

FINAL STATEMENT OF REASONS

Update of Initial Statement of Reasons

Section 27000. Format for Monthly Reports

Subdivision (a)

The originally proposed regulations made reference to the “Defined Benefit Plan.” However, CalSTRS administers the Defined Benefit Program rather than the Defined Benefit Plan. Therefore, the proposed regulations were revised to correct the name by replacing the word “Plan” with the word “Program.”

Section 27800. Format for Employer Reports

Subdivisions (a) and (d)

The proposed regulations, as originally noticed, specified that “Annual Total Compensation” and “Annual Total Compensation Correction” information in the Employment File Layout would be optional until a date specified by the Teachers’ Retirement Board. The Annual Total Compensation field is intended to capture total compensation for those employees who are already reported to CalSTRS, which is similar to the total subject wages reported to the Employment Development Department (EDD) for purposes of determining Unemployment Insurance, State Disability Insurance and Paid Family Leave benefits.

The originally published proposed regulations text did not make clear that employers were not compelled, by the proposed regulations alone, to submit the information specified in the Employment File Layout. The proposed regulations require that when employers do submit the information specified in the Employment File Layout, they do so using the Employment File Layout or the web-based portal rather than the current paper processes. Unless a transaction is otherwise required by existing statute or regulation, the proposed regulations do not, in and of themselves, create any employer obligation for the transactions on the Employment File Layout.

The proposed regulations were amended to clarify these points. First, the regulations text was updated so that the “Annual Total Compensation” and “Annual Total Compensation Correction” information in the Employment File Layout is not specifically called out as being optional information. Secondly, subdivision (d) was added to clarify that unless a specific transaction is otherwise required by another statute or regulation, there is nothing in the proposed regulations that requires an employer to take any action. In addition, the date of the Employment File Layout was revised to the latest version.

Subdivision (b)

Similar to changes in subdivision (a) of Section 27000, the proposed regulations were revised to correct the name of the Defined Benefit Program by replacing the word “Plan” with the word “Program.” In addition, the date of the Contribution File Layout was revised to the latest version.

Subdivision (c)

The originally proposed regulations specified that employers unable to comply with the requirements of the proposed regulations could request a waiver for one additional six-month period. Employers could subsequently submit a request for a renewal of the waiver for up to two additional six-month periods. In response to public comments expressing concern about the cost related to implementation, the proposed regulations were amended to provide an additional waiver period of six months for a total of 24 months beyond the effective date of the regulations.

In addition, the originally proposed regulations included a process for renewing a waiver that was not sufficiently clear. The intent is to allow employers to apply for waiver renewals for up to three additional six-month periods after the initial waiver request. However, the originally proposed regulations could have been interpreted to allow a waiver renewal for a period of 18 months, rather than three distinct six-month periods. The proposed regulations were revised to clearly indicate that an employer can apply for up to four distinct waiver periods, including up to three renewal periods.

Similar to the change in subdivision (a) of Section 27000, the proposed regulations were revised to correct the name of the Defined Benefit Program by replacing the word “Plan” with the word “Program.”

Section 27801. Acceptable Report*Subdivision (a)*

Similar to changes in subdivision (a) of Section 27000, the proposed regulations were revised to correct the name of the Defined Benefit Program by replacing the word “Plan” with the word “Program.”

Employment File Layout

The Employment File Layout, as originally noticed, contained field values, field descriptions, structural field rules and notes that were not sufficiently clear or that might cause confusion when used by employers for reporting. CalSTRS revised the Employment File Layout to make several typographical and grammatical corrections and the following changes for greater clarity:

- The date and version of the Employment File Layout were revised to the latest version.
- Throughout the document, the term “Blank” was replaced by “Null” to conform to technical specifications.
- Throughout the document, end note superscript citations were added, corresponding to specified end notes on the last page of the document.
- In the Transaction Subtype field, “Misconduct/Criminal Offense” was removed as a field value, and the “Other Approved Leave of Absence” field value description was changed to “Other/Unspecified Approved Leave of Absence,” indicating this field value may be used for unspecified approved leaves of absence when the leave type is unknown.

