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The information provided in this publication is for your convenience and reference as a general guide only and cannot be relied upon as an authoritative source for the law, practices, or policies of CalPERS. While CalPERS tries to include only accurate, timely and complete information in its publications, summaries, guidelines and other advisory printed materials, sometimes information provided in printed materials may be or become inaccurate, untimely, incomplete, unclear or misleading. In all instances, the law then in effect, not this publication, controls the application of the Public Employees’ Retirement Law. It is the reader’s responsibility to independently verify the accuracy of the information contained in this publication before engaging in a course of action.
CALPERS MEMBERSHIP ELIGIBILITY

If a person is currently a member of CalPERS (i.e., has contributions/service on account that have not been refunded), the person cannot be excluded from membership due to her/his time base (e.g., working less than 20 hours per week) or appointment length (e.g., 90 days). Therefore, persons who are currently members of CalPERS do not need to re-qualify for membership. This applies even if their membership was established through employment with another CalPERS agency, or if they are not currently working (i.e., are on inactive status) with a CalPERS-covered agency.

A CalPERS member should not continue to be reported in membership when:

- The person enters a position that is excluded by law (other than due to time base/appointment length), or by an agency’s contract.
- The person enters a position eligible for optional membership; the individual must submit an election of optional membership in order to be a member in such a position. (See “Optional Members of CalPERS” section for more information.)
- The person enters a position that is also in membership with another public retirement system. (See the “Positions Excluded by Retirement Law (PERL) from CalPERS Coverage” section later in this chapter.)
- The person is subject to an Alternate Retirement Plan (ARP) under G.C. section 20306. (Refer to the Alternate Retirement Plan (ARP) information within this section.)
- The person is legally working after retirement. (The laws and reporting responsibilities for post-retirement employment are different from the laws for membership; refer to the “Employment of a Retiree” section for more information.)

If a person has retirement contributions/service credit on deposit with CalPERS, or if they have met the criteria for membership (e.g., have completed 1,000 hours of service in a fiscal year) but have not actually been enrolled yet, they are by law a member of CalPERS, even if the employer has not yet reported payroll to CalPERS on their behalf.

Once in membership, a person remains in membership until (1) they take a refund of contributions after permanently separating from CalPERS-covered employment, or (2) they retire.

You can determine whether or not a person is currently a member of CalPERS by:

1. Asking the employee (be aware that some employees may be mistaken about this),
2. Using the Participant Inquiry function of the myCalPERS system, and/or
3. Contacting the CalPERS Customer Contact Center at 888 CalPERS (or 888-225-7377).

It is recommended that an employer complete and retain a copy of documentation (e.g., Notice of Exclusion From CalPERS Membership form PERS-AED-139) on which the employee indicates “Not a CalPERS member”; to demonstrate that such an inquiry was made, in order to guard against possible G.C. section 20283 liability in the future. It is also recommended that employers determine whether the employee has any other CalPERS-covered employment that could potentially place the employee in an “overtime” situation (e.g., if the employee is working more than full-time), to avoid having to make adjustments later.
IMMEDIATE MEMBERSHIP UPON HIRE
Many employees should be eligible to enter CalPERS membership immediately upon employment (G.C. section 20281), namely:

- Employees hired to work full-time for more than six months.
- Employees working “regular, part-time service,” who work “at least an average of 20 hours a week” for one year or longer.
- Already a CalPERS member, unless working in a position excluded by law or contract exclusion.

However, there are also some employees who must work a certain number of hours/days (commonly referred to as “qualifying time”) before they are eligible for membership, and who therefore should be carefully monitored, such as the following:

FULL-TIME EMPLOYEES
CalPERS considers full-time employment to be between 34 and 60 hours per week. Employers generally have the ability to determine what constitutes full-time for an employee provided that the employee works between 34 and 60 hours per week. However, G.C. section 20636.1 specifies that for all non-certificated school members full-time is considered 40 hours per week. This means that all hours up to 40 hours per week must be reported to CalPERS for non-certificated school members at the straight time pay rate.

Persons in full-time employment whose appointment/employment does not fix a term of employment longer than six months should be monitored; if full-time employment actually continues for more than six months, membership is compulsory, and the effective date of membership cannot be later than the first day of the first pay period of the seventh month of employment.

LESS THAN FULL-TIME EMPLOYEES
The standard to consider for the membership eligibility of less than full-time employees is whether they work 1,000 hours (if paid on an hourly basis) or 125 days (if paid on a daily or per diem basis) in a fiscal year (July 1 through June 30). (G.C. section 20305(a)(3)(B) states that 125 eight-hour days equals 1,000 hours.)

Because the “overtime” provisions of G.C. section 20635 apply only to members of CalPERS, overtime service is included in computing the 1,000 hours or 125 days.

Time during which the member is paid for time excused from working due to vacation, sick leave, etc., is included in the 1,000 hours.

QUALIFICATION WHEN WORKING MORE THAN ONE POSITION
Membership criteria can be met by employees who are working more than one position under the same employer; therefore, service with all positions with an employer (including both safety and miscellaneous positions) should be considered in determining membership qualification. For example, a person working a permanent 10-hour a week position, and a permanent 12-hour a week position with the same employer, would qualify for membership immediately, by virtue of combining the service of both positions to meet the 20-hour a week minimum.

All employees of a school district - with the sole exception of School Safety Members - are considered to be employees of the County Superintendent of Schools, and thus of the same employer for CalPERS purposes; (G.C. section 20610). Therefore, service with different districts (including charter schools) within the same county should be added together for purposes of meeting the membership criteria.

Service with different CalPERS-covered agencies, however, such as a city and a special district; or a school district and a State agency or school districts in two different counties, should not be combined for membership qualification purposes.

A school district/county office of education that contracts separately for school safety members, or that participates in a risk pool, is a separate public agency by law, and therefore such service would be kept separately when determining qualification.
EMPLOYEES WHO MUST BE MONITORED
Qualification for membership is reached when:
1. The person’s full-time employment continues longer than six months (e.g., an employee may have been hired on a full-time indefinite basis to fill in for a worker who is out due to serious illness for an unknown period of time, where the worker ends up working more than six months). In such case, the effective date of membership is not later than the first day of the first pay period of the seventh month of employment (e.g., if employee completes six months of employment on September 23rd, she or he should be enrolled no later than the first pay period of October).
2. The person works 1,000 hours in a fiscal year (if paid on other than a daily or per diem basis). Any overtime hours worked are counted toward these 1,000 hours. Time during which the member is paid for time excused from working due to vacation, holiday pay, sick leave, etc., is included in the 1,000 hours.
3. The person works more than 125 days in a fiscal year (if paid on a daily or per diem basis). For this purpose, “day” means each 8 hours of compensated service; e.g. a firefighter working a 24-hour shift is working 3 such “days” per shift.

In cases where employees qualify based on completing 1,000 hours or 125 days, membership becomes effective no later than the first day of the first pay period of the month following the month in which 1,000 hours or 125 days were completed (e.g., if an employee completes 1,000 hours on May 31st, membership can be effective no later than the first June pay period). If the employee completes 1,000 hours on June 1st, membership can be no later than the first July pay period).

FURLOUGH LEGISLATION - SCHOOL EMPLOYERS
Legislation passed in 2010 added G.C. section 20969.2 to the Public Employees’ Retirement Law. This legislation ensures that certain persons subject to mandatory furloughs will not have their CalPERS retirement benefits negatively impacted due to the furlough.

MEMBERSHIP ELIGIBILITY AND FURLOUGHS
The work hours of employees who do not have a fixed term of appointment and who work on a seasonal, limited-term, on-call, emergency, intermittent, substitute, irregular or other part-time basis as outlined in G.C. section 20305 should be monitored to determine the point at which service that would have been credited but for the mandatory furlough would have qualified the employee for membership in CalPERS. The hours that an employee would have worked had the employee not been subject to mandatory furloughs should be counted toward qualification of CalPERS membership.

SUMMARY OF GENERAL PRINCIPLES
The general principles to follow to determine when and if someone is eligible for membership (if not excluded by contract or by law) are as follows:
1. Persons who are already members of CalPERS are not excluded from membership because they are working less than full-time. (G.C. section 20305(a)(1))
2. Persons enter membership upon appointment to a position with one of the following conditions:
   a. The appointment/employment fixes a term of full-time, continuous employment in excess of six months.
   b. The position requires regular, part-time service for at least an average of 20 hours per week for one year or longer.
3. Persons must otherwise be monitored to determine when and if they qualify for membership. Qualification for membership is reached when:
   a. No term (length) of appointment is specified in the appointment/employment, but full-time employment continues longer than six months.
   b. The person works more than 125 days in a fiscal year if paid on a “per diem” basis (i.e., “per day”). For this purpose, “day” means each 8 hours of compensated service; (e.g. a firefighter working a 24-hour shift is working 3 “days” per shift).
   c. The person works 1,000 hours in a fiscal year if paid on other than a per diem basis. Any overtime hours worked are counted as qualifying time.
In such cases, membership becomes effective no later than the first day of the next pay period after (a) the sixth month of full-time employment or (b) completion of 1,000 hours or 125 days in a fiscal year.

When monitoring an employee for the 1,000 hour threshold, all hours the employee is compensated for should be counted towards membership qualifications, even if the compensation would not be reportable to CalPERS if the person was a member (e.g. compensation for overtime hours).

For example, if an employee were called in to work 4 hours on July 4th, which is a paid 8-hour holiday for the individual, the employee would have 12 hours counted towards their membership qualification.

However, if this example applied to a member, then the 4 hours would be considered overtime and not reportable to CalPERS.

**Public Employees’ Pension Reform Act of 2013 (PEPRA) Definition of a New Member**

PEPRA defines a new member as any of the following:

- A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who has no prior membership in any California Public Retirement System.
- A new hire who is brought into CalPERS membership for the first time on or after January 1, 2013, and who was a member with another California Public Retirement System prior to January 1, 2013, and is not eligible for reciprocity.
- A member who first established CalPERS membership prior to January 1, 2013, and who is rehired by a different CalPERS employer after a break in service of greater than six months.

**NOTE:**
All State agencies, including CSU, are treated as a single employer under PEPRA. Additionally, all school employers are treated as a single employer as well.

CalPERS refers to all members that do not fit within the definition of a new member as “classic members”. All existing CalPERS members as of December 31, 2012, will retain the existing benefit levels for future service with the same employer. Because the new member determination is made on an appointment-by-appointment basis, classic members will be tested against the “new member” definition upon each new appointment and, in some cases, may become “new members” for services under a new appointment.

PEPRA does not require retroactive reductions to benefits earned for prior service, even where a member separates from service and is later rehired as a new member by a new employer and becomes subject to the applicable PEPRA formula. In these cases, the member’s “classic member” service will be calculated separately from his or her service as a “new member”.

myCalPERS includes fields on the enrollment page where your agency will identify if the new hire is coming from a reciprocal agency and prompt you for the necessary data elements which subject them to reciprocity. It will be extremely important that your agency properly identify the status of members at the time of hire by providing the Member Reciprocal Self-Certification form (PERS-CASD-801).

Based on the information your agency provides, myCalPERS will automatically determine the proper benefit group for each member. In addition, CalPERS will create for each employer a report identifying their recent enrollments and the correct corresponding formula based on the information provided at enrollment. If your agency believes the enrollment is incorrect, you may contact CalPERS to review and correct the data as necessary.

**NOTE:**
Your agency must store the participant details necessary to categorize individuals as new members or classic members in your databases.

**Failure to Enroll Member on a Timely Basis**

It is the employer’s responsibility to determine if its employees are eligible to participate in CalPERS. If an employer has failed to enroll an eligible employee into CalPERS membership within 90 days of qualifying, when the employer knows or can reasonably be expected to have known of that eligibility, the employer shall be
required to pay all arrears, costs for member contributions, as well as administrative costs of $500 per member. (G.C. section 20283)

Employers will not be billed directly for the employer share of contributions; rather, the employer share of the cost will be paid by transfer of funds from the Employer’s Reserve Account, and by future adjustments in the employer’s contribution rate. The employer shall not pass on to an employee any costs assessed due to untimely enrollment.

Employers are presumed to be knowledgeable of all areas covered in this Guide, as well as in Circular Letters, and other standard CalPERS publications. If you encounter an unusual situation not addressed in any of these forums, we would strongly urge you to contact us in advance for advice about such situations, so that we can review the facts and advise you appropriately.

WHAT ARE ARREARS?
Arrears are the employee contributions due for earnings that have not been previously reported. Payment of arrears is mandatory and interest is not charged on the amount owed. An account can be in arrears because either an employer failed to enroll the employee into membership, or failed to report earnings and contributions for service rendered.

