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TO: All County Superintendents of Schools
District Superintendents of Schools
Charter Schools reporting to CalSTRS
Nonprofit public benefit corporations operating charter schools and
Other Employing Agencies remitting contributions to CalSTRS

FROM: Cassandra Lichnock
Chief Executive Officer

SUBJECT: Employer Directive 2026-06
Clarifying creditable service for charter schools

*This document is identified as a Resource pursuant to Education Code section 22325

PURPOSE

This Employer Directive offers additional clarification regarding creditable service specifically related to individuals performing service for public charter schools and supersedes Employer Directive 2026-01.

SCOPE

This directive contains information for county offices of education, school districts, charter schools that report to CalSTRS, and any other employing agency remitting contributions to CalSTRS that employs individuals to perform creditable service under the CalSTRS Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit programs.

DISCUSSION

Education Code sections 22119.5 and 22131 require that creditable service be performed for a CalSTRS employer. Education Code section 22119.5(a)(3) defines "creditable service" as any of the activities described in subdivision (b) performed for: "A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment." For the purposes of creditable service subject to coverage by CalSTRS, a "charter school" is an agency or political subdivision of the state that has received a unique County-District-School code from the California Department of Education.

Charter schools operated as or by a nonprofit public benefit corporation

Education Code section 47611 allows a charter school to choose to make CalSTRS available for all employees of the charter school who perform creditable service, in which case the provisions of the Teachers' Retirement Law would apply. Education Code section 47604 allows for a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation (NPBC). NPBCs may be treated as CalSTRS employers by CalSTRS, such that they can employ individuals performing creditable service for an eligible charter school subject to coverage by CalSTRS, when specific requirements are met.

Pursuant to Notice 2015-07, *Relief for Certain Participants in § 414(d) Governmental Plans*, the Internal Revenue Service and the United States Treasury Department are expected to issue final regulations permitting a state or local retirement system to provide benefits for NPBC employees and continue to qualify as an Internal Revenue Code section 414(d) governmental plan, provided that certain requirements identified in Section III.A of Notice 2015-07 are met.

To ensure compliance with Notice 2015-07, NPBCs must complete the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* (ES 0765) form for each charter school they currently operate as a report unit with CalSTRS. This form may not be completed by a third-party administrator or any similar entity managing payroll or operations because Education Code section 47604.1(a) states, "An entity that is not authorized to operate a charter school pursuant to Section 47604 is not an 'entity managing a charter school' solely because it contracts with a charter school to provide to that charter school goods or task-related services that are performed at the direction of the governing body of the charter school and for which the governing body retains ultimate decision-making authority."

For each charter school operated as or by an NPBC, the NPBC must select one of two options on the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form:

- Option 1: The NPBC may certify that it does not employ individuals performing creditable service directly and that those performing creditable service are employed by the individual charter schools operated by the NPBC. This may also include single charter schools that operate as the NPBC.
- Option 2: The NPBC may certify that the individuals are employed by the NPBC to perform creditable service for one or multiple charter schools it operates in documented employment agreements and acknowledge that the NPBC can meet the requirements outlined in the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form to provide CalSTRS benefits to eligible employees.

If your charter school is a trade name only, and all decisions are made by the NPBC, you should select Option 2.

Individuals employed by a charter school operated by an NPBC that has completed the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form, who perform a creditable service activity listed in Education Code section 22119.5(b) must be reported to CalSTRS. Charter school employers or the NPBC operating the charter school are required to

maintain documentation of the nature of employment, the duties performed and the compensation paid in a publicly available written contractual agreement. For more information regarding creditable compensation, see the Creditable Compensation Reference Guide at CalSTRS.com.

Service may not be creditable to CalSTRS in many circumstances, including if the position is employed by a charter school operated by an NPBC and that NPBC has not completed the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form; if the service is not a creditable service activity listed in Education Code section 22119.5(b); if the work is not performed for a California charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment; or if the employer does not maintain the necessary publicly available written contractual agreements. If CalSTRS deems service is not creditable, it must not be reported to CalSTRS.

Dependent charter schools

In some cases, a charter school may not operate independently of its authorizing county office of education or school district. These charter schools are often referred to as "dependent" charter schools as they operate as a special project or school unit of the authorizing entity, and the employees are employed by the county office of education or school district. Charter schools whose employees are regular employees of the county office of education or school district are not required to complete the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form because these charter schools are dependent on/operated by the county office of education or school district.

Charter schools not operated by a nonprofit public benefit corporation

If you believe that your charter school is not managed as a single charter school/nonprofit public benefit corporation, by a nonprofit public benefit corporation in a network of charter schools or as a dependent charter school of an authorizing county office of education or school district, contact EmployerOrgMaint@CalSTRS.com.