- In the Organization Code field, the description was changed to clarify the numeric value required for this field, and the structural field rule was revised to specify that the organization must belong to the entity that reports directly to CalSTRS.
- In the Gender field, the originally proposed field value for female of “FMLE” was replaced with “FEML.”
- In the Reduction in School Funds field, the description was changed to provide a more complete explanation of how the school years being reported are to be formatted.
- In the Annual Total Compensation field, the description was changed to match the terminology in EDD’s reporting requirements, and the structural field rule was changed to clarify that decimals are required when reporting fractional values.

Contribution File Layout

The Contribution File Layout, as originally noticed, contained field values, descriptions, structural field rules and notes that were not sufficiently clear or that might cause confusion when used by employers for reporting. CalSTRS revised the Contribution File Layout to make several typographical and grammatical corrections and the following changes for greater clarity:

- The date and version of the Contribution File Layout were revised to the latest version.
- Throughout the document, the term “Blank” was replaced by “Null” to conform to technical specifications.
- Throughout the document, end note superscript citations were added, corresponding to specified end notes on the last three pages of the document.
- Throughout the document, for fields that require a numeric value, the structural field rules were changed to clarify that decimals are required when reporting fractional values, and for several fields, in which it was not previously specified, the structured field rules were changed to specify that the numeric value cannot be greater than 999,999,999.99.
- In the Service Type field, the originally proposed field value for “Other Retirement System Service” of “ORSE” was replaced with “ORSS.”
- In the Expected Pay Period field, the description of the “Intermittent” field value was changed to clarify that it is also used for service that cannot be performed for a full school term.
- In the Member Contributions field, the description was changed to clarify that post tax member contributions or a receivable amount can be reported when appropriate.
- In the end notes:
 - End notes #10 and #14, in relation to the Service Type field, were added to reference Education Code provisions associated with each value under the Service Type field.
 - End note #11, in relation to the Full-Time Base Hours for Positions field, was added to clarify that information for this field is only required for those eligible part-time or adult education community college instructors hired prior to 1996 and non-members performing creditable service activities.

- End note #12, in relation to the Work Hours Per Day field, was added to clarify that the information for this field is only required for non-members performing creditable service activities.
- End note #13, in relation to Expected Pay Periods, was added to clarify that the field values are associated with the expected payments for a full school term of service in a particular position, including in a substitute position that could be paid in every pay period of a school term.

Summary and Response to Comments Received in the Initial Comment Period

CalSTRS received public comment letters from a total of 11 employers, including nine that were received during the public comment period and two, Tuolumne and Ventura county offices of education, that were received after the close of the public comment period. There was overlap across the 11 public comment letters in the substance of the comments, and for that reason, CalSTRS has summarized those comments below and included the two comment letters that were received after the close of the comment period in this rulemaking package.

Comment 1: Costs for System Changes: The comments received noted broadly that there would be increased costs for county offices of education and school districts associated with the following:

- Payroll vendors would be required to make system changes in order to comply with the New File Format (NFF), and those costs would eventually be passed along to employers.
- Administrative complexities related to the additional fields included in the NFF would require additional staff resources, resulting in initial costs and increased ongoing costs.

Three employers that use vendor-supported payroll software noted that there would be staff time costs for learning and training of approximately \$40,000 in each of the first two years of implementation. In addition, those employers noted \$20,000 in ongoing staff costs due to the increased complexity of the data. Two additional employers, including one whose comment was received after the close of the public comment period, also noted that there would be staff time costs for 300 to 400 hours of learning and training per staff member over two years and unspecified ongoing costs due to the increased complexity of the data. Lastly, one employer, whose comment was received after the close of the public comment period, noted staff time costs for learning and training of \$200,000 per year for two years and ongoing costs of \$100,000 per year due to the increased complexity of the data.

Considering these cost concerns, the comments suggested that CalSTRS had not sufficiently demonstrated that the value of the additional reporting elements outweighs the costs. Additional comments suggested that CalSTRS delay implementation to engage with local education agencies and do a thorough and comprehensive cost/benefit analysis.

