

CALIFORNIA CODE OF REGULATIONS
TITLE 5. EDUCATION
DIVISION 3. TEACHERS' RETIREMENT SYSTEM
CHAPTER 1. TEACHERS' RETIREMENT SYSTEM

Article 3. General Provisions of Administration

§ 20520. Authority of Chief Executive Officer.

(a) The chief executive officer (CEO) of the system is authorized to contract on behalf of the Teachers' Retirement Board and to perform other acts necessary in the administration of the system. The board may, by resolution adopted at any meeting and recorded in the minutes of the meeting, delegate authority to the CEO to perform any act within its own power to perform.

(b)(1) As to any member, former member, participant, former participant, or designated beneficiary, The chief executive officer the CEO of the system is authorized and empowered to may take action to correct their a member's record or benefits; act on their retirement, allowance, or benefits; grant service credit; and act on their application for any other benefit or request for refund and to approve, disapprove, modify or otherwise act on the retirement of members of the system for service or for qualifying for and receiving a disability allowance, and to fix their retirement allowances or disability allowances; and to approve, disapprove, modify or otherwise act on any application for any other benefit or refund and for granting service credit; and to determine whether persons who have qualified for and are receiving disability allowances have recovered from the disabilities which qualified them for disability allowances and to determine the eligibility of persons for family allowances. Payment of retirement allowances, disability allowances, family allowances, refunds or other benefits may be made on the action of the chief executive officer.

The chief executive officer is authorized to enter into contracts on behalf of the Teachers' Retirement Board and to perform other acts necessary in the administration of the system. The Teachers' Retirement Board may by resolution adopted at any meeting and recorded in the minutes of the meeting, delegate authority to him to perform any act within its own power to perform.

(2) Any such member, former member, ~~disabiltant, retirant,~~ participant, former participant, or designated beneficiary may appeal an action taken by the CEO described in paragraph (1) by requesting a Decision be issued, as defined in Section 27100 of this chapter, and they shall have a right to administrative remedies as described in Section 27101 of this chapter or other person dissatisfied with the action of the chief executive officer other than his referral of the matter to hearing, with respect to payment of allowances, benefits or refunds or with respect to crediting service or correction of records, has the right to appeal such action to the Teachers' Retirement Board by filing a written notice of such appeal and the reason therefor at the office of the system within a reasonable time from the date of the mailing to him by the chief executive officer at his most recent

~~address of record with the system of written notice of the determination or action taken and right of appeal therefrom. For the purpose of defining a “reasonable time” ninety (90) days is deemed to be a reasonable time. If no notice of appeal as herein provided is made within the time prescribed, such determination or action shall be final. A member, former member, participant, former participant, or designated beneficiary may not challenge the CEO’s referral of a matter to an administrative hearing.~~

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22202, 22203, 22204, 22208, 22209, 22210, 22216, 22219, and 22224 22301 and 26002, Education Code. Reference: Sections 22208, 22219, 22300, 22301 and 26002, Education Code.

Article 16. Member’s Right to ~~Internal Informal Appeal of a Determination by CalSTRS Staff~~ Administrative Remedies Relating to a Right to a Benefit or Obligation

§ 27100. Definitions.

For purposes of this article:

(a) ~~For purposes of this article, an~~ An “applicant” seeking an administrative remedy is defined as any member, former member, participant, former participant, or designated beneficiary requesting review or appealing 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 Title 5, Division 3, Chapter 1, section 20520 of the California Code of Regulations. who appeals their own benefits and obligations under the Teachers’ Retirement Law.

(b) ~~For purposes of this article, “Program Executive” is defined as the CalSTRS Executive, or their his/her designee, overseeing the Program Area program area to which the administrative matter was assigned, as deemed appropriate by the System system.~~

(c) ~~For purposes of this article, a~~ A “Decision” means is a conclusion decision designated as final by a Director of the Program Area director of the program area, or their his/her designee, to which the administrative matter was assigned, as deemed appropriate by the System system.

(d) ~~For purposes of this article, a~~ A “Determination” means is a conclusion designated as final determination made by the Program Executive, the Director of Audit Services, or their his/her designee.

(e) A “final audit report” is an audit report issued pursuant to Education Code section 22206.2 and designated as final by the Chief of Audit Services, or their designee.

(f) ~~For purposes of this article, “System Headquarters” is defined~~ the permanent headquarters facility constructed as authorized by Education Code section 22375.

(f) ~~For purposes of this article, 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 cited: California Constitution, Article XVI, Section 17; and ~~Section~~ Sections 22219 and 26002, Education Code. Reference: Sections 22107, 22108, 22146, 22161.5, 22174, 22303, 22375, 26002 and 26132, Education Code.

§ 27100.5. Applicants.

(a) An applicant who disagrees with how a law is applied to the particular facts of their case may request an appeal.

(b) An applicant who only disagrees with the law in principle may not request an appeal.