G.C. section 20283 applies if any portion of the arrears period occurred on or after July 1, 1994. A member who qualified for membership prior to July 1, 1994 is considered a mandatory arrears case. In mandatory arrears cases, the member is responsible for the member contributions and the employer is responsible for the employer contributions.

NOTE: The administrative cost “is not a fee or penalty” to the agency – rather it is a reimbursement to CalPERS for costs associated with the process of administrating G.C. section 20283.

NOTICE OF EXCLUSION FROM CALPERS MEMBERSHIP
For employees who do not qualify for CalPERS membership, the Notice of Exclusion from CalPERS Membership form (PERS-AESD-139) should be completed, and given to the employee in order to inform them of the specific reason for their exclusion and to fulfill the employer’s responsibility of notification. Do not send copies of this form to CalPERS; however, a copy should be provided to the employee and a copy should be kept with the employee’s records.

ALTERNATE RETIREMENT PLAN (ARP)
G.C. SECTION 20306 (PUBLIC AGENCIES AND SCHOOLS)
G.C. section 20306 provides that public agencies and school districts that have an alternate retirement plan established as a pension trust1 prior to July 1, 1997 must conduct an election among their non-safety members who are credited with less than five years of CalPERS service to determine whether they want to (1) retain their usual active CalPERS membership, or instead (2) participate in the alternate retirement plan if their time base falls below the minimum membership thresholds (e.g., 20 hours per week) specified in G.C. section 20305.

Employees entering employment after the original ARP election are mandated into ARP coverage if they (1) work less than the G.C. section 20305 threshold, and (2) have less than 5 years of service credit. The employer will determine new employees’ ARP status (based on any election they made; their 20305 qualification status; and whether or not they have 5 years of service), as follows:

- For employees subject to collective bargaining, their MOU will determine their eligibility to participate in the ARP or CalPERS.
- For employees not represented by a bargaining group, the public agency shall determine the employees’ eligibility to participate either in CalPERS or the alternate retirement plan if their time base falls below CalPERS membership thresholds.

See the “Eligibility to Participate in the CalPERS/Alternate Retirement Plan Election” flow chart on the following page for more information or contact the CalPERS Customer Contact Center at 888 CalPERS (or 888-225-7377).

1 "Article 1.5 (commencing with section 53212) of Chapter 2 of Part 1 of Division 1 of Title 5"
Eligibility to Participate in the CalPERS/Alternate Retirement Plan Election - Employed Prior to 7-1-97

CalPERS Member?

- Yes
  - Hours Reduced to Below Threshold of G.C. 20305?
    - Yes
      - Non-vested, Non-safety CalPERS Member?
        - Yes
          - Member Employed Prior to 7-1-97?
            - Yes
              - Member has Election Rights
            - No
              - Election Needed
        - No
          - No Action
    - No
      - No Election Rights

- No
  - No Action
ELIGIBILITY TO PARTICIPATE IN THE CALPERS/ALTERNATE RETIREMENT PLAN ELECTION - EMPLOYED AFTER 7-1-97

CalPERS Membership Eligibility

CalPERS Member?

No Action

No

Yes

Hours Reduced to Below Threshold of G.C. 20305?

No Election Rights

No

Yes

Non-vested, Non-safety CalPERS Member?

No Election Rights

No

Yes

Member Employed Prior to establishment of alternate plan?

Member has Election Rights

Yes

No

Is the Employee Represented by a Bargaining Group?

Eligibility Determined by Employer

No

Yes

Eligibility Determined by MOU
Is position *excluded* in the PERL?

**YES**
Complete AESD-139

**NO**

Is person an "optional" member?

**YES**

Is position *excluded* in your contract?

**NO**
Complete AESD-59 if membership is elected

**YES**

Is position *excluded* in your contract?

**NO**

Does the person qualify for immediate membership?

**YES**
Enroll via myCalPERS

**NO**
Monitor time worked
**Appointment Overview**

An appointment is a continuous block of employment with a single employer from the hire date, regardless of whether the employee is qualified for membership on that date, until the permanent separation date. For schools, each district is treated as an employer, and an employee should not have more than one appointment under this condition, unless that employee has multiple jobs across school districts. Changes between districts are considered permanent separations or new appointments rather than appointment changes.

When an appointment is entered, an Appointment ID is generated by myCalPERS. The Appointment ID is a conditional data element for payroll reporting.

**New Appointments Required**
A new appointment should be created when:

- A new employee is hired and qualifies for membership.
- An employee who previously did not qualify for membership is now qualified for membership.
- An employee who was permanently separated from the employer is rehired, and meets membership eligibility criteria.
- An employee transfers from one school district to another, within the same county office of education, and between county offices of education.
- A CalPERS retiree begins working for your agency as Retired Annuitant.

**New Appointments Not Required**
A new appointment is not required when:

- An employee returns from leave of absence; report as an appointment change using transaction type: End Leave.
- An employee reinstates to a former position by a court action (will be managed internally by CalPERS and cannot be reported by the employer). CalPERS will delete the permanent separation.
- An employee reduces their time base resulting in changing to local ARP. Report using transaction type: To Local ARP.
- An employee changes member category. Report as an appointment change.
- An employee changes jobs. If the change impacts benefits, it should be reported as an appointment change.

**Appointment Changes Not Required**
An appointment change is not required when:

- There is a pay increase or decrease. This action is reported in the payroll file.
- A job changes that does not impact benefits.
- There is a promotion or demotion.

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Multiple appointments may be established for one employee, for example:

- An employee with an existing appointment decides to take a second job in another school district and will maintain both jobs concurrently. A new appointment is required for the second job.

- An employee works concurrently in multiple member categories (miscellaneous and safety) during the same pay period.
- An employer chooses to establish appointments by position (pay rate), and the employee worked in both positions during the same pay period.
- An employee with an existing appointment decides to take a second job with the same employer or school district and will maintain both jobs concurrently.
- An employee becomes a CalPERS member prior to January 1, 2013 and returns to work with the same employer is considered a classic member under PEPRA. Their original membership date would apply. If they return to work with a different CalPERS employer and their break in service between employers is greater than six months, then they would be considered a new member.

**Note:**
When entering data for a Retired Annuitant on to the *Appointment Details* page, you should select the “Yes” radio button next to “Is the member subject to Social Security?” Although we are aware that retired annuitants are not subject to Social Security, this is a workaround that will allow the payroll record to update the hours worked in each pay period.
REPORTING APPOINTMENT CHANGES
An appointment change must be reported when an employee permanently separates from the employer, including:
- Termination with the possibility of appeal.
- Transferring from one school district to another school district (even within the same county office of education).

PERMANENT SEPARATION DATES IN my|CalPERS
In the integrated my|CalPERS system, the permanent separation date is now part of a series of system validations. Therefore, the permanent separation date must be reported as the day after the last day an employee works for your agency, which is often the day after the last day on payroll.

The permanent separation date will frequently be the same day as a member's retirement date or start date of a new appointment. It is imperative that your agency follow this important business rule to avoid transaction errors due to automatic system validations.

A permanent separation date must also be reported for all employees who end employment with your agency, regardless of the reason. This is required in my|CalPERS to ensure benefits are administered timely and accurately, especially for those employees nearing retirement. All transactions within my|CalPERS, including health and retirement, rely on the permanent separation date to be reported in this manner.

REPORTING PERMANENT SEPARATION NOT REQUIRED
A permanent separation is not required when:
- An employee begins a leave of absence; report as an appointment change using transaction type: Begin Leave.

my|CalPERS Member Self-Service
On July 30, 2012, CalPERS launched an enhanced version of my|CalPERS for members to access their real-time account information. This enhancement allows members to see the information submitted on their behalf by their employers, including appointment, payroll, and service credit information.

Therefore, it is critical to stay current with information reported to CalPERS on behalf of your employees. Employer accuracy and promptness will alleviate future concerns or questions members may have with their CalPERS account and the information provided by your agency.
All CalPERS members employed by your agency will fall into one of the following general categories:

1. **LOCAL SAFETY MEMBERS**
   This category “includes all local police officers, local sheriffs, firefighters, safety officers, county peace officers..., employed by a contracting agency who have by contract been included within this System.” (G.C. section 20420)

2. **LOCAL MISCELLANEOUS MEMBERS**
   This category includes “all employees of a county office of education, school district, or community college district who are included in a risk pool and all employees of a contracting agency who have by contract been included within this System, except local safety members.” (G.C. section 20383)

3. **SCHOOL MEMBERS**
   This category “includes all employees within the jurisdiction of a school employer, other than local policemen, school safety members and members included in a risk pool.” (G.C. section 20370(d))

4. **SCHOOL SAFETY MEMBERS**
   This category includes “any officer or employee of a school district or a community college district which has established a police department...whose principal duties consist of active law enforcement service.” (G.C. section 20444). This category only applies to a school district or a community college district that enters into a contract with the board on or after January 1, 1990.

For most employers, all or the large majority of their employees will be in the “local miscellaneous” or “school member” categories rather than a “safety” category.

Determination of an employee’s membership category is based on the employee’s job classification and duties, compared to the standards defined in the Government Code, and as provided in the agency’s contract with CalPERS.

The Government Code provisions for the most common safety positions (e.g., police officer, firefighter, deputy sheriff, etc.) are all mandatory for contracting agencies whose contract includes such positions. There are a number of other provisions, however, for which a contracting agency may choose to contract if it so wishes, to provide safety membership to other employees, as well as to reclassify previous service with the same duties/job title in such classes. All contract activity can be viewed in myCalPERS, including reclassification information.

Your agency should be aware of the fact that, apart from the optional contract provisions to reclassify miscellaneous employees to the safety category, it is not permissible to report employees in a safety category whose job duties do not support such membership. You should refer to the definitions for Local Safety members on the following pages for the criteria for such membership.

Safety membership most commonly requires service having principal duties of providing either active law enforcement or active firefighting services. Such persons are known as safety employees because they are engaged in protecting the public safety, and may be exposed to physical risk during the course of employment. CalPERS relies upon an opinion of the Attorney General to define what is meant by the term “active” for safety service:

“It is suggested that active law enforcement work means’physically active’ work such as the arrest and detention of criminals... (T)he main reference is to duties which expose officers and employees to physical risk in the law enforcement field.....” (22 Ops. Cal. Atty. Gen. 229)
Another important criterion in many of the sections defining safety membership is that a person be “employed and qualifying as patrol officers,” “employed and qualifying as patrolmen,” “employed and qualifying as firefighters,” or “employed and qualifying as deputy sheriffs,” irrespective of their current duties. Typically, such persons are referred to as sworn personnel, because they take an oath to uphold the Constitution, safeguard the lives and property of citizens, etc. This sworn criterion is particularly important for persons who are promoted up through the ranks to supervisory/managerial positions (e.g., sergeant, captain, chief, etc.), but who retain their sworn status after promotion.

Almost all agencies with safety classifications have established procedures in place (e.g., certification and/or academy training, physical fitness requirements, etc.) by which persons originally become qualifying as patrol officers, firefighters, or deputy sheriffs, and have standards (such as periodic physical fitness tests) which must be met in order to maintain such status. Such sworn personnel in supervisory or managerial positions who remain “employed and qualifying” as patrol officers, firefighters, or deputy sheriffs could (perhaps in special circumstances such as a major emergency, or a work stoppage) be required to return to typical safety duties; accordingly, the safety status of such an individual is appropriate, even though the person’s current duties may not frequently involve such “active law enforcement/firefighting” duties.

However, if a person gives up such qualifying/sworn status after accepting a promotion, and is no longer qualifying as such, safety membership can no longer be given for this service.

**NOTE:**
There are no provisions in the law that would allow a member or employer to pay the difference in contributions between miscellaneous and safety membership, in order to allow a miscellaneous member to be reported to CalPERS as safety.

**EXCEPTIONS**
There are some instances where persons have been given mandatory safety membership only if employed during a specific period of time. For example, legislation passed in 1987 (AB 839, Chapter 1411) brought certain miscellaneous members employed in positions such as, fire investigators, fire prevention officers, or fire trainers between January 1, 1988, and October 2, 1989, into safety membership as local firefighters. In such exceptional situations, it is possible to have some persons in the same job classification who are “safety” and some who are not, if they were hired at different times.

**CAUTIONS**
CalPERS has had cases where an employee was inappropriately retained in safety membership after receiving an appointment to a non-safety position (such as City Manager, or Director of Public Safety). Even if such a member was formerly in safety membership (e.g., as Police Chief or Fire Chief), safety membership cannot be given where the job duties do not support this status, and the individual is no longer a sworn member of a police department, fire department, etc.

