

**ATTENTION:
NEWLY ADDED/ADOPTED**

**California Code of Regulations
Title 5. Education
Division 3. Teachers' Retirement System
Chapter 1. Teachers' Retirement System
Article 17. Member's Right to Internal Informal Appeal
of a Determination by CalSTRS Staff of a Right to a Benefit or Obligation**

§ 27100 Definitions

- (1) For purposes of this regulation, an applicant for an administrative remedy is defined as any member, former member, participant, former participant, or beneficiary with respect to payment of allowances, benefits or refunds, or with respect to crediting service, or correction of records pursuant to Parts 13, 13.5 and 14 of Division 1 of Title 1 of the Education Code and section 20520 of the California Code of Regulations.
- (2) For purposes of this regulation, Program Executive is defined as the CalSTRS Executive, or his/her designee, overseeing the Program Area to which the administrative matter was assigned, as deemed appropriate by the System.
- (3) For purposes of this regulation, a Decision means a decision designated as final by a Director of the Program Area, or his/her designee, to which the administrative matter was assigned, as deemed appropriate by the System.
- (4) For purposes of this regulation, a Determination means a determination made by the Program Executive, the Director of Audit Services, or his/her designee.
- (5) For purposes of this regulation, System Headquarters is defined by Education Code section 22375.

(6) For purposes of this regulation, a Field Office is a retirement counseling office defined by Education Code section 22303 which is either established by contract or by the System.

Note: Authority: California Constitution, Article XVI, Section 17; and Section 22219, Education Code.

Reference: Sections 22107, 22146, 22108, 22161.5, 22174, 22303, 22375, 26132, 22375, Education Code; Section 20520, Title 5, Division 3, Chapter 1, Article 2 of the California Code of Regulations.

§ 27101 Administrative Remedy for Benefits & Services and Financial Services.

(1) Any applicant who disagrees with a Decision, excluding audit findings as referenced in section 27102, may request a review of that Decision by the Program Executive. The request for review must be:

(a) Made in writing;

(b) Addressed to the Program Executive; and,

(c) State all facts, any basis in the Education Code or other law that applicant believes are relevant, and any other pertinent information, which may include but is not limited to medical records, which the applicant relies on to dispute the Decision.

(i) The stated facts, law, and pertinent information, which may include but is not limited to medical records, must be submitted with all documentary evidence applicable to the disputed Decision. If there is no documentary evidence, the writing should expressly state there is an absence of such evidence.

(ii) It is the applicant's burden to show that the facts, law, and pertinent information would provide a legal basis for CalSTRS to reverse the Decision.

(d) Received within forty-five (45) days after the date of the disputed written Decision by the System Headquarters or by a CalSTRS Field Office or at the following email address: [CalSTRSInternalReview@calstrs.com].

(2) If the applicant's request for review by a Program Executive ("Executive Review") does not contain additional information or legal basis for review beyond the facts and/or documentary evidence previously provided to or obtained by the program area and merely repeats information previously provided, the applicant's request for Executive Review by the Program Executive shall be denied and the applicant may request an administrative appeal. The Program Executive may consult with CalSTRS staff prior to denying applicant's request for Executive Review.

(3) If the Program Executive determines that the applicant has provided sufficient additional information or legal basis for review, the Program Executive will review the Decision and make one of the following Determinations:

(a) Based upon review of the law and facts, including any additional information provided by applicant, applicant has not provided a legal basis to reverse the Decision and has therefore failed to meet his or her legal burden. The Program Executive shall inform the party in writing of the Determination and the applicant's right to an administrative appeal.

(b) Informal fact finding is necessary in regard to the applicant's dispute with the Decision and the matter is referred to staff for investigation. The informal factual investigation may include, but is not limited to, inquiries made to the applicant and requests for further documentary evidence pursuant to Education Code sections 22207, 22250, 22450, 24003, 24103, and 26002. The applicant must in good faith cooperate with and respond to staff.