Response: Under existing law, employers are required to provide certain information, and in some situations, information is submitted to CalSTRS in paper form. Under the proposed regulations, almost all such information must be submitted via an electronic file or a web-based portal. While the NFF include additional fields, those fields provide CalSTRS with details regarding member compensation that are necessary to facilitate more accurate reporting and cleaner data. This enhanced accuracy is expected to result in fewer audit findings and more accurate benefits. Members, employers and the state stand to benefit from improving the accuracy of the compensation used to determine both contributions and the associated contractually guaranteed benefits.

CalSTRS notes that, although these proposed regulations are expected to be codified in the California Code of Regulations early next year, the requirements of the regulations would not go into effect until October 2021, at the earliest. In addition, employers would be able to request waivers from those requirements that could extend that date by an additional 18 months. To provide employers that require additional time to prioritize resources in order to successfully manage the transition from the legacy format to the NFF, CalSTRS revised the proposed regulations to include an additional six-month waiver period for a total of 24 months of additional time to comply after the effective date.

Lastly, as noted in the Initial Statement of Reasons, CalSTRS engaged with employers beginning in 2015 through web-based forums and continued in 2016 when CalSTRS posted an early draft of the NFF for employers to review. Direct engagement further extended through the Winter of 2019.

Comment 2: Leaves of Absence in the Employment File Layout: Several commenters expressed concern related to leaves of absence in the Employment File Layout because:

- The need for the information was unclear.
- The list of leave types was not exhaustive and would require employers to conform their bargained leave types to those listed.
- Adjustment files would have to be submitted each time leave is altered.
- Some leave information is confidential or falls under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Response: The Employment File Layout includes the Transaction Type field for enrollment, termination and leave transactions. The Transaction Subtype field obtains more detail about the transaction reported in the Transaction Type field. The list of specific leave types in the Transaction Subtype field corresponds with unpaid leaves that can be purchased under existing statute and is not intended to be an exhaustive list of all the leave types that may be included in collective bargaining. To that point, the Transaction Subtype field includes a value that could capture other types of unpaid leave that are not purchasable: “Other Approved Leave of Absence.” Therefore, CalSTRS revised the Employment File Layout to include unspecified

approved leaves of absence in the “Other Approved Leave of Absence” value description for use when the leave type is unknown.

In considering the concern about confidentiality of or reporting restrictions on certain information, CalSTRS notes that information subject to HIPAA is routinely received by the system in cases related to disability claims. In addition, since existing law allows members to purchase service for certain types of leave, CalSTRS also receives information about maternity/paternity leave or leave under the federal Family and Medical Leave Act or the California Family Rights Act when a member submits a service credit purchase request, and employers provide information to certify that leave. Therefore, CalSTRS did not make changes to these leave types in Transaction Subtype field in the Employment File Layout.

In the case of leave that would be reported as “Misconduct/Criminal Offense,” existing statute only requires that CalSTRS have this information when a member is convicted of a felony. At that point, the certification that is necessary to trigger the resulting benefit changes required by law goes beyond what is provided for in this format. As a result, CalSTRS acknowledges that the “Misconduct/Criminal Offense” value is not necessary and revised the Employment File Layout to remove this field value.

The proposed regulations do not compel employers to report leave information when leave is taken or upon return. In fact, the proposed regulations do not, by themselves, require employers to submit the Employment File Layout. The proposed regulations simply require that when employers do submit the information specified in the Employment File Layout, they do so using the Employment File Layout or the web-based portal rather than the current processes. As noted above, CalSTRS revised the proposed regulations to state that the regulations do not create any additional obligations for employers in subdivision (d) of Section 27800.