Inappropriate membership classification is one of the key factors that are investigated by CalPERS field auditors and corrective actions will be taken upon discovery by CalPERS staff of such inappropriate classifications. Such retroactive corrective actions may include correction of service credit, retirement contributions paid, and adjustment of retirement allowance paid (if any). If you are unsure about the proper membership category for a given position, submit a job description/duty statement to:

California Public Employees’ Retirement System
Customer Account Services Division
Employer Account Management
Membership Reporting
P.O. Box 942709
Sacramento, CA  94229-2709

for a determination. Such a review should also be requested upon establishing a new position, or upon making significant changes in the duties of a previously-reviewed position.
The following definitions for Local Safety Members will assist you in determining membership category:

**MANDATORY SAFETY STATUS**

**LOCAL POLICE OFFICER**
“Local police officer” means any officer or employee of a police department of a contracting agency which is a city, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as patrolmen or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20425)

**LOCAL FIREFIGHTER**
“Local firefighter” means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, or active firefighting and prevention service, active firefighting and fire training, active firefighting and hazardous materials, active firefighting and fire or arson investigation, or active firefighting and emergency medical services, but not excepting persons employed and qualifying as firefighters or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20433)

**COUNTY PEACE OFFICER**

**SHERIFF AND SHERIFF’S OFFICERS**
“County peace officer” means the sheriff and any officer or employee of a sheriff’s office of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20436)

**DISTRICT ATTORNEY’S OFFICE**

**INSPECTOR, INVESTIGATOR, DETECTIVE**
“. . .any inspector, investigator, detective, or person with a comparable title, in any district attorney’s office of a contracting agency whose principal duties are to investigate crime and criminal cases and who receives compensation for such service.” (G.C. section 20436)

**OTHER LOCAL SAFETY**

**OCEAN BEACH LIFEGUARDS**
“Local safety member” also includes all employees of a city who have by contract been included within this System, and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at ocean beaches and the recovery from those water areas of submerged objects and bodies of persons drowned or believed to have drowned in those areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of aquatics director, chief lifeguard, captain lifeguards, lieutenant lifeguards, beach lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) that in other areas are customarily performed by firefighters, and other and further duties that do not come directly within any of the above classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active life guarding or
lifesaving service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active life guarding or lifesaving service.

This section does not apply to the employees of any contracting agency having a contract with the board made prior to September 18, 1959, until the agency elects to subject itself and its employees to the provisions of this section by amendment to its contract with the board pursuant to G.C. section 20474; except that an election is required only among the employees to whom the provisions of this section apply.

The amendments of this section, made by Chapter 130 of the Statutes of 1982 do not constitute a substantive change in the law and shall not be construed to entitle any person to any right or benefit that he or she was not already entitled to prior to December 31, 1982.

NOTE:
This provision is mandatory for all contracting agencies with CalPERS contract dates of September 18, 1959 or later. It is an optional contract provision for contracting agencies with CalPERS contract dates of prior to September 18, 1959. See Other Local Safety listing in this section (G.C. section 20421).

LOCAL SAFETY OFFICER
“Local safety officer” means any officer or employee of a public safety department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active law enforcement or firefighting and prevention service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement or firefighting and prevention service, but not excepting persons employed and qualifying as patrol officers or equal or higher rank, or as firefighters, hose officers, or equal or higher rank, irrespective of the duties to which they are assigned.

“Local safety officer” does not include persons employed to perform identification or communication duties. This provision shall not apply to persons employed and qualified as patrol officers or equal or higher rank, or as firefighters, hose officers, or equal or higher rank. (G.C. section 20424)

OTHER SAFETY CLASSIFICATIONS — PROVIDED BY OPTIONAL CONTRACT PROVISIONS

The following classifications can be added to your safety categories by amending your agency’s contract. If your agency has contracted for these other safety classifications, they will be listed on your contract activity page in my|CalPERS.

It should be noted that many of these optional sections do not contain the “employed and qualifying” language that is used to give police officers, firefighters, sheriff’s deputies, etc. safety status when they promote into the supervisory/managerial ranks. Therefore, persons must be performing the specified duties in order to qualify for safety coverage under such sections.

RECLASSIFICATION

A member who is employed in a position that is reclassified from local miscellaneous to local safety (other than under the 2% @ 50, 3% @ 50, or 3% @ 55 retirement formulas) may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of that election with CalPERS within 90 days after notification by CalPERS. (G.C. section 20443)

LOCAL POLICE OFFICER

JUVENILE BUREAU OFFICER

If provided for by your agency’s contract, “local police officer” also includes any officer or employee of a juvenile bureau of a contracting agency whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. (G.C. section 20427)

PEACE OFFICER UNDER PENAL CODE, NOT WITH CITY OR COUNTY

If provided for by your agency’s contract, “local police officer” also includes any officer or employee of a contracting agency other than a city or a county who is a peace officer as defined in the Penal Code and whose principal duties...
**Membership Categories**

Consist of active law enforcement but excluding clerical personnel or those whose principal duties are that of communication officer, identification officer, machinist, mechanic, security officer or are otherwise not clearly within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon to perform duties within the scope of active law enforcement. (G.C. section 20429)

**City Jailers**

If provided for by your agency contract, “local police officer” also includes any employee of a contracting agency that is a city, who is employed in a jail or a detention or correctional facility and having as his or her primary duty and responsibility the supervision and custody of persons committed to the jail or facility. It shall not include persons employed as clerks, typists, teachers, instructors, or psychologists or to provide food, maintenance, health, or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service. (G.C. section 20431)

**Local Sheriff**

If provided for by your agency’s contract, “local sheriff” means any officer or employee of a sheriff’s office of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly come within the scope of active law enforcement service even though the employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement service, but not excepting persons employed and qualifying as deputy sheriffs or equal or higher rank irrespective of the duties to which they are assigned. (G.C. section 20432)

Contracting for this section allows agencies to provide a different level of retirement benefits (e.g., retirement formula) to “local sheriff officers” than to “county peace officers.”

**County Peace Officer**

**Constable, Marshal**

If provided by your agency contract, “county peace officer” shall also include the constable and each regularly employed deputy constable and the marshal and each regularly employed deputy marshal who serves the superior court. He or she shall receive credit for service as a peace officer for any time he or she served as constable or deputy constable of a township or justice court or marshal or deputy marshal of a municipal court in the same county. (G.C. section 20437)

**Identification and/or Communication Duties**

If provided by your agency contract, “county peace officer” does not include persons employed to perform identification or communication duties other than persons in that employment on August 4, 1972, who elected within 90 days thereafter to be local safety members. A contracting agency may elect by amendment to its contract to include as “county peace officer” all persons who were employed to perform identification or communication duties on August 4, 1972, and who elect within 60 days of the effective date of the contract amendment to be local safety members. The election shall apply to the person’s past as well as future service in the employment held on the effective date but may not apply to service following any subsequent acceptance of appointment to a position other than that held on the effective date. This subdivision does not apply to persons employed and qualified as deputy sheriffs or equal or higher rank. (G.C. section 20436)

**Probation Officer, Juvenile Hall Custody**

If provided by your agency’s contract, “county peace officer” shall also include probation officers, deputy and assistant probation officers, and persons employed in a juvenile hall or home and having as their primary duty and responsibility the counseling, supervision and custody of a group of youths assigned or committed to the hall or home. It shall also include persons employed as peace officers pursuant to Section 830.5 of the Penal Code, regardless of the administrative title of the position. It shall not include persons employed as teachers, instructors, psychologists, or to provide food, maintenance, health or other supporting services even though responsibility for custody and control of youths may be incident to or imposed in connection with that service. (G.C. section 20438)
**County Jail—Custodial Employees**

If provided by agency contract, “county peace officer” shall also include employees of the sheriff employed in a county jail, detention or correctional facility and having as their primary duty and responsibility the supervision and custody of persons committed to the jail or facility, whether or not these employees are deputized. It shall not include persons employed as clerks, typists, teachers, instructors, psychologists or to provide food, maintenance, health or supporting services, even though responsibility for custody and control of persons so committed may be incident to, or imposed in connection with, that service or the employees are deputized. (G.C. section 20439)

**Bailiffs**

If provided for by your agency’s contract, “county peace officer” shall also include employees of the sheriff employed to attend sessions of the superior or former municipal courts and preserve order in the courtrooms, to guard and maintain the security of prisoners during court appearances, or to summon jurors and take responsibility for them while they are deliberating or absent from the courtroom. It shall not include persons employed as clerks, typists, teachers, instructors or psychologists. (G.C. section 20440)

**County Park Rangers**

If provided for by your agency’s contract, “county peace officer” shall also include persons employed by a county parks and recreation department whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention in the Park Ranger class series. (G.C. section 20441)

**Other Local Safety**

**Lifeguards**

NOTE: This provision is mandatory for all contracting agencies with CalPERS contract dates of September 18, 1959 or later. It is an optional contract provision for contracting agencies with CalPERS contract dates prior to September 18, 1959.

If provided for by your agency’s contract, “local safety member” also includes all employees of a city who have by contract been included within this System, and whose principal duties consist of active protection, rescue, and rendition of aid or assistance to persons injured or imperiled in water areas at ocean beaches and the recovery from those water areas of submerged objects and bodies of persons drowned or believed to have drowned in those areas, or the immediate supervision thereof, including persons employed to perform the duties now performed under the titles of aquatics director, chief lifeguard, captain lifeguards, lieutenant lifeguards, beach lifeguard, but who performs additional duties, some of which (including the maintenance of peace and order and the apprehension of law violators) are customarily performed by police or peace officers, and whose other duties (such as resuscitation work involving the use of special equipment in cases having no connection with their principal duties) that in other areas are customarily performed by firefighters, and other and further duties that do not come directly within any of the above classifications but are essential to the safety and security of the public, excluding those whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise clearly do not fall within the scope of active lifeguarding or lifesaving service, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active lifeguarding or lifesaving service. (G.C. section 20421)

**Emergency Medical Technician/Paramedic**

If provided for by your agency’s contract, “local safety member” also includes all employees of a public agency whose principal duties consist of rendering pre-hospital emergency medical care to ill or injured persons and who are employees designated as Emergency Medical Technician–I, Emergency Medical Technician–II, or Emergency Medical Technician–Paramedic, as defined by, respectively, Sections 1797.80, 1797.82, and 1797.84 of the Health and Safety Code. (G.C. section 20422)

**Harbor or Port Police Officer**

If provided for by your agency’s contract, “local safety member” also includes any harbor or port police officer, employed by a contracting agency, who is a peace officer as defined in subdivision (b) of Section, 830.33 of the Penal Code and whose principal duties consist of active law enforcement of the laws contained in Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the California Department of Boating and Waterways,
and Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code. (G.C. section 20423).

PARK RANGERS
If provided for by your agency’s contract, “local safety member” also includes any park ranger employed by a contracting agency who is a peace officer as defined in subdivision (b) of Section 830.31 of the Penal Code and whose primary responsibility is maintaining the peace and whose duties include law enforcement, emergency medical care first response, or fire suppression and prevention. (G.C. section 20423.5)

LOCAL PROSECUTORS, PUBLIC DEFENDERS, AND PUBLIC DEFENDER INVESTIGATORS
For all of these categories, the member’s effective date of retirement must be on or after the date this section becomes applicable to the member’s contracting agency.

LOCAL PROSECUTORS
G.C. section 20423.6 covers all of the following groups of employees:
1. A county officer or employee who, on or after January 1, 2002:
   • Was employed in the office of the district attorney.
   • Had a job title/classification of district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.
2. A county officer or employee who:
   • Was employed in the office of a district attorney prior to the date the local child support agency transitioned from the district attorney to a new county department, as specified in Section 17304 of the Family Code.
   • Had a job title/classification of district attorney, deputy district attorney, chief deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.

LOCAL PUBLIC DEFENDER
A city or county officer or employee who, on or after January 1, 2002:
   • Was employed in the office of the public defender, the alternate public defender, or any similar office title.
   • Had a job title/classification of public defender, deputy public defender, chief deputy public defender, senior deputy public defender, assistant public defender, chief assistant public defender, or any other similar classification or title.

LOCAL PUBLIC DEFENDER INVESTIGATOR
A city or county officer or employee who, or after January 1, 2002:
   • Was employed in the office of the public defender, the alternate public defender, inspector, investigator, detective, or any other similar classification or title.
   • Had principal duties of investigating crime and criminal cases.