(c) A person may not request an appeal on behalf of another member, former member, participant, former participant, or designated beneficiary.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22219 and 26002, Education Code. Reference: Sections 22207, 22219, 22250 and 26002, Education Code.

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

~~(a) Any applicant who disagrees with~~ (a) Any applicant who disputes a Decision, excluding audit findings as referenced in section Section 27102, may request that the Program Executive a review of that Decision by the Program Executive (“Executive Review”). If the applicant fails to make a timely request for an Executive Review, the Decision shall become final, and the right to any further administrative remedies shall be deemed waived. The request for Executive Review review must:

(1) Be made in writing;

(2) Be addressed to the Program Executive;

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

~~(A) 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 are no additional documents, the request shall is no documentary evidence, the writing should expressly state there is an absence of such evidence are no additional documents.~~

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

(4) ~~Within forty-five (45) days after the date of the disputed written Decision, be~~ Be received by the System Headquarters or by a CalSTRS Field Office or at the following email address: [CalSTRSInternalReview@calstrs.com] within forty-five (45) calendar days of the date of the Decision.

~~(b) 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. The Program Executive shall review the Decision, and at their discretion consult with staff and the Ombuds, and make one of the following Determinations:~~

~~(c) (1) If the applicant's request for review by a Program Executive ("Executive Review") does not contain sufficient additional information or a new legal basis or interpretation to reverse the Decision, 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 hearing. The the Program Executive shall issue a Determination upholding the Decision and inform the applicant of their right to an administrative hearing. The Program Executive may consult with CalSTRS staff prior to denying applicant's request for Executive Review.~~

~~(d) (2) If the Program Executive determines that the applicant has provided submitted sufficient additional information or a new legal basis or interpretation for review, the Program Executive will shall review the Decision and make one of the following Determinations:~~

~~(1) Based upon review of the relevant law and facts, including any the additional information provided by the applicant. The Program Executive shall issue a Determination and inform the applicant of their right to an administrative hearing.~~

~~(3) If the applicant submits additional information or a new legal basis or interpretation, but the Program Executive determines that further information is needed, the Program Executive shall ; 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 hearing.~~

~~(2) Informal fact finding is necessary in regard to the applicant's dispute with the Decision and refer the matter is referred to staff for further investigation and fact finding, including . The informal factual investigation may include, but is not limited to, inquiries made to the applicant and requests for further documents documentary evidence pursuant to Education Code sections 22207, 22250, 22450, 24003, 24103, and 26002. The applicant must cooperate with staff in good faith and cooperate with and respond to staff.~~

~~(A) The applicant must respond in writing, either through mail, facsimile or email, to any inquiries made and/or for requests for further documents documentary evidence within forty-five (45) calendar days after the inquiry or request was made.~~

~~(A) Upon completion of the fact finding, the Program Executive shall review all new information and the relevant law and facts, issue a Determination, and inform the applicant of their right to an administrative hearing.~~

(B) If the applicant fails to timely respond in writing or provide further documents, the Program Executive shall issue a Determination upholding the Decision and inform the applicant of their right to an administrative hearing 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.

(B) 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. If the applicant disagrees with the Program Executive's Determination under subdivisions d(1) or d(2)(C) of this section, the applicant may request an administrative hearing.

(c) The Program Executive has the discretion to grant a timely and reasonable request for an extension of time of any deadline identified in subdivisions (a) and (b) for good cause. Those requests must be made in writing and received at the System Headquarters or at the following email address: [CalSTRSInternalReview@calstrs.com].

(e) (d) If the applicant disagrees with the Program Executive's Determination under subdivision (b), the applicant may request an administrative hearing. The request for an administrative hearing shall be directed to CalSTRS Legal Services and must be received within ninety (90) calendar 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, or emailed to the following email address: [LegalServices@calstrs.com]. If the applicant fails to make a written request for administrative hearing within the time prescribed, the Program Executive's Determination shall be final, and the right to an administrative hearing shall be deemed waived.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22207, 22219 and 26002, Education Code. Reference: Sections 22207, 22250, 22303, 22375, 22450, 22455, 24003, 24103, 26002, and 26132 and 26301, Education Code; and Sections 11415.40 and 11505(b), Government Code.

§ 27102. ~~Administrative Remedy for Audits~~ Employer Audit Resolution Process.

~~(a) If an applicant, as defined in Section 27100, subdivision (a) 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, the 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.~~

~~(b) CalSTRS will inform the applicant or entity of the applicant’s or entity’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 and provide notification of the right to self representation or counsel at their own expense and that CalSTRS will be represented by counsel.~~

~~(c) If an applicant or entity disagrees with the final audit Determination, the applicant or entity may request an administrative hearing. The request for an administrative hearing 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 hearing within the time prescribed, such Determination or action shall be final and the right to an administrative hearing shall be deemed waived.~~

(a)(1) Prior to issuing the final audit report, the “preliminary audit findings” in Education Code section 22206.1 shall be included in the draft audit report.