Impacts to class of employees, full time and annualized pay rate

A class of employees is a number of employees considered as a group because they are either employed to perform similar duties, employed in the same type of program or share other similarities related to the nature of the work being performed. Those employed to perform creditable service for multiple charter schools belong to the applicable class of employees for each charter school; a separate class of employees for those who perform similar duties at multiple charter schools may not be established.

Education Code section 22138.5 specifies "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 annualized pay rate as defined in Education Code section 22104.8 and specified under the terms of a collective bargaining agreement or employment agreement. Those employed to perform creditable service for multiple charter schools must be reported in accordance with the annualized pay rate and full-time standard of each charter school.

Impacts to outgrowth activities

Outgrowth activities described in Education Code section 22119.5(d) are only considered creditable service when performed by an individual who is performing creditable service for the same employer in the same fiscal year. For those employed by an NPBC to perform creditable service for charter schools under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment, the "same employer" is considered the charter school for which the creditable service activities are performed.

Impacts to Defined Benefit Program membership

Those performing creditable service for a charter school under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment are eligible for CalSTRS membership. Service performed in multiple part-time positions may not be aggregated for the purposes of mandatory membership. If an individual's employment agreement identifies the performance of creditable service across multiple charter schools, those amounts may not be aggregated for mandatory membership; they are considered separate part-time positions. If an individual is employed to perform creditable service on a part-time hourly, part-time daily or substitute basis, they mandate into membership after a threshold of service has been performed in a specified time period for a single employer. If they are employed to perform creditable service for multiple charter schools, their service must be tracked separately for each charter school. Those who are not already CalSTRS members and take a position that does not mandate membership at the time of hire may elect CalSTRS membership at any time while employed to perform creditable service using the *Permissive Membership* (ES 350) form.

Example scenarios

Charter schools operated as or by an NPBC that select Option 1 – Example A

ABC Charter Corporation operates Charter Schools A, B and C that have all elected CalSTRS coverage. On the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form, each charter school selects Option 1 to certify that they directly employ individuals performing creditable service. By selecting Option 1, the charter schools certify that each individual who performs creditable service for Charter Schools A and B has an employment agreement with Charter School A and an employment agreement with Charter School B.

In this example, they perform 50% of a full-time contract with Charter School A and 50% of a full-time contract with Charter School B. They are compensated based on the salary schedule and any other publicly available written contractual agreements for their creditable service with Charter School A and based on the salary schedule and any other publicly available written contractual agreements for their creditable service with Charter School B. If they begin performing teaching duties for Charter School C, they will need another employment agreement for their creditable service with Charter School C, and their compensation must be based on Charter School C's salary schedule and any other publicly available written contractual agreements for their creditable service.

Charter schools operated as or by an NPBC that select Option 1 – Example B

ABC Charter Corporation manages Charter Schools A, B and C. Charter School A and Charter School B elected to participate in CalSTRS, completed the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form, and selected Option 1 to certify that each individual who performs creditable service for Charter Schools A and B has an employment agreement with the respective charter school. Charter School C did not elect to participate in CalSTRS.

A school psychologist accepts employment for both Charter School A and Charter School B. The school psychologist has an employment agreement with Charter School A for 60% of full time and an employment agreement with Charter B for 40% of full time. The school psychologist is compensated based on the salary schedule and any other publicly available written contractual agreements for their creditable service with Charter School A and based on the salary schedule and any other publicly available written contractual agreements for their creditable service with Charter School B.

The school psychologist accepts a part-time assignment for Charter School C, which did not elect CalSTRS coverage. Any service, even if the duties align to a creditable service activity, performed by the school psychologist for Charter School C and the associated compensation are not reportable to CalSTRS.

The school psychologist accepts another part-time assignment with the NPBC, ABC Charter Corporation. ABC Charter Corporation is not a public charter school that has elected CalSTRS and is not certified on the *CalSTRS Charter School/Nonprofit Public Benefit Corporation*

Certification form. Any service performed by the school psychologist for the NPBC is not reportable to CalSTRS.

Charter schools operated as or by an NPBC that select Option 2 – Example A

Colorful Charter Corporation operates Charter Schools Red, Blue and Green that have all elected CalSTRS coverage. On the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form, each charter school selects Option 2 to certify that the NPBC meets the requirements set forth to employ those performing creditable service for the charter school. This means that a teacher who performs creditable service for Charter Schools Red, Blue and Green has an employment agreement held with Colorful Charter Corporation.