SCHOOLS
LOCAL POLICE OFFICER
“Local police officer” also includes any officer or employee of a school district or a community college district that has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the

3. A city officer or employee who, on or after January 1, 2002:
   • Was employed in the office of the city attorney.
   • Was primarily engaged in the active enforcement of criminal laws within any court operating in a county.
   • Had a job title/classification of city attorney, deputy city attorney, chief deputy city attorney, assistant city attorney, chief assistant city attorney, or any other similar classification or title.
scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. This section shall only apply to any school district or community college district that prior to June 30, 1982, had amended its contract to provide membership for local police officers. (G.C. section 20430)

**School Safety Members**

If provided for by your agency’s contract, “school safety member” includes any officer or employee of a school district or a community college district which has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though the person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement. This section shall only apply to a school district or a community college district that, pursuant to subdivision (i) of G.C. section 20057, entered into a contract with the board on or after January 1, 1990. (G.C. section 20444)

**Local Firefighter**

If provided for by your agency’s contract, “local firefighter” also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of hazardous materials services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of hazardous materials services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20434.5)

**Hazardous Materials Services**

If provided for by your agency’s contract, “local firefighter” also means any officer or employee of a fire department of a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise, and whose functions do not clearly fall within the scope of hazardous materials services, even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of hazardous materials services, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20434.5)

**Fire Training Function for a Contracting Agency**

If provided for by your agency’s contract, “local firefighter” means any officer or employee of a contracting agency performing a fire training function for a contracting agency, except one whose principal duties are those of a telephone operator, clerk, stenographer, machinist, mechanic, or otherwise and whose functions do not clearly fall within the scope of active firefighting, fire prevention, fire training, or fire investigation service even though that employee is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active firefighting, fire prevention, fire training, or fire investigation service, but not excepting persons employed and qualifying as firefighters or equal or higher rank, irrespective of the duties to which they are assigned. (G.C. section 20435)
H.R. 743 — Social Security Protection Act of 2004

On March 2, 2004, President Bush signed H.R. 743, the Social Security Protection Act of 2004, into law. Section 419(c) of H.R. 743 provides that any individual entering employment on or after January 1, 2005 in a position not subject to Social Security, be provided a written notice explaining the maximum effect not being subject to Social Security may have on the calculation of the primary insurance amounts and on the benefit amounts of monthly periodic payments or benefits.

The notice has been developed by the Social Security Administration “in language calculated to be understood by the average individual”. The written notice provided is to include a form for the individuals to complete and sign certifying receipt of the notice. Once completed and signed, the notification is to be submitted to the agency and to the retirement system the employing entity provides for its employees. H.R. 743 is silent as to any reason for the certifications being submitted to the retirement systems, how long the certifications must be retained, or any retrieval capability requirements. The Social Security Administration (SSA) provides the notification, certification form and instructions to public employers through their website at www.socialsecurity.gov. Questions should be directed to your local social security office or to the SSA using the Web address provided above. CalPERS will provide any additional information on this topic as it becomes available.

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DETERMINING RETIREMENT BENEFITS

When determining retirement benefits for a new employee, the following items may impact which benefits the employee shall receive. This list only includes the most common items.

- Effective date of contract amendment(s)
- Retirement benefit formula
- Final compensation
- Member and/or employer rate
- Cost of living allowance (COLA)

G.C. section 20475(b) indicates a member shall be subject to the contract as amended only if, after the effective date of the contract amendment, the member either (1) receives service credit for the first time within a classification, or (2) the member returns to service with a classification following termination of membership as provided for in G.C. section 20340(b) unless the member has redeposited contributions or elects to redeposit prior to 90 days after returning to service in accordance with G.C. section 20750, in which case the member shall not be subject to the contract amendment.

NOTE: The employer or member is responsible for submitting a request to CalPERS to obtain the cost calculation to redeposit the previously withdrawn funds.

The following scenarios will provide a greater understanding of determining retirement benefits:

Scenario 1 – Classic Member
The employee was hired on January 1, 2009, in the first level of benefits. On May 1, 2011, the employer added a second level of benefits for the same member category, changing the final compensation from 12 to 36 months. On January 1, 2012, the employee separated and withdrew their member contributions from CalPERS. On June 1, 2012, the employer rehired the employee.

Result: Since the employee did not redeposit their contributions within 90 days of rehire, the employer is required to enroll the employee into the second level of benefits with the 36 month final compensation period.

Scenario 2 – Classic Member
The employee was hired by employer #1 on January 1, 2009, in the first level of benefits. On January 1, 2010, the employee separated from employer #1 and withdrew their contributions from CalPERS. On May 1, 2011, the employee was hired by employer #2 and qualified for membership. However, on July 1, 2011, the employee separated from employer #2, but left their contributions on deposit. On July 2, 2011, the employee was rehired by employer #1.

During the time the employee was not working for employer #1 a second level of benefits was added for the same member category, changing the retirement benefit formula from 2.7% @ age 55 to 2% @ age 55 effective September 1, 2010.

Result: Since the employee did not redeposit their withdrawn contributions from employer #1 within 90 days of rehire; employer #1 is required to enroll the employee into the second level of benefits with a benefit formula of 2% @ age 55.

Scenario 3 – Classic Member
The employee was hired on January 1, 2009, in the first level of benefits. On May 1, 2011, the employer added a second level of benefits for the same member category, changing the final compensation from 12 to 36 months. On January 1, 2012, the employee separated and withdrew their member contributions from CalPERS. On June 1, 2012, the employer rehired the employee and they redeposited their withdrawn contributions within 90 days.

Result: Since the employee redeposited their contributions within 90 days of rehire, they should be enrolled into the first level of benefits with a final compensation period of one year.

Scenario 4 – Classic Member
The employee was hired part-time on January 1, 2011, and did not qualify for immediate membership and had to be monitored. On May 1, 2011, the employer added a second level of benefits changing the cost of living allowance (COLA) from 3% to 2%. On January 1, 2012, the employee qualified for membership.

Result: Since the employee qualified for membership after the addition of a second level of benefits, the employer is required to enroll the
employee into the second level with a COLA of 2% and a membership date of January 1, 2012.

**Scenario 5 – New Member**
The employee was hired on January 1, 2012, and separates from the employer on March 31, 2012. The employee is subsequently hired by a different CalPERS covered employer on February 1, 2013 after the Public Employees’ Pension Reform Act of 2013 (PEPRA) took effect on January 1, 2013.

**Result:** Since the employee had a break in service greater than six months between the separation date with the previous employer and the appointment date with the subsequent employer, the employee would be considered a new member.

**Scenario 6 – Classic Member**
The employee was hired on January 1, 2012, and separates from the employer on November 30, 2012. The employee is subsequently hired by a different CalPERS covered employer on March 1, 2013 after PEPRA took effect on January 1, 2013.

**Result:** Since the employee had a break in service of less than six months between the separation date with the previous employer and the appointment date with the subsequent employer, the employee would be considered a classic member.

**Scenario 7 – Classic Member**
The employee was hired on October 1, 2012, and separates from the employer on March 31, 2013. The employee is subsequently hired by the same CalPERS covered employer on December 1, 2013 after PEPRA took effect on January 1, 2013.

**Result:** Since the employee had a break in service more than six months between the separation date, but returned to the same employer, they are considered a classic member.
The following is a list of positions that are excluded from CalPERS coverage as stated by California Public Employees’ Retirement Law (PERL):

**MEMBERS OF OTHER RETIREMENT SYSTEMS**

Persons who are receiving service credit in another public retirement system (federal, state, county, city, other local or CalSTRS) are excluded from receiving credit with CalPERS for that same service by G.C. section 20303.

**NOTE:**

Persons can have dual membership in two or more public retirement systems, as long as it is for different service.

**PERSONS WHO ARE NOT “EMPLOYEES” OF A CALPERS-COVERED AGENCY**

Only compensated “employees” of agencies contracting with CalPERS for retirement coverage are eligible for CalPERS membership. CalPERS uses the “Common Law Control Test” as a guide to determining whether or not an individual is an employee, as well as which entity (if more than one) is purportedly employing a worker.

The Supreme Court decision in the case of Metropolitan Water District of Southern California v. Superior Court of Los Angeles (32 Cal. 4th 491) may be referenced for additional guidance in this area. The Court concluded that the law “requires contracting public agencies to enroll in CalPERS all common law employees except those excluded under a specific statutory or contractual provision.” This decision also cited the Tieberg v. Unemployment Ins. App. Bd. Case (2 Cal.3rd 949), which stated that, “The right to control the means by which the work is accomplished is clearly the most significant test of the employment relationship.”

**INDEPENDENT CONTRACTORS**

Independent contractors are not “employees” and are excluded from membership in CalPERS by G.C. section 20300(b). An independent contractor is someone who contracts to provide a service or complete a task according to his or her own methods, and is not subject to the contracting entity’s control as to the end product, final result of work, or manner and means by which the work is performed.

CalPERS uses the “Common Law Control Test” as a guide to determining independent contractor status. The common law control test factors are enunciated in the case of Albert B. Tieberg v. Unemployment Insurance Board (1970) 2 Cal.3d 943, 949. These factors are also cited in the CalPERS Precedential Decision Case No. 05-01, In the Matter of the Application for CalPERS membership credit by Lee Neidengard, Respondent and Tri-Counties Association Regional Center, Respondent.

A “contract employee” (i.e., a common law employee who periodically signs an employment contract) is eligible for CalPERS membership, if otherwise qualified.

**NOTE:**

CalPERS commonly corresponds with agencies (e.g., sends a questionnaire to be completed by both the worker and the contracting entity) in order to determine whether a worker is an “employee” of a CalPERS covered agency, an employee of a non-CalPERS agency, or an independent contractor. It is important that such questions be answered authoritatively by an appropriate certifying officer at your agency, since the employer may be liable for arrears costs (if membership is determined to be applied retroactively), or for service credit purchased by the employer, if the worker is found to be an “employee” of your agency.

For further clarification of independent contractors or contract employees, we recommend contacting the CalPERS Customer Contact Center at 888 CalPERS (or 888-225-7377).

**ELECTED OR APPOINTED OFFICERS**

G.C. sections 20320–20325 exclude certain public officers and employees from membership unless an election is filed with CalPERS to waive the exclusion and establish membership. Those persons qualifying for “optional” membership rights are predominately, but not limited to, elected and appointed officers of
positions excluded by retirement law

Public agencies, schools, and the State of California. Refer to the “Optional Members of CalPERS” section for more complete information to determine who is excluded but may be eligible under optional member provisions.

**Student Assistants/Aides**

A student in public school who is also employed in the same district in which he/she is a student and whose student status is a prerequisite for employment, is excluded from CalPERS membership by G.C. section 20300(c).

**Temporary Teacher-Assistant Certificate**

Persons employed as teacher-assistants under Education Code section 44926 (who possess a temporary certificate to serve as a teacher-assistant, and are enrolled in a California teacher training institution) are excluded from CalPERS membership by G.C. section 20300(d).

**Professional Legal Services to a City**

Persons rendering professional legal services to a city are excluded under G.C. section 20300(h) with the exception of persons in one of the following offices/positions:

1. The office of city attorney;
2. The office of assistant city attorney; or
3. An established position of deputy city attorney.

However, a city attorney, assistant city attorney, or deputy city attorney, may also be eligible for the “optional” member provisions of G.C. section 20322. Refer to the “Optional Members of CalPERS” section for further information.

**Inmates of Public Agency Institutions**

(i.e., prison/penitentiary or mental hospital) Such persons are excluded from CalPERS membership by G.C. section 20300(a) even if receiving compensation for such services they perform.

**Board Members of the State Compensation Insurance Fund**

Board Members of the State Compensation Insurance Fund, including those appointed by the Governor.

**Additional Information**

**Contract Exclusions (Public Agencies Only)**

G.C. section 20502 gives CalPERS authority to grant to contracting agencies exclusions from CalPERS coverage. Such exclusions may not be made for individual employees (e.g., City Manager, Fire Chief, etc.) but must be for groups of employees, in categories such as by departments or duties (e.g., Lifeguards; Crossing Guards; federally-funded non-civil service employees, etc.).

Any current exclusions in your agency’s CalPERS contract will be shown on your contract activity page in myCalPERS. CalPERS Board Resolution MSD-97-01 provides the criteria used to review and approve/deny requested contract exclusions. As a general guideline, the exclusion of groups of employees who are career employees, or could reasonably be anticipated to become career employees, is not permitted.

Such exclusions, when granted, are effective only with respect to future entrants into such a group; persons employed in this group prior to the exclusion are not affected by the addition of such an exclusion, even if they have not yet qualified for CalPERS membership.