Comment 3: Annual Total Compensation in the Employment File Layout: Comments about the Annual Total Compensation field on the Employment File expressed concern that:

- CalSTRS is seeking total compensation when the work associated with some of that compensation is not necessarily creditable service.
- CalSTRS should not be requesting total compensation for classified employees.
- The scope of work should be limited to the collection of contributions for creditable service and the payment of pension benefits.
- While the Annual Total Compensation field collects wage information that is similar to what employers must report to EDD, it does not align with EDD’s reporting requirements. Specifically, this field requires reporting by fiscal year, while EDD reporting uses calendar year information. In addition, EDD reporting is on a cash basis by payroll issue date, while this field requires reporting by service period. Presumably, this would create an additional burden on employers, including triggering unnecessary audit research and requests for validation.

Response: The Annual Total Compensation field is intended to capture total compensation for those employees who are already reported to CalSTRS, which is similar to the total subject wages reported to EDD for purposes of determining Unemployment Insurance, State Disability Insurance and Paid Family Leave benefits. This information would strengthen CalSTRS' internal controls and help evaluate whether variances surrounding receipt of employer-reported earnings and contributions data are reasonable. Employers occasionally incorrectly report compensation or may fail to report compensation entirely, which can result in an incorrect calculation of benefits. Identifying potential errors sooner improves CalSTRS' ability to work proactively with employers to correct them more quickly, reducing the likelihood of employers needing to perform extensive historical adjustments and paying the associated penalties and interest. Although CalSTRS believes receiving this information would significantly improve internal controls and facilitate earlier error detection, which would benefit members and employers alike, there is currently no law requiring employers to report this information, and reporting this information is, therefore, optional.

CalSTRS acknowledges the discrepancy between the information CalSTRS is requesting and the information reported to EDD as well as the fact that there is currently no law requiring employers to report this information to CalSTRS. As noted above, CalSTRS revised the proposed regulations to remove the language specifying that "Annual Total Compensation" is optional from subdivision (a) of Section 27800 and to add subdivision (d), which clarifies that, unless a specific transaction is otherwise required by another statute or regulation, there is nothing in the proposed regulations requiring an employer to take any action. CalSTRS also revised to the Employment File Layout to change the Annual Total Compensation field description to match the terminology in EDD's reporting requirements.

Comment 4: Service Types in the Contribution File Layout: Two comments indicated concern with the programming changes that will be necessary to include all of the values in the Service Type field on the Contribution File Layout. The comments noted that the list of service types is not exhaustive. They also stated that some employees are in positions that are a blend of several of the possible service types.

Response: Although the service types listed for this field may not align with the position types used by employers, CalSTRS developed the list based on the definition of "creditable service" in existing law, and each value is associated with a specific Education Code provision. More specifically:

- Education Code section 22119.5 and 26113 specify the activities that are considered creditable service under the Defined Benefit (DB) Program and Cash Balance Benefit Program, respectively.
- Education Code section 22164.5 defines "retired member activities" for which compensation must be reported for retired members.

- Education Code section 22711 grants service for compensated leaves of absence to perform duties as an elected officer of an employee organization.
- Education Code section 22115 requires CalSTRS to recalculate the retirement benefits of part-time or adult education community college instructors who were employed by a community college prior to July 1, 1996, and retired after that date and compare the recalculation to the benefit a member would currently receive in order to pay the greater of the two benefits to the member. To complete the calculation, employers are currently and will continue to be required to provide additional assignment detail that corresponds with the minimum standards for full-time equivalent positions as outlined under Education Code section 22138.5.

The Service Type field and the list of service types used to populate the field are necessary to help ensure that only creditable compensation or compensation earned for retired member activities is reported to CalSTRS. In order to provide more clarity, CalSTRS revised the Contribution File Layout to include references to the Education Code provisions associated with each value under the Service Type field.

In response to the comment that some positions perform duties that are in multiple categories, CalSTRS did not make changes to the Contribution File Layout because these are case-by-case situations that cannot use a rule of general application. However, CalSTRS recognizes the challenge and would, through education, training and assistance, recommend that employers choose the field value that best fits the position.