(i) The applicant must respond in writing, either through mail, facsimile or email, to any inquiries made and/or requests for further documentary evidence. If the applicant fails to respond in writing or produce documentary evidence within forty-five (45) days after the inquiry or request was made, the applicant shall be deemed to have waived the right to pursue any additional administrative remedies. Accordingly, the Decision will be deemed to be a Determination by the Program Executive.

(ii) At the discretion of the Program Executive an extension to respond to any inquiries made and/or requests for further documentary evidence may be granted if the request for an extension is made prior to the last day to respond, in writing, and received at the System Headquarters, at a CalSTRS field office, or at the following email address: [CalSTRSInternalReview@calstrs.com].

(c) Upon completion of the informal factual investigation, the Program Executive will conduct a review of the additional information, the legal basis for review that applicant believes are relevant, and the information gathered through investigation. The review may include consultation with, including but not limited to, staff, the Ombudsman, a Legal Services representative, and a representative from the relevant program area. After the review is complete, the Program Executive shall make a Determination and shall inform the applicant in writing within fifteen (15) days.

(4) If the applicant disagrees with the Program Executive's Determination under subdivisions 3(a) or 3(c) of this section, the applicant may request an administrative appeal. The request for an administrative appeal shall be directed to CalSTRS Legal Services within ninety (90) days of the date of the Determination signed by the Program Executive. The request shall be in writing and

mailed to the following address: CalSTRS Legal Services, PO Box 15275, MS #3, Sacramento, CA 95851.

(a) If the Determination does not grant the applicant's request, CalSTRS will inform the applicant of the applicant's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, notify the applicant that the applicant has a right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

(b) If the applicant fails to make a written request for administrative appeal within the time prescribed, the Program Executive's Determination shall be final and the right to an administrative appeal shall be deemed waived.

Note: Authority: California Constitution, Article XVI, Section 17; and Sections 26002 and 22219, Education Code.

Reference: Sections 22207, 22250, 22303, 22375, 22450, 22455, 24003, 24103, 26002, 26132, 26301 Education Code; Sections 11415.40, 11505(b) Government Code; Section 1015, Title 1, Division 2, Chapter 1 of the California Code of Regulations; Section 20520, Title 5, Division 3, Chapter 1, Article 2 of the California Code of Regulations.

§ 27102 Administrative Remedy for Audits.

(1) If an applicant, as defined in Section 27100, subdivision (1) or an entity, including but not limited to a public agency or employer, is affected by the preliminary findings of an audit pursuant to Education Code section 22206, applicant or the entity may provide a written response to the preliminary audit findings. A final audit report is a Determination and is not subject to internal review by a Program Executive ("Executive Review") or the Director of Audit Services.

(2) If an applicant or entity disagrees with the final audit Determination, the applicant or entity may request an administrative appeal. The request for an administrative appeal shall be directed to the CalSTRS Legal Services within ninety (90) days from the date of the final audit Determination. The request shall be in writing and mailed to the following address: CalSTRS Legal Services, PO Box 15275, MS #3, Sacramento, CA 95851. If an applicant or entity fails to request an administrative appeal within the time prescribed, such Determination or action shall be final and the right to an administrative appeal shall be deemed waived.

(a) If the Determination does not grant the applicant's or entity's request, CalSTRS will inform the applicant of the applicant's right to an administrative hearing. CalSTRS will also refer the applicant to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, notify the applicant that the applicant has a right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

Note: Authority: California Constitution, Article XVI, Section 17; and Section 22219, Education Code.

Reference: Sections 22206, 22375 Education Code; Section 1015, Title 1, Division 2, Chapter 1 of the California Code of Regulations; Section 20520, Title 5, Division 3, Chapter 1, Article 2 of the California Code of Regulations; Section 11505(b) of the California Government Code.

§ 27103 Administrative Appeals

Following the timely receipt of an administrative appeal request, the CalSTRS Legal Services or the Attorney General's Office will process the appeal in accordance with the provisions of Education Code section 22219, subdivision (b) relating to administrative litigation.

Note: Authority: California Constitution, Article XVI, Section 17; and Section 22219, Education Code; Commencing with Section 11500 of Part 1 of Division 3 of Title 2, Government Code.

Reference: Section 22219, Education Code.