**Invalid/Superseeded Contract Exclusions**

There are some agencies with contract exclusions which were granted prior to January 1, 1975, where the basis for the exclusion was the “temporary” or “seasonal” employment base of the employees. Such exclusions have been superseded by G.C. section 20305; therefore, such exclusions no longer apply with respect to employees entering such employment after January 1, 1975.

G.C. section 20305(b) states that this section “shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on or after January 1, 1975. Except as provided in G.C. section 20502, no contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis."

Employees not excluded by contract must still meet the normal criteria for membership in CalPERS.
The Government Code provides “optional” membership rights for certain public officers and employees. Those eligible “optional” members are excluded from membership unless and until a written election for membership is filed with CalPERS. (Refer to the Election of Optional Membership (PERS-AESD-59) section for instructions on how to establish “optional membership.” This form can be downloaded on the CalPERS Website). Membership becomes effective from the date the election is signed and sent to CalPERS.

NOTE:
Changes in legislation have made “optional” member eligibility determinations more complex. This section provides basic information based on employer type and/or “optional” position category to assist in making those determinations. However, if you have any questions concerning “optional” membership eligibility or rights, contact the CalPERS Customer Contact Center at 888 CalPERS (or 888-225-7377).

Once membership has been elected, an “optional” member may elect to contribute and receive service for previous qualifying employment. See the publication CalPERS Service Credit Purchase Options (PUB-12) for more information.

When an “optional” member purchases service credit for prior employment, it will not change the membership date.

GENERAL PRINCIPLES
1. Elected or appointed officials who do not receive “compensation” other than reimbursement of expenses (or who waive such compensation) cannot be reported in membership, or receive service credit.

2. Once membership is elected and established, “optional” members are generally subject to the same CalPERS laws and regulations that apply to compulsory members (except as stated below).

3. Optional membership is an irrevocable election. There is no government code provision to allow for cancellation of membership prior to separation from employment. A separate election must be made for each optional membership position, even if the position(s) are with the same employer.

4. For members of a City Council or County Board of Supervisors first elected or appointed on or after July 1, 1994 (unless continuously in employment since June 30, 1994), final compensation at retirement for service in this office will be based only on salaries earned in such office. (G.C. section 20039)

5. Optional members as listed below receive full-time service credit and are deemed full-time employees for all CalPERS purposes (G.C. section 20899). Therefore, contract exclusions of less than full-time employees do not apply to optional members.

NOTE:
Such full-time status may result in an overtime situation, if the member has any other concurrent CalPERS positions. (See “Overtime Positions” section for more information.)

Optional members at public agencies and schools are those defined by G.C. section 20322, to include the following groups:

ELECTIVE OFFICERS
Persons elected by vote of the people (e.g., Mayor, City Council members, County Supervisors, Sheriff, District Attorney, City Clerk, etc.). This also includes persons who are appointed to fill the unexpired office of an elective officer (e.g., a person appointed by a City Council to fill the remainder of a term for a member who resigns; or dies in office).

NOTE:
County Board of Education members are considered, for CalPERS purposes, as employees of the county, rather than employees of the County Superintendent of Schools, even if the board is fiscally independent of the county. Therefore, the county must contract for CalPERS coverage for such persons to be eligible, unless it provided G.C. section 20361.2 prior to its repeal effective July 1, 1994.
APPINICITE OFFICERS OF A CITY OR COUNTY
Persons who are appointed to a “fixed term of office” with a city or county are included in the definition of “elective officer” by G.C. section 20322(b). Such officers are listed in G.C. sections such as 24000, 36501, etc.

CITY ATTORNEY
Persons holding this office, provided they are common law employees, are eligible for “optional” membership in certain conditions:
• Prior to March 4, 1972, an elected City Attorney was an “optional” member. (An appointed City Attorney was not, but was subject to compulsory membership, if meeting the normal time base/appointment length qualifications for membership.)
• From March 4, 1972 through June 30, 1994, all City Attorneys were defined as “elective officers” and thus “optional” members whether or not they were actually elected to office.
• After July 1, 1994, all City Attorneys are excluded from the definition of “elective officer.” Thus, even if they are elected to office, they no longer are considered “elective officers” or “optional” members for CalPERS purposes. Consequently, they must now meet the normal time base/appointment length qualifications for membership under G.C. 20305. In addition, City Attorneys must take an oath prescribed by the constitution before entering the office. Failure to take and file the constitutional oath of office results in a vacancy in the office.

In addition to these, between January 1, 1986 and June 30, 1994, an Assistant/Deputy City Attorney in a city that had contracted for G.C. section 20361.3 (now repealed, but still applicable for an agency that contracted for it while it was law) was included in the definition of “elective officers,” and was thus an “optional” member - even though the individual had not been elected to office.

PART-TIME EMPLOYEES
Employers can contract for G.C. section 20325, to allow all part-time employees who work less than 20 hours a week for one year or more to elect “optional” membership. However, few employers contract for this provision.

If such an amendment or resolution is adopted, all employees eligible to elect membership are automatically subject to the same Social Security coverage provided for members whether or not they elect membership. If such an eligible employee wishes to elect “optional” membership, they should complete the Election of Optional Membership - Part-Time Employee (PERS-AESD-229) form, which can be downloaded from the CalPERS Website.

EXCLUSIONS FROM MEMBERSHIP
Since July 1, 1994, a large number of persons who formerly had “optional” membership rights have been excluded from membership entirely. Thus, not only are they no longer “optional” members, they are no longer eligible for CalPERS membership.

Those excluded are members of commissions, boards, councils, or similar legislative or administrative bodies (e.g., water districts, sanitation districts, redevelopment agencies, transportation commissions, etc.). Regular employees of such agencies are not excluded; only the members of the governing board of such bodies.

City Council members and members of a County Board of Supervisors are specifically not excluded from membership by these law changes, and remain eligible for “optional” membership (G.C. section 20322(c)).

Elective/appointive officers who are not serving on administrative bodies also remain eligible to elect “optional” membership (e.g., District Attorney, City Clerk, County Counsel, City Treasurer, etc.).

The exclusions only apply to persons first elected or appointed to office on or after July 1, 1994 (or on or after January 1, 1997), who did not continuously remain in their office.

A person who was first elected/appointed prior to July 1, 1994 and who continuously remained in this office, does still have the right to elect “optional” membership. For example, a person who was elected in 1990 and has remained continuously in the same office but has not yet elected “optional” membership, has the right to elect membership; whereas a person first elected in 2000 does not have the right, and would be excluded from membership. The excluded positions are:
**SCHOOL BOARD MEMBERS**

School Board members are excluded if they are first elected/appointed to their position on or after July 1, 1994. However, if the person has been in the same position continuously since before July 1, 1994, they have the right to elect optional membership, and/or should still be reported in membership.

**ELECTED/APPOINTED OFFICERS OF ADMINISTRATIVE BODIES OF NON-CITY/COUNTY CONTRACTING AGENCIES**

Members with a contracting agency other than a city or county are excluded if they are first elected/appointed to their position on or after July 1, 1994. However, if the person has been in the same position continuously since before July 1, 1994, they have the right to elect optional membership, and/or should still be reported in membership.

**ELECTED/APPOINTED OFFICERS OF ADMINISTRATIVE BODIES OF ANY CONTRACTING AGENCIES**

Members are excluded if they are first elected/appointed to their position on or after January 1, 1997. However, if the person has been in the same position continuously since before July 1, 1997, they have the right to elect optional membership, and/or should still be reported in membership. As stated above, City Council members, and County Supervisors are not excluded.

**ELECTION OF OPTIONAL MEMBERSHIP (AESD-59)**

A completed and signed Election of Optional Membership form (PERS-AESD-59), is required to validate and establish membership for an individual who qualifies as an "optional" member as an elective/appointive officer under G.C. section 20322.

Refer to the "Optional Members of CalPERS" section of this manual to determine "optional" membership eligibility.

**WHEN TO COMPLETE**

Once it has been determined that the individual does qualify for and requests "optional" membership, the PERS-AESD-59 form should be completed and submitted to CalPERS for review and approval of membership.

1. The optional member must be advised of CalPERS rights to membership when first eligible for membership (i.e., upon first taking office) but the election can be made at any time during the qualifying employment - even on the incumbent’s last day in office. You should document in your personnel records the fact that the information was provided to the individual, as well as any direct response received from the individual (e.g., "Ms. Smith declined membership at this time"). Do not send a notice to CalPERS if membership is declined.

2. When a current active or inactive member assumes an "optional" member position and elects membership for that office, complete a PERS-AESD-59 and enroll through myCalPERS. The individual’s current CalPERS membership status does not serve to continue the person in membership automatically.

**OTHER GENERAL PROVISIONS AND INSTRUCTIONS**

1. For CalPERS retirement purposes, optional members qualifying under G.C. section 20322 are considered to be full-time employees for all CalPERS purposes. (G.C. section 20899). Exclusions (i.e. temporary, part-time, daily-paid, etc.), in the Government Code and an employer’s contract do not apply.

   **NOTE:**
   This full-time status may result in an overtime situation, if the member has any other concurrent CalPERS positions.

2. Optional members excluded by an agency’s CalPERS contract remain excluded regardless if a PERS-AESD-59 election is filed. Typical contract exclusions that can apply are defined as “Elective Officers and Members of the Governing Body”, and those citing specific position titles.

3. The optional member must receive “compensation” in order for membership to be reported and service credit earned. Reimbursement of expenses alone is not considered compensation under the Government Code.

4. Elimination of, or waiver of compensation; once membership has been elected it does
not constitute a “permanent separation” from membership for purposes of canceling membership and electing a refund of contributions, as long as the person remains active in the same elected position with that employer.

5. Membership should not be established for an optional member unless the PERS-AESD-59 is signed and filed with the CalPERS Board of Administration in accordance with the “When to Complete” instructions.

6. Submit the original signed form PERS-AESD-59 to CalPERS; retain copies for the member and employer personnel records.

7. Refer to the “Pay Rate and Earnings Relationship” section in the Payroll Reporting chapter for normal contribution reporting instructions.

8. An optional member may elect to contribute and receive service for previous qualifying employment. When purchasing previous service credit, an officer must purchase all previous “optional” member service, not just a portion of the “optional” member service period.

9. An officer who is no longer in office, but is currently an active or inactive CalPERS member, may also elect to contribute for previous qualifying “optional” employment.

10. See the publication *Service Credit Purchase Options* (PUB-12) or refer to the *Redeposit of Withdrawn Contributions and Other Types of Service* publication. Do not attach the inquiry to the PERS-AESD-59; it should be submitted separately.
SCHOOL EMPLOYMENT: CALPERS OR CALSTRS?

Public school positions in California are divided into two basic types:

1. **CERTIFICATED**: An employee in a position requiring certification qualifications by or pursuant to the Education Code. Credentialed employees (e.g., teachers, administrators, health care, library media workers, etc.) are all in certificated positions.

2. **CLASSIFIED**: An employee in a non-certificated position (e.g., office workers, custodial staff, cafeteria workers, etc.).

In general terms, employees in certificated positions are, upon meeting normal qualification requirements, eligible for membership in the California State Teachers’ Retirement System (CalSTRS), while classified employees may be eligible for membership in CalPERS.

Pursuant to G.C. sections 20300(g), 20501, and 20610, CalPERS can cover school employees only with respect to employment in which they are not eligible for CalSTRS coverage. Some persons who are employed in positions covered by CalSTRS or CalPERS may not actually qualify for membership in either system (due to part-time or temporary/seasonal, non-qualifying, etc.); thus, some school employees may not be members of either system until their working hours or conditions change.

The Education Code (which contains the laws governing CalSTRS) contains two basic provisions, which may give persons certain rights with regard to choosing coverage under one system or the other.

**Education Code Section 22508(a)**: A person who is a CalSTRS member, who subsequently is employed by a school district, community college district or a county superintendent (or by the State in other certain cases; see “Inclusion” section) in a position which requires CalPERS membership (i.e., a classified school position), will enter CalPERS membership in the new position. However, he or she may elect to remain a member of CalSTRS in the new position.

**Education Code Section 22508(c)**: A CalPERS member employed by a school district or a county superintendent, the State Department of Education, or the Board of Governors of the California Community Colleges, who then is employed in a position that qualifies for membership in CalSTRS, will enter CalSTRS membership in the new position. However, he or she may elect to remain a member of CalPERS in the new position if they meet the conditions of G.C. 20309.