Comment 5: Duplicative Fields in the Contribution File Layout: Several comments highlighted that some of the required information in the Contribution File appears duplicative and would add programming requirements, reconciliation at the district level and additional data entry during adjustments. Specifically, the Assignment Code and Time Base fields appear similar, with the former field using numbers and the latter field using acronyms. Also, the Full-Time Base Hours for Position and Work Hours Per Day fields appear to be similar.

Response: The Assignment Code field is currently in use under the legacy file format. The Time Base field is new, and the specific values that may be used to populate the field are necessary to determine when an employee is mandated into CalSTRS membership. The existing reporting format does not fully align with mandatory membership statutes. By allowing for more values to be included in this data field, CalSTRS can more precisely determine when an employee is mandated into membership. CalSTRS will also be able to more accurately calculate thresholds for mandatory membership and prevent employers from inadvertently reporting or failing to report contributions based on an employee's membership status. While some elements of the Assignment Code field are duplicative of those in the Time Base field, carrying forward the Assignment Code field into the NFF allows contribution data for a member to align, regardless

of whether the data was reported using the legacy file format or the NFF, since member benefits are calculated based on an average of more than 20 years of reporting.

Existing law specifies the minimum number of days or hours per year for full-time employment status for various classes of non-members. Using both the Full-Time Base Hours for Position and Work Hours Per Day fields, together with the Annualized Pay Rate field, will help CalSTRS determine when service requires mandatory membership under existing law. Under current law, membership is mandated for part-time hourly employees upon reaching 60 hours of creditable service, part-time daily employees upon reaching 10 days of creditable service and for substitute employees upon reaching 100 days of creditable service. Currently, CalSTRS assumes that the full-time requirement is six hours per day. However, there are employers that require a work day that is longer than six hours, which causes CalSTRS to prematurely flag reporting when the mandatory membership threshold has not yet been met. Although these two fields appear to be duplicative because they require reporting information that is similar, they are complimentary to each other and, together with the Annualized Pay Rate field, allow CalSTRS and employers to mathematically determine when membership is mandated and assist employers in beginning to collect and remit contributions and credit service for members at the appropriate time.

The Full-Time Base Hours for Position field is also required for certain part-time community college instructors. As described in the discussion regarding the Service Type field, under the requirements of Education Code section 22115, CalSTRS is required to recalculate the retirement benefits of a part-time or adult education community college instructor who was employed by a community college prior to July 1, 1996, and retired after that date. The Full-Time Base Hours for Position field is necessary for this calculation, and having that information directly associated with the applicable earnings allows for improved accuracy when compared with current practice, in which employers submit this information separately.

Consistent with this response, CalSTRS revised the Contribution File Layout to add the following explanations:

- The Full-Time Base Hours for Position field is only required for those eligible part-time or adult education community college instructors hired prior to 1996 and non-members performing creditable service activities.
- The Work Hours Per Day field is only required for non-members performing creditable service activities.

Comment 6: Expected Pay Periods in the Contribution File Layout: Several comments stated the new Expected Pay Periods field in the Contribution File Layout would most likely yield errors when schools change the start and end dates for school sessions that do not match the listed periods and may be problematic when there are natural disasters. There was also a concern that the “Intermittent” value for this field may be confusing to users because they may not know when it should be used.

Response: The Expected Pay Periods field is necessary to determine the periods of service that are to be included in the calculation of final compensation. Currently, employers provide CalSTRS with a field value that indicates the pay schedule for members who receive 10, 11, 12 or 13 monthly payments per year. Under the NFF, this field will require employers to provide CalSTRS with the number of pay periods associated with a school term, as well as the specific range of months in which the employer would typically pay an employee for performing service during a school term. The additional values within this field enable CalSTRS to determine valid periods of service to be included in a 36- or 12-month period of final compensation pursuant to Education Code sections 22134 and 22134.5. CalSTRS notes that, although the list of pay period values for this field has increased, expected pay period values that do not specify the months are also included and are identical to the current values.

Regarding changes to school session start and end dates, the pay period values for this field are not required to correspond to the actual begin and end date of a school session nor should the occurrence of a natural disaster affect them. Rather, the pay period values should correspond to the pay periods that are associated with a school term for a particular position.