(2) CalSTRS shall provide the draft audit report to all of the following:

(A) The audited public agency.

(B) Any exclusive representative or representatives identified by the public agency pursuant to Education Code section 22206.1.

(3) No later than sixty (60) calendar days after the issuance of a draft audit report, the recipients may provide CalSTRS with their written responses to the preliminary audit findings, and CalSTRS shall consider their responses in preparing the final audit report.

(b)(1) CalSTRS shall provide the final audit report to all of the following:

(A) The audited public agency.

(B) Any exclusive representative or representatives identified by the public agency pursuant to Education Code section 22206.1.

(2) CalSTRS shall provide the public agency with an explanation of its appeal rights pursuant to Education Code section 22206.3.

(3) No later than sixty (60) calendar days after issuance of a final audit report pursuant to Education Code section 22206.2, the public agency shall submit to CalSTRS, using the email address identified in the final audit report, a list of the names of all members, former members, participants, and former participants whose employer reporting is affected by the final audit report,

organized by each audit finding and including all of the information specified in the final audit report ("Audit List").

(4) After receipt of the Audit List, CalSTRS shall provide the final audit report, with an explanation of appeal rights pursuant to Education Code section 22206.4, to each member, former member, participant, and former participant included in the Audit List.

(c)(1) If the public agency identifies additional members, former members, participants, or former participants affected by the final audit report at any time after it submits the Audit List, the public agency shall submit to CalSTRS, using the email address identified in the final audit report, a list of the names of all additional members, former members, participants, and former participants whose employer reporting is affected by the final audit report, organized by each audit finding and including all of the information specified in the final audit report ("Supplemental Audit List"). Each Supplemental Audit List shall be submitted within sixty (60) calendar days of the identification of the additional members, former members, participants, or former participants by the public agency.

(2) After receipt of any Supplemental Audit List, CalSTRS shall provide the final audit report, with an explanation of appeal rights pursuant to Education Code section 22206.4, to each member, former member, participant, and former participant included in the Supplemental Audit List if they were not identified in the original Audit List or, if they were identified in the original Audit List, the Supplemental Audit List identifies a new finding(s) for that member, former member, participant, or former participant.

(d)(1) After submitting an Audit List or Supplemental Audit List, the public agency shall submit to CalSTRS all corrections for each member, former member, participant, and former participant identified in the Audit List or any Supplemental Audit List and for each finding identified in the final audit report. Those corrections shall be submitted no later than one hundred and fifty (150) calendar days after issuance of a final audit report, or after submission of any Supplemental Audit List.

(2) The corrections submitted to CalSTRS shall be for the period commencing with the five (5) school years prior to the date of the final audit report, including information related to amounts that were earned or accrued prior to that period, if such amounts were reported during this five (5) school year timeframe.

(e) This section shall not toll, extend or otherwise affect the deadlines related to the assessment of penalties, interest or both pursuant to Chapter 17 of Part 13 of Division 1, Title 1 of the Education Code (commencing with section 23000) and Article 15.5 (commencing with section 27000) of this chapter.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and ~~Section Sections~~ 22219 and 26002, Education Code. Reference: Sections 22206, 22206.1, 22206.2 and 26002 and 22375, Education Code; and ~~Section 11505(b), Government Code.~~

§ 27102.5. Administrative Remedy for Employer Audits.

(a) A public agency audited pursuant to Education Code section 22206 or a member, former member, participant, or former participant identified in an Audit List or Supplemental Audit List under subdivision (b) of Section 27102, or a designated beneficiary thereof, who disagrees with the relevant finding, or findings, of the final audit report may request an administrative hearing as described in Education Code section 22206.3 or 22206.4.

(b) An applicant may only request an administrative hearing to appeal their own benefits and obligations affected by an audit. A public agency audited pursuant to Education Code section 22206 may not assert an applicant's rights to benefits and obligations as part of its appeal of an audit. An applicant or public agency audited pursuant to Education Code section 22206 may not request an administrative hearing on behalf of another applicant or public agency.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; and Sections 22219 and 26002, Education Code. Reference: Sections 22206, 22206.2, 22206.3, 22206.4 and 26002, Education Code; and Section 11505(b), Government Code.

§ 27103. Administrative Hearing.

(a) CalSTRS shall inform an applicant or public agency of their right to an administrative hearing, refer them to the Office of Administrative Hearings (OAH) for information pertaining to administrative hearings, and provide notification of the right to self-representation or counsel at their own expense and that CalSTRS will be represented by counsel.

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

(c) CalSTRS shall send notice to a designated beneficiary pursuant to this section only when the member, former member, participant or former participant is deceased, and the hearing directly affects the amount of, or eligibility to receive, any payment to the designated beneficiary.

NOTE: Authority cited: California Constitution, Article XVI, Section 17; Section and Sections 22219 and 26002, Education Code; and Section 11501, Government Code. Reference: Section Sections 22219 and 26002, Education Code.