**INCLUSION OF CERTAIN STATE EMPLOYEES**

**Employees in Certain State Bargaining Groups**

SB 1694 (Chapter 880, Statutes of 2000) amended Section 22508 of the Education Code, and now provides that this same election right will be given to CalSTRS members that enter State employment where one of the following conditions apply:

A. The employee is represented by a State Bargaining Unit that represents educational consultants, professional educators, or librarians employed by the state; OR

B. The employee is excluded from the definition of “State employee” in G.C. Section 3513(c), yet performs, manages or supervises work similar to employees under Subparagraph “A” above; OR

C. The employee is in a non-civil service position in the Executive branch, yet performs, manages or supervises work similar to employees under Subparagraph “A” above.

SB 1694 (Chapter 880, Statutes of 2000) amended Section 20309 of the Government Code, and now provides that this same election right will be given to CalPERS members employed by the State Board of Governors of the Community College or the State Department of Education who subsequently enter employment that qualifies for membership in CalSTRS.

SB 165 (Chapter 77, Statutes of 2001) again amended Government Code section 20309, which will also allow CalPERS members with five years of CalPERS credited service, which enter employment
on or after 01/01/2002 that qualifies for membership in CalSTRS, the right to elect to remain in CalPERS. The five years of service accrued under CalPERS can be with the State of California, a Public Agency, a County School, or a combination thereof.

**Persons Entering State Second-Tier Membership between July 1, 1991 and September 11, 2000**

AB 649 (Chapter 402, Statutes of 2000) added Section 22508.6 to the Education Code and Section 20309.5 to the Government Code, and provides that a "vested" CalSTRS member who enters State employment subject to the Second-Tier benefit plan may elect to have this service subject to CalSTRS rather than CalPERS, under the following conditions:

1. The member must have entered State employment within 30 days of separation from CalSTRS-covered employment;
2. The member must have had no other intervening employment;
3. The change of employment occurred between July 1, 1991 and September 11, 2000;
4. The member must be subject to the State Second-Tier.
5. The member meets one of the following criteria:
   A. Is represented by a State Bargaining Unit that has agreed to an MOU making their represented employees subject to G.C. section 20309.5;
   B. Is excluded from the definition of “State employee” in G.C. section 3513(c), yet performs, manages or supervises work similar to employees under Subparagraph “A” above;
   C. Is in a non-civil service position in the Executive branch, yet performs, manages or supervises work similar to employees under Subparagraph “A” above.

These elections must be made in writing by completing the “Retirement System Election” (ES-372 05/09). This form can be obtained from the CalSTRS Website www.calstrs.com. Send the completed form to CalSTRS and a copy to CalPERS. This form must be filed within 60 days of entry into the new position. The election filed must be signed and dated by both the employee and employer. It should also indicate the date the employee entered the new position. Incomplete elections will be returned to the employer for further action.

Send elections to:

CalSTRS
P.O. Box 15275
Sacramento, CA 95851-0275

And

CalPERS
Customer Account Services Division
Attn: Unit 841
P.O. Box 942704
Sacramento, CA 94229-2704

Completed elections may also be uploaded into my|CalPERS.

This right of election arises when the employee enters a position or has a major change in conditions of employment that requires membership in the other retirement system. If a person does not exercise the right of election within 60 days from their date of hire into the position, they will be reported to the new retirement system. Once a person does exercise this right of election, they will be reported to the elected retirement system from the date of hire. This election is irrevocable and will remain in effect until a change in employment occurs that qualifies the employee for the election right or until the person separates from employment and receives a refund of all accumulated contributions and interest.
Should the employee return to employment and upon qualification, the employee would become a member of the retirement system that they qualify for in that position. Use the chart following this section as a guide to determine the retirement system coverage for the employee. The Education Code (which governs CalSTRS), not the Government Code (which governs CalPERS), contains the laws regulating this election of coverage. The final decision in any questionable situation (e.g., acceptance of “late” elections) must be made by CalSTRS, not CalPERS.

**DIFFERENCES BETWEEN CALPERS AND CALSTRS**

There are a number of factors that might influence a person’s decision about coverage under one system or the other. Some of the differences between the two systems are the following:

1. CalPERS members may or may not have Social Security coverage (most do), whereas CalSTRS members generally do not;

2. The Benefit Factors based on age for service retirement may be different;

3. The employee contribution rates may be different;

4. Persons entering membership in either system between July 1, 1980 and December 31, 1998 may not be eligible to convert unused sick leave credits to service credit at retirement.

We suggest you contact CalSTRS or CalPERS if you have specific questions or need additional information relating to an employee’s choice of coverage.

You can also receive the publication “Join CalSTRS? Join CalPERS?” at www.calstrs.com or by calling CalSTRS.

**CALSTRS CONTACT INFORMATION**

CalSTRS (800) 228-5453 or (916) 414-5040 (FAX) or www.calstrs.com

**ADDITIONAL INFORMATION**

1. A person is a “member” of CalPERS or CalSTRS unless they have permanently separated from all employment covered by the system and received a refund of his or her contributions and interest on deposit.

2. It is possible to be an active (i.e., currently employed) member of both CalSTRS and CalPERS as long as this dual coverage is for different positions.

3. The right of election arises for a CalPERS member through school employment, Board of Governors, and the State Department of Education. If a person has CalPERS membership through some other type of employer (most State or contracting Public agencies), the right of election of coverage to remain a CalPERS member arises only if the member has attained 5 years of service and changes positions on or after January 1, 2002.

4. The right of election arises after one has been hired in a position that would require membership by the other retirement system.

5. The election should be filed with the system indicated by the Education Code section (see previous page); send a duplicate copy to the other system for informational purposes, clearly labeled “COPY”.
School Employment: CalPERS or CalSTRS?

CalPERS/CalSTRS RETIREMENT SYSTEM ELECTION

1. **IS THE EMPLOYEE GOING INTO A CLASSIFIED POSITION?**
   - Current retirement system before new position?
     - None
       - CalPERS, CalSTRS
     - CalPERS
       - CalPERS unless elects CalSTRS within 60 days of entry into new position
         - If elects CalSTRS, CalSTRS laws apply
         - CalSTRS
     - CalSTRS
       - CalSTRS

2. **IS THE EMPLOYEE GOING INTO A CERTIFIED POSITION?**
   - Current retirement system before new position?
     - None
       - CalPERS, CalSTRS
     - CalPERS
       - CalSTRS
       - Does member have 5 years of CalPERS service credit?
         - G.C. 20309 (effec. 1/1/02)
           - No
             - CalSTRS unless elects CalPERS within 60 days of entry into new position
               - If elects CalSTRS, CalSTRS laws apply
           - Yes
             - CalSTRS unless elects CalPERS within 60 days of entry into new position that qualifies for CalPERS membership
               - If elects CalSTRS, CalSTRS laws apply
     - CalSTRS
       - CalSTRS

3. **IS THE EMPLOYEE GOING INTO A CERTAIN STATE POSITION?**
   - Current retirement system before new position?
     - None
       - CalPERS, CalSTRS
     - CalPERS
       - CalSTRS
       - Does this State position meet conditions under Education Code 22508(b)?
         - Yes
           - CalSTRS
         - No
           - CalPERS

*Education Code 22508(b) Conditions:
(1) Represented by a state bargaining unit that represents educational consultants, professional educators, or librarians.
(2) Excluded from the definition of "state employee" in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).
(3) In a position not covered by civil service and in the executive branch of government, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).
G.C. section 20635 defines "overtime" as follows:

"The aggregate service performed by an employee as a member for all employers and in all categories of employment in excess of the hours of work considered normal for employees on a full-time basis, and for which monetary compensation is paid."

CalPERS considers full-time employment to be between 34 and 60 hours per week. Employers generally have the ability to determine what constitutes full-time for an employee provided that the employee works between 34 and 60 hours per week (the exception is non-certificated school employers which is discussed below). Once the full-time weekly hours are determined the additional hours worked during the week by the employee will constitute overtime under G.C. section 20635.

G.C. section 20635.1 defines overtime as follows for school members:

“For the purposes of this part, overtime for school members is the aggregate service performed by an employee as a member for all school employers and in all categories of employment in excess of 40 hours of work per week, and for which monetary compensation is paid.”

G.C. section 20636.1 states that for all non-certificated school members full-time employment is considered 40 hours per week. This means that all hours up to 40 per week must be reported to CalPERS for non-certificated school members at the straight time rate and only those hours above 40 are considered overtime.

Part-time positions cannot, when added together, generate more than full-time service and/or contributions to CalPERS. In most cases, CalPERS considers 40 hours a week to be the standard full-time time base.

In situations where a member is working two full-time positions, the position with the highest pay rate or base pay will determine what employment should be reported to CalPERS.

With the implementation of myCalPERS, all positions should be reported to CalPERS. This means you should enroll the participant and submit payroll with contributions. CalPERS will determine what employment is considered overtime, meaning which positions should be contributory (where employer and employee contributions are submitted to CalPERS), and which positions are non-contributory, (where no contributions are submitted).

If CalPERS determines that a position is overtime, you will be instructed to reverse the overtime contributions for that participant.

The following scenarios illustrate proper enrollment and reporting of participants when working in multiple positions:

1. The participant currently holds one full-time position subject to CalPERS, and accepts a second concurrent qualifying part-time position.

   **ACTION**: The part-time position must be enrolled and reported to CalPERS. CalPERS will make the determination on which position is overtime.

2. The participant holds more than one part-time position with the same CalPERS covered employer.

   **ACTION**: All positions should be enrolled and reported to CalPERS.

3. The participant works two full-time positions, either with the same employer (e.g., a school district) or with another CalPERS-covered employer.

   **ACTION**: Both positions must be enrolled and reported to CalPERS. CalPERS will determine which position is overtime.

**Additional Information**

Pursuant to changes made to G.C. 20635 by Senate Bill 53, Chapter 1297, Statutes of 1993, the treatment of more than one full-time position has been changed; the crucial distinction now is whether the service in question was worked before or after July 1, 1994:
Overtime Positions

- **BEFORE JULY 1, 1994**: The member has the right to elect which of the two full-time positions will be reported to CalPERS; CalPERS will, upon discovery of the second full-time position, send the member an election allowing this choice to be made. If no election is made (i.e., if the member does not respond to CalPERS’ notification of election rights), the employment with the latest hire date will be deemed the non-reportable “overtime” position.

- **AFTER JULY 1, 1994**: The position with the highest pay rate or base pay should be reported to CalPERS, with the other position deemed the non-contributory “overtime” position.

If the service began before July 1, 1994 and continues after July 1, 1994, the member will have the election rights indicated above only for the service before July 1, 1994. Service after July 1, 1994 will require the position with the highest pay rate to be reported to CalPERS.
To ensure consistent information between your agency and CalPERS, you should validate and make any changes to your employees’ demographic information via myCalPERS, as this will update CalPERS automatically. This includes changes to the following items:

- Name
- Address
- Social Security Number
- Birth Date
- Gender

**BIRTH DATE CERTIFICATION REQUEST**

The *Birth Date Certification Request* (PERS-MEM-12) form is used to certify the correct member’s birth date. However, CalPERS may contact you by phone instead of sending the PERS-MEM-12 form.

**When to Complete**
This form will be sent to your agency if CalPERS discovers a birth date discrepancy. Whether CalPERS or your agency discovers the discrepancy, please process as follows.

**Instructions**

**ACTIVE MEMBER**
- If this is the first time to correct the birth date, process the change by updating myCalPERS with the correct date of birth.
- If a birth date correction has been previously requested, please notify CalPERS in writing and include one of the “Acceptable Documents” listed below with the request.

**INACTIVE MEMBER**
- If the participant has separated and notifies you that their birth date is incorrect, instruct the participant to provide CalPERS one of the “Acceptable Documents” listed below.

**Acceptable Documents**
The following is the list of acceptable documents, listed in the order of preference, to be used in resolving a birth date discrepancy. Please submit copies only to CalPERS as originals cannot be returned.