The “Intermittent” field value is to be used for service that is performed outside of a school term or is not associated with service that can be performed for a full school term. Accordingly, payments for summer school, intercession or seasonal coaching positions or extra duty assignments for which no employee would otherwise be employed for a full school term would be reported using the “Intermittent” field value.

Consistent with this response, CalSTRS revised the Contribution File Layout to add the following explanations:

- The Expected Pay Periods field values are associated with the expected payments for a full school term of service in a particular position, including in a substitute position that could be paid in every pay period of a school term.
- The “Intermittent” field value is also used for service that cannot be performed for a full school term.

Comment 7: Annualized Pay Rate in the Contribution File Layout: Two comments questioned the purpose of reporting information in the Annualized Pay Rate field and raised concern about a situation in which an employee changes positions mid-year.

Response: CalSTRS disagrees and maintains that there is a clear purpose for reporting information in the Annualized Pay Rate field. Employers currently report pay rates as an annualized, monthly, hourly or daily rate, which creates complexity. For the sake of simplification, employers would only report an annualized pay rate as the compensation that a person could earn in a school year for performing service on a full-time basis. This is necessary to maintain consistency across all employers that report to CalSTRS and to ensure the accurate calculation of compensation earnable (Education Code section 22115) and service credit

(Education Code section 22701). Therefore, CalSTRS did not make changes to Annualized Pay Rate field in the Contribution File Layout.

Hearing and Second Comment Period

No comments were received at the hearing held on April 24, 2019.

No comments were received during the second comment period, held from July 18 through August 2, 2019.

Alternatives Determination

CalSTRS has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Local Mandate Determination

Pursuant to California state law and related authority, CalSTRS has determined that the proposed regulations do not constitute a reimbursable state mandate on school districts or other local agencies as provided for under article XIII B, section 6, of the California Constitution. Any new information that will be required to be submitted in order to comply with the proposed regulations is directly related to and necessary for the remission of retirement contributions and the delivery of contractually earned benefits. As a result, the proposed regulations are not associated with a “program” as defined by the courts either to carry out the governmental function of providing a service to the public or to implement a state policy imposing unique requirements on local agencies or school districts. Moreover, if the reporting of member information to CalSTRS is determined to be an activity that is distinct from the remission of contributions and administration of benefits, any increased costs that may result from the amendments to the proposed regulations are “incidental” to the costs of administering an already existing program and are, therefore, not reimbursable.

The Department of Finance communicated to CalSTRS that it believes there is a material risk that the proposed regulations could constitute a reimbursable state mandate.

Statement Regarding Incorporation by Reference

It would be cumbersome, unduly expensive and otherwise impractical to publish the most recent CalSTRS’ F496 File Specification, as revised on February 24, 2016, CalSTRS’ Voluntary Deduction File (VDF) Specification, as revised on July 1, 2015, or the proposed CalSTRS’

Contribution File Layout, as revised on June 18, 2019, and CalSTRS' Contribution File Layout, as revised on June 18, 2019, in the California Code of Regulations for the following reasons:

1. **The documents are lengthy.** The F496 File Specification is more than 160 pages and the VDF Specification is more than 50 pages. The Contribution File is 22 pages and the Employment File is 8 pages.
2. **The documents use table formatting.** The usefulness of the documents to employers would be compromised by the removal of this element that improve the readability of the file specification documents.
3. **Each document is most easily searched and referred to as a single contiguous document.** To reasonably include the documents in regulation, each document would need to be compartmentalized into dozens of separate sections. However, each file specification document would be cumbersome to navigate within the formatting constraints of the California Code of Regulations online.

The documents incorporated by reference were available for public inspection and copying throughout the rulemaking process at CalSTRS at 100 Waterfront Place, West Sacramento, CA 95605. In addition, the documents were available to the public on CalSTRS website at CalSTRS.com/regulations.

Section 27800 of the proposed regulation identifies the file specification documents by title and the most current revision dates and states that each of the documents is incorporated by reference.