF TIME. THE CONTRIBUTIONS THAT ARE EXEMPT UNDER THIS SUBDIVISION SHALL BE DUE 10 WORKING DAYS IMMEDIATELY FOLLOWING THE PAY PERIOD IN WHICH THE PERIOD OF TIME EXPIRES AND SHALL BE LATE THEREAFTER.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Section 26303, Education Code.

§ 27009 Right to an Administrative Hearing

An administrative hearing shall be available to an employer that reports directly to the system when there is disagreement over the assessment of penalties, interest, or both, pursuant to this article. A written request for an administrative hearing and the reasons therefore must be received by the System at its headquarters within 90 days of the mailing of written notice of such penalties, interest, or both. If no request for an administrative hearing is made within the time prescribed, the penalties, interest, or both assessed shall be final and any right to an administrative hearing or judicial review shall be deemed forfeit and waived.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22219, 22250 and 22305, Education Code.

Reference: Sections 23010, 26303.5, Education Code.

§ 27010 Effective Date of Regulations

The regulations provided for in this article shall become effective July 1, 2012.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 22207, 22213, 22214, 22250 and 22305, Education Code.

Reference: Section 22305, Education Code.