1. BIRTH CERTIFICATE or HOSPITAL BIRTH RECORD
2. CALIFORNIA DRIVERS LICENSE
3. NATURALIZATION/PASSPORT (U.S. or Canada).
4. FOREIGN PASSPORT that includes a valid INS-94 form (record of arrival and departure).
5. BORDER CROSSING CARD with a valid INS-94 form (includes “Mica” and “Laser Visa” border crossing cards).
6. CHURCH BAPTISMAL, CRADLE or BLESSING RECORD that shows a date of birth and was established during the first few years of life.
7. PRIMARY or SECONDARY SCHOOL RECORDS showing age at certain year or birth date. Write to the Superintendent of Schools to request records.
8. NATURALIZATION, PASSPORT or IMMIGRATION DOCUMENTS
9. RECORDS OF AGE OR BIRTH DATE which are dated prior to 21st birthday, such as church, fraternal order, insurance, hospital, medical, adoption, guardianship, or newspaper notice of age.
10. DELAYED BIRTH CERTIFICATE. Contact the state in which you were born to obtain a copy.
11. CENSUS RECORDS from federal or state government—preferably the first two censuses taken after date of birth.
12. FAMILY BIBLE in which birth date was recorded within reasonable period of time after birth.
13. SOCIAL SECURITY CERTIFICATION documents which show the date of birth that has been established by the Social Security Administration (contact the Social Security Office where you applied for Social Security benefits).

In the event that none of the above listed documents are available, submit a written request to:
California Public Employees’ Retirement System  
Customer Account Services Division  
Retirement Account Services  
P.O. Box 942709  
Sacramento, CA 94229-2709

If you have additional questions, contact the CalPERS Customer Contact Center at 888 CalPERS (or 888-225-7377).

**Appointment Change Notification for Employer (CalPERS-Initiated Form)**

This Appointment Change Notification for the Employer (myCalPERS 0850) form is used to inform agencies of the following:

1. When the rate of contribution or effective date of membership must be changed or canceled;

2. To notify your agency to correct, through payroll credit procedures, non-members or overtime earnings reported in error;

3. To notify your agency to correct the Account Code and any earnings and contributions reported in error; and

4. To notify your agency when a member has made an election to change their tier.

**Special Instructions**
The myCalPERS 0850 form is prepared by CalPERS. Please update your agency records as instructed on the form.
**Reciprocity and Similar Benefits**

**Full Reciprocity**
"Reciprocity" is an agreement among public retirement systems to allow members to move from one public employer to another within a specific time limit without losing valuable retirement and related benefit rights.

There is no transfer of funds or service credit between retirement systems when an employee establishes reciprocity. The employee is a member of both systems and is subject to the membership and benefit obligations and rights of each system, except as they are modified by the reciprocity agreement.

In order for all the benefits of reciprocity to apply:

- The member must have retired on the same day from each public retirement system participating in a reciprocal agreement.
- The member must apply to retire from each system separately; this means that the member will receive a separate retirement allowance from each system.

CalPERS authority extends only to applying and implementing the California Public Employees Retirement Law; it does not extend to applying and implementing the laws or regulations under which other public retirement systems are administered. Questions relating to rights, benefits, and obligations under any of the other public retirement systems should be addressed directly to the appropriate system.

For more information on reciprocity, download or order a copy of *When You Change Retirement Systems* (PUB-16) at www.calpers.ca.gov or by calling 888 CalPERS (or 888-225-7377).

**Reciprocal Public Agencies**
- City of Concord
- City of Costa Mesa
  - (Safety employees only)
- City of Fresno
  - (Miscellaneous and Safety Retirement Systems)
- City of Los Angeles
- City of Oakland
  - (non-Safety employees only)
- City of Pasadena
  - (Fire and Police Retirement Systems)
- City of Sacramento
- City of San Clemente
  - (non-Safety employees only)
- City of San Diego
- City and County of San Francisco
- City of San Jose
- Contra Costa Water District
- County of San Luis Obispo
- East Bay Municipal Utility District
- East Bay Regional Park District
  - (Safety employees only)
- Los Angeles County Metropolitan Transportation Authority
  - (Non-Contract Employees’ Retirement Income Plan, formerly Southern California Rapid Transit District)

**NOTE:**
With the exception of the University of California Retirement System/Plan (UCRS), all of the Reciprocal 1937 Act Counties and Reciprocal Public Agencies have reciprocity with each other as a result of their having established reciprocity with CalPERS.

**Non-Reciprocal & UCRS Retirement Systems**
Non-reciprocal systems are not covered by reciprocal retirement laws, but participate in retirement agreements with other systems; UCRS differs in aspects of its reciprocity as noted in this guide.

**State Teachers’ Retirement System**
**Legislators’ Retirement System**
**Judges’ Retirement System**
**Judges’ Retirement System II**
**University of California Retirement System**
(includes the University of California Retirement Plan. Service rendered prior to October 1, 1963 was covered by CalPERS).
**RECIPROCITY REQUIREMENTS**

**CONDITIONS FOR ACQUIRING THE BENEFITS OF FULL RECIPROCITY**

Where CalPERS rights and benefits are involved, CalPERS will recognize reciprocity upon movement between reciprocal retirement systems if the following requirements are met:

1. The employee voluntarily elects reciprocity and continues in membership in CalPERS by leaving his or her contributions (if any) on deposit (or by later redepositing contributions he or she had withdrawn); and

2. The employee enters into employment that results in membership in the new system within six months of discontinuance of employment as a member of CalPERS (see note); and

3. The employee must retire on the same date under both systems by submitting a retirement application to each system respectively.

4. Certain exceptions may exist if the employee is employed under an independent public agency retirement system before the effective date of that system’s reciprocal agreement with CalPERS.

**NOTE:**

Eligibility for reciprocity is determined by the retirement laws in effect at the time of movement between employers and retirement systems. Current CalPERS law requires movement within six months.

A member should complete the *Election to Coordinate Retirement when Changing Retirement Systems* form in the *When You Change Retirement Systems* publication (PUB-16) and mail to the address on the form.

**IMPORTANT RESTRICTIONS**

**Concurrent Employment:** Reciprocity does not apply when the employment under the first retirement system overlaps the employment under the new system. For the benefits of reciprocity to apply, the employee must have been separated under the first system prior to joining the new system. This may be true even if the overlapping time is due to running out leave credits. The employee should check with their current system and new system about their rules before they change employment. If they are concurrently employed we will use their highest rate of pay under CalPERS when computing their retirement allowance.

**Refund Restriction:** Some retirement systems may not allow the member to withdraw their member contributions while they are employed in a position covered by the California State Teachers Retirement System (CalSTRS), Judges' Retirement System (JRS), Judges’ Retirement System II (JRS II), Legislators’ Retirement System (LRS), the University of California Retirement Plan (UCRP), or if, within six months of leaving State service, the member entered employment covered by a system under the County Employees’ Retirement Law of 1937 or covered by certain other public agency retirement systems.

For more information, contact the following retirement systems:

- California State Teachers’ Retirement System
  P.O. Box 15275
  Sacramento CA 95851-0275
  (800) 228-5453

- Judges’ and Legislators’ Retirement System
  P.O. Box 942705
  Sacramento CA 94229-2705
  (916) 795-3688

- University of California Retirement Plan
  P.O. Box 24570
  Oakland CA 94623-1570
  (800) 888-8267
Eligibility for reciprocity is determined by the retirement laws in effect at the time of movement between employers and retirement systems. The information contained here expresses current CalPERS law.

1. **Final Compensation**: Use highest compensation earnable under any system in computing final compensation if retirement from all systems is concurrent.

   **NOTE**: An exception to this would be if the member retires on a service retirement from another system before they have met the CalPERS minimum retirement age, they can later retire under CalPERS, and CalPERS will still use the member’s highest rate of pay under any of the systems.

   If the member became an elective or appointed officer after July 1, 1994, we will use the highest rate of pay under CalPERS.

2. **Qualification for Benefits**: Service in the other system may be used to meet minimum service requirements for benefits.

3. **Disability Retirement**: If the member is eligible for disability retirement from another system (or disability income from the University of California Retirement Plan) they may be entitled to CalPERS disability retirement benefits, if they retire from both systems on the same date. CalPERS would pay an amount that does not exceed the difference between the amount that would be paid by the other system if all of the member’s CalPERS service were under that system, and the amount actually paid under the other system, but not less than an annuity that is the actuarial equivalent of the member’s contributions.

   When retirement under the other system is for disability arising out of and in the course of employment under the other system, CalPERS pays an annuity that is the actuarial equivalent of the member’s contributions.

4. **Pre-retirement Death Benefits**: If the member dies prior to retiring while employed as a member of another system, a lump-sum Basic Death Benefit consisting of a return of their CalPERS retirement contributions will be payable to a beneficiary. The total paid by both systems cannot exceed the maximum lump-sum benefit allowable if all service had been under the other system.

   If the member is a Safety member of CalPERS and the death is job-related, the monthly Special Death Benefit allowance may be payable to a qualifying survivor.

5. **Membership Rate Age**: Miscellaneous members and most Safety members in CalPERS have retirement formulas with a fixed rate of contribution and are not affected by their age at entry into the other system. However, other systems may use age at entry for their contribution rate. The member should check with the appropriate system for information.

**PUBLIC EMPLOYEES’ PENSION REFORM ACT OF 2013 (PEPRA)**

As a result of PEPRA, effective January 1, 2013, CalPERS will consider movement between Public Retirement Systems that are subject to reciprocity when we determine which benefit formula applies to your employees. Employees should refer to their member benefit publication for more information on new member benefit formulas mandated by PEPRA.
Even if the member does not qualify for full reciprocity, CalPERS offers redeposit rights, vesting, and University of California Retirement Plan final compensation.

In addition, if their employer established a reciprocal agreement with CalPERS after they changed membership, and they would have been eligible for reciprocity had an agreement been in effect at the time of their membership change, their retirement allowance will still be based on the highest final compensation under either system, as long as they retire on the same date under both systems.

- **Redeposit Rights**: If the employee withdrew their CalPERS contributions and interest and later joined a reciprocal retirement system, they can re-establish CalPERS service credit and membership by making a redeposit.

- **Refund Restriction**: The member may not withdraw their CalPERS Contributions once they have entered employment covered by the University of California Retirement Plan (UCRP) or if, within six months of leaving State service, they entered employment covered by a system under the County Employees’ Retirement Law of 1937 or covered by certain other public agency retirement systems.

- **Vesting**: If the employee is a CalPERS member who is also a member of a reciprocal retirement system, they are eligible to retire from CalPERS without meeting the CalPERS minimum service credit requirement (but they must still meet the minimum age requirement).

**NOTE:**
Vesting requirements of the other systems must be met in order to retire concurrently from each system. Contact the other retirement system to determine their retirement requirements.

- **University of California Retirement Plan Final Compensation**: The average pay rate during any 12-month or 36-month period of employment with the University of California will be used for computing final compensation, if the member retires from both systems on the same date.
CALPERS BENEFITS ARISING FROM MOVEMENT TO RECIPROCAL AND CERTAIN NON-RECIPROCAL PUBLIC RETIREMENT SYSTEMS

There is no formal reciprocity agreement established between CalPERS and the following systems:

- California State Teachers’ Retirement System (CalSTRS)
- Legislators’ Retirement System (LRS)
- Judges’ Retirement System (JRS)
- Judges’ Retirement System II (JRS II)

However, the following benefits and requirements apply to CalPERS members who enter employment with these systems and retire on the same date under both systems.

FINAL COMPENSATION
CalPERS will compute the member’s final compensation based on the highest rate of pay under CalSTRS, LRS, JRS, JRS II, or CalPERS during any consecutive 12-month or 36-month period of service as long as they retire on the same date under both systems. (If a member became an elective or appointed officer on or after July 1, 1994, we will use their highest rate of pay under CalPERS.)

REDEPOSIT RIGHTS
A member of CalSTRS, LRS, JRS, or JRS II may redeposit in CalPERS previously withdrawn CalPERS contributions in order to re-establish service credit in this system.

To receive this credit, a member’s election must be filed with CalPERS before their retirement is effective (G.C. section 21032). The employee should request cost information at least one year prior to their retirement date to ensure accurate and timely payment of benefits.

The right to redeposit contributions is not one of the uniform reciprocal provisions; it varies among the different public retirement systems. Contact the particular retirement system to learn of its policy regarding re-depositing.

REFUND RESTRICTION
A member’s CalPERS contributions may not be withdrawn while the member is in active employment as a member of CalSTRS, LRS, JRS, or JRS II.

VESTING
A CalPERS member who is a member of CalSTRS, LRS, JRS, or JRS II is eligible to retire from CalPERS without meeting the CalPERS minimum service credit requirement (but must still meet the minimum age requirement).

DISABILITY RETIREMENT
There is no provision for CalPERS disability retirement when a member is eligible for a disability retirement benefit from CalSTRS, LRS, JRS, or JRS II. They must instead take a CalPERS service retirement from the other system in order for the provisions of final compensation to apply.

If they retire on a disability retirement from the other system before they have met the CalPERS minimum service retirement age, they can later retire under CalPERS. We will use their highest CalPERS pay rate to determine their final compensation amount.