In this example, Colorful Charter Corporation employs them under one employment agreement that specifies they perform their teaching duties for 35% of a full-time contract for Charter School Red, 25% of full-time contract for Charter School Blue and 40% of a full-time contract for Charter School Green. They are compensated for the proportion of their service based on the salary schedules and any other publicly available written contractual agreement held by Charter Schools Red, Blue and Green.

A teacher's part-time positions in this situation may not be aggregated to mandate CalSTRS membership. Any service performed by a teacher who is not already a member of CalSTRS in this situation is considered nonmember service to CalSTRS unless the teacher permissively elects CalSTRS membership while employed to perform creditable service.

Charter schools operated as or by an NPBC that select Option 2 – Example B

Colorful Charter Corporation operates Charter Schools Red, Blue and Green that have all elected CalSTRS coverage. On the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form, each charter school selects Option 2 to certify that the NPBC meets the requirements set forth to employ those performing creditable service for the charter school. This means that an individual who performs creditable service for Charter Schools Red, Blue and Green has an employment agreement held with Colorful Charter Corporation.

A Director of Instruction has an employment agreement held with Colorful Charter Corporation to perform 790 hours of instructional program and curriculum administration for Charter School Red and 790 hours of those same duties for Charter School Blue. The Director of Instruction develops a new method of curriculum evaluation that is used across Charter Schools Red, Blue and Green. If only Charter School Green provides all directors with a $1,000 off-salary-schedule bonus documented in approved board minutes, this compensation is not reportable to CalSTRS for the Director of Instruction, regardless of benefit structure, because they are not employed to perform creditable service for Charter School Green under their employment agreement held with Colorful Charter Corporation.

ACTION

The *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form must be completed by January 31, 2027, and NPBCs and charter schools completing the form must update or create the necessary publicly available written contractual agreements by January 31, 2027.

Any charter school applying for activation with CalSTRS as a report unit on or after January 1, 2026, must complete the revised *Report Unit Activation* (ES 1796) form and the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* form along with other required documentation.

NPBCs and their related charter schools are responsible for the identification, notification and appropriate documentation for those individuals employed to perform creditable service. If you are unsure whether a position will meet these requirements, send all necessary documentation with your inquiry to EmployerOrgMaint@CalSTRS.com for further evaluation.

Entity	Action
New charter school being established on or after 01/01/2026	• Complete the *Report Unit Activation* (ES 1796) form. • Complete the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* (ES 0765) form. • Ensure employment agreements and publicly available written contractual agreements meet the requirements of the Teachers' Retirement Law.
Charter school report unit established prior to 01/01/2026 operated as a nonprofit public benefit corporation	• Complete the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* (ES 0765) form by January 31, 2027. • Ensure employment agreements and publicly available written contractual agreements meet the requirements of the Teachers' Retirement Law by January 31, 2027. • Review employment records to ensure those employed to perform creditable service are reported to CalSTRS. ○ Contact EmployerOrgMaint@CalSTRS.com with a complete list of impacted individuals and appropriate documentation before making corrections.

Entity	Action
Nonprofit public benefit corporation currently operating charter schools as report units established prior to 01/01/2026	• Complete the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* (ES 0765) form by January 31, 2027, for each charter school operated by the NPBC. • Ensure employment agreements and publicly available written contractual agreements meet the requirements of the Teachers' Retirement Law by January 31, 2027. • Review employment records to ensure those employed to perform creditable service are reported to CalSTRS. ○ Contact EmployerOrgMaint@CalSTRS.com with a complete list of impacted individuals and appropriate documentation before making corrections.
Charter school report unit established prior to 01/01/2026 not operated as or by a nonprofit public benefit corporation	• Contact EmployerOrgMaint@CalSTRS.com. Additional information is needed regarding your organization structure, and you will receive specific guidance on how to complete the *CalSTRS Charter School/Nonprofit Public Benefit Corporation Certification* (ES 0765) form.
Dependent charter school of the authorizing county office of education or school district report unit	• No action is needed.

If a position that was previously evaluated as not reportable to CalSTRS meets these requirements, and is performing a creditable service activity, it may be considered creditable service as of the effective date of the position. Contact EmployerOrgMaint@CalSTRS.com with the complete list of impacted employees, the employment agreements and publicly available written contractual agreements documenting the start date of the positions and the duty statements or similar documentation of the job duties before submitting employment or contribution data.

Reporting

If an individual is employed to perform creditable service for one charter school, report creditable compensation for that report unit. If an individual is employed to perform creditable service for multiple charter schools, the reporting must be in proportion to the employment agreement(s) held by the NPBC for each report unit.

For further questions regarding reporting, contact EmployerOrgMaint@CalSTRS.com with the necessary documentation.