If they will be receiving a disability allowance from CalSTRS, they can take a service retirement from CalPERS at the same time (if they meet the minimum retirement age) OR at age 60, when the disability allowance under CalSTRS is changed to a service retirement. Either way, they are considered to have retired on the same date under both systems, and CalPERS will compute their final compensation based on the highest rate of pay under either system.
HOW TO NOTIFY CALPERS WHEN THE MEMBER CHANGES RETIREMENT SYSTEMS

When the employee becomes a member of a reciprocal or non-reciprocal public retirement system, they can notify CalPERS by:

- Completing the Election to Coordinate Retirement When Changing Retirement Systems form in the When You Change Retirement Systems publication (PUB-16).
- Complete one of the forms in the CalPERS Refund Election Package (public agency or school employees) or the separation document (State employees) when separating from CalPERS-covered employment.

Please direct requests for information or inquiries to:

CalPERS
Customer Account Services Division
Attn: Unit 841
P.O. Box 942704
Sacramento, CA 94229-2704

For more detailed information on reciprocity, refer to When You Change Retirement Systems publication (PUB-16).

JRS, JRS II, AND LRS MEMBERS

myCalPERS will be modified to remove LRS enrollment as an option for new members. Effective January 1, 2013, the newly elected or appointed Constitutional Officer, Insurance Commissioner and Legislative Statutory Officers are only eligible for optional CalPERS membership. The current enrollment process that allows new members to elect optional membership into CalPERS will not change.

Contact the Judges’ or Legislators’ Retirement Systems directly when an employee becomes a member of a reciprocal or non-reciprocal public retirement system:

Judges’ & Legislators’ Retirement Systems
P.O. Box 942705
Sacramento, CA 94229-2705
(916) 795-3688
(916) 795-1500 — Fax

LONG-TERM CARE PROGRAM MEMBERS

If the member is enrolled in the CalPERS Long-Term Care Program and has premiums deducted from their check, they should call the program’s Customer Service Center at (800) 982-1775 to find out what steps they need to take to continue their premiums after retirement.
Service Credit Represent the accumulated amount of your employees' service time at work or on paid status under their CalPERS-covered employer or employers, counted on a fiscal year basis.

Service credit is one of three prime factors used to calculate an employee's retirement benefit, along with their retirement formula and final compensation.

For a complete list, payment options, and instructions, please refer to the CalPERS publication A Guide to Your CalPERS Service Credit Purchase Options available in the CalPERS Forms & Publications Center online or by calling 888 CalPERS (or 888-225-7377).

Employer Role in Service Credit Purchases
Three types of service credit require employer certification of the application requesting the service credit purchase.

- Service Prior to Membership
- Leave of Absence
- Layoff, Prior Service, Optional Member Service

CalPERS offers a variety of service credit purchase options to your employees that do not require employer certification. These include:

- Redeposit of Withdrawn Contributions
- Military Service
- Peace Corps, Americorps VISTA & Americorps

Employer Cost
The service credit purchases where employers are actually billed are:

- Member-Paid Arrears (for the employer share)
- Employer-Paid Arrears (for the member and employer share) (G.C. section 20283)
- Settlement Agreement (Employers may pay a percentage, up to 100%, of the member's share of contributions and interest due in addition to the employer share).

For other service credit purchases, the employer liability is funded by the actuarial evaluation and setting of the employer rate based on the service that has been posted to the employer.

Service Credit Cost Estimator
The Service Credit Cost Estimator tool (Cost Estimator) provides members a cost estimate for purchasing various types of service credit. The Cost Estimator is located on the CalPERS Website at www.calpers.ca.gov, or members may visit their local CalPERS Regional Office to utilize the self-service computer, in order to generate an online cost estimate and access the required request forms from the results page, when applicable. The Cost Estimator can calculate a cost estimate for the following types of service credit:

- Maternity/Paternity Leave of Absence
- Military Service Credit (Military)
- Redeposit of Withdrawn Contributions (Redeposit)
- Peace Corps or AmeriCorps*Vista Service
- Sabbatical Leave
- Service Prior to Membership (SPM)

For Military, SPM, and Redeposit, a cost estimate must be attached to the service credit purchase request form. Member access to Military, SPM, and Redeposit online request forms will be restricted to those who use the Cost Estimator to generate an estimate. Request forms are available for download on the Cost Estimator Results Page, once a member has generated an estimate for the following service credit purchase types:

- Redeposit of Withdrawn Contributions
- Service Prior to Membership
- State and Schools Military/Public Agency Military

To request the purchase of Military, SPM, and Redeposit, members should follow these steps to obtain an estimate and the request form:

- Visit the CalPERS Website at www.calpers.ca.gov.
- Search for the Service Credit Cost Estimator.
- Complete a cost estimate for the appropriate service credit type.
• Print out the service credit cost estimate from the results page.
• Select the link to download the Service Credit Cost Request form.
• Complete the request form and mail it to CalPERS along with the printed cost estimate.

Additionally, your agency may receive requests to certify employment history and payroll information for employees wishing to purchase service credit. Any requests received by CalPERS without the required employer certification and/or attached cost estimate will be returned to the member as incomplete and the request will be closed.

**REDEPOSIT**

Members of CalPERS have the right to redeposit contributions previously withdrawn from CalPERS. The redeposit of withdrawn contributions restores service credit for previous employment. The member must redeposit the amount withdrawn, plus a sum equal to the interest, which would have accrued, had the member’s funds been left on deposit. Interest will be charged from the first of the month following the date of withdrawal to the date of final payment. Payments may be made in one lump sum or by installment payments, or by a combination of an initial partial lump sum payment and the balance by installment payments. (G.C. sections 20750 and 20752 to 20756).

**NOTE:** To receive this credit, a member’s request must be filed with CalPERS before their retirement effective date.

A member, whose ex-spouse received a portion from the member’s account as part of a community property judgment or settlement AND took a refund of the contributions, can redeposit those funds in CalPERS. (G.C. sections 20751 and 20751.5).

**NOTE:** To receive this credit, a member’s request must be filed with CalPERS before their retirement effective date.

**SERVICE PRIOR TO MEMBERSHIP**

Service Prior to Membership (SPM) is service rendered after the date of contract between a public agency, State, or School District and CalPERS, but before the employee entered CalPERS membership. This may include time spent working for a federal or State employer under the Comprehensive Employment and Training Act (CETA). Election to contribute for SPM will result in additional service credit. Persons who were employed under the following conditions are eligible for service prior to membership:

1. Those who worked the six months membership qualification period prior to July 18, 1961.
2. Those who worked the part-month membership qualification period between July 18, 1961 and October 1, 1963.
3. Those employed less than 87 hours per month or less than an average of 20 hours per week prior to becoming a member.
4. Those formerly employed in temporary or seasonal employment in which they were excluded from membership under G.C. section 20305.
5. Those “optional” elective officers, Governor appointees and Legislative employees who are excluded because of their failure to exercise their right of election of membership under G.C. sections 20320, 20322, 20324, or 21021 and are no longer working in an “optional” position. If still in an “optional” position, refer to the “Optional Member Service” section.
6. Those who worked under CETA for a federal- or State-sponsored program such as the Public Employee Program, Public Service Employment, Disabled Veterans’ Outreach Program, Public Service Employment Program, or Cal Esteem. (G.C. sections 21020 and 21028).

**NOTE:** To receive this credit, a member’s request must be filed with CalPERS before their retirement effective date.

Active or inactive CalPERS members cannot purchase CalPERS service time if:

1. The agency where the service was earned does not currently have a contract with CalPERS.
2. Their service is excluded by law or by the employer's contract with CalPERS.
3. They worked at a school in a certificated position. (They should contact CalSTRS to find out if they can purchase the service with that system.)
4. They worked at the University of California after October 1, 1963.
5. They are retired.
VERIFICATION OF SERVICE PRIOR TO MEMBERSHIP

When members request to purchase SPM, they obtain a “Request for Service Credit Cost Information Service Prior to Membership, CETA & Fellowship” form (PERS-MEM-370) available through the Service Credit Cost Estimator results page. On this form, members must indicate the prior employer information including the period of employment and the hours and time base worked per month. If this employment is with a State agency that reports payroll through the State Controller’s Office (SCO) or with the California State University, the form is sent directly to CalPERS for processing.

If this employment is with a non-SCO State agency, public agency, or school district, this form is sent to that employer for certification. The employer either certifies they concur with the information provided by the member, or follows directions on the form to input the correct employment information into myCalPERS, then forwards the completed form to CalPERS.

ADDITIONAL RETIREMENT SERVICE CREDIT (ARSC)

As a result of the Public Employees’ Pension Reform Act of 2013 (PEPRA), ARSC has been eliminated as a service credit purchase option. Any complete and acceptable requests received at CalPERS prior to January 1, 2013, will be processed. Due to the high volume of requests, processing times may vary and take several months. If you have received an ARSC election package, be sure CalPERS receives your completed, signed election prior to the expiration date specified on the election form, as you will not have another opportunity after January 1, 2013. If you have already elected to purchase ARSC, your purchase will not be impacted.

MILITARY SERVICE

PUBLIC AGENCY MEMBERS

G.C. section 21024 effective December 1, 1975 and amended December 1, 1977 provides that public agency members may be eligible to receive military service credit, provided:

1. Public agency amends their contract accordingly.
2. Military service was rendered prior to CalPERS membership with contracting agency which has amended their contract.
3. Member makes election to purchase military service credit. Member may make contributions in one lump sum or by installment payments.
4. Members may receive credit not to exceed four years.

PUBLIC AGENCY RETIREES

G.C. section 21027 provides that public agency retirees may be eligible to receive credit for their military service, provided:

1. Public agency amends their contract for G.C. section 21024 and 21027.
2. Military service was rendered prior to CalPERS membership with contracting agency that has amended their contract accordingly.
3. The member retired immediately from the contracting agency and before the effective date of the agency’s contract amendment for G.C. section 21024.
4. Retiree makes contributions required.
5. Retiree may receive credit not to exceed four years.

MILITARY SERVICE CREDIT AS PRIOR SERVICE

G.C. section 20996 provides employees, who are or were on military leave at the time your agency contracts for CalPERS coverage and returned to employment with your agency within six months after discharge from active military duty, can receive prior service credit for the period of their absence. If your agency provides this benefit, former employees employed by other CalPERS employers would also be eligible for this service credit. Your agency would be liable for the cost.

STATE AND COUNTY SCHOOL MEMBERS AND RETIREES

G.C. section 21029 provides that State employees and retirees may be eligible to receive credit for their military service. To be eligible the member or retiree must:

1. Currently be employed with or retired directly (within 120 days of separation) from the State employment.
2. Must have a minimum of one year of CalPERS service and one year of military service. Service is granted on a basis of one year of military service credit for each year of credited CalPERS service credit, not to exceed four years.
3. Make election to purchase military service credit. Member may make contributions in one lump sum or by installment payments.
4. In addition, State retirees must have retired on or after December 31, 1981.

The cost for the military service is based on current pay rate, the amount needed to fund the benefit, and how much military service credit is purchased. Members can use the online Service Credit Cost Estimator on the CalPERS Website at www.calpers.ca.gov to get an estimate of this cost.

**LEAVE OF ABSENCE**

There are certain conditions in which some leaves of absence and some public employment may be creditable under CalPERS.

To receive this credit, a member’s written request must be filed with CalPERS before their retirement date is effective.

**CERTIFICATION**

When a member requests to purchase Service Credit for a Leave of Absence, they are provided with a Request for Service Credit Cost Information – Leave of Absence form (PERS-MSD-371). On this form, they indicate the prior employer information, including the period of employment and hours or time base worked per month. The member completes sections 1-3, and the employer completes section 4. Upon completion, the employer may return the form to the member or if appropriate, forward it to the employee’s Worker Compensation carrier for Temporary Disability certification, as appropriate.

**TEMPORARY DISABILITY LEAVE**

Temporary disability leave is time off while receiving temporary disability payments because of a job-related injury or job-related illness.

Members must either return to active CalPERS membership or retire. There is no limit to the amount of time members may purchase.

**EDUCATIONAL LEAVE OF ABSENCE**

Educational leave of absence is time off to pursue higher education.

Members must be a State, University of California, or California State University employee both before and on their return from the leave. Members may purchase a maximum of two years’ service credit (even if the combined total of the members’ educational leave exceeds two years).

**SERIOUS ILLNESS LEAVE OF ABSENCE**

Serious illness Leave of Absence is an employer-approved uncompensated leave of the member’s own serious illness or injury.

The employer must certify the member was on an employer-approved for a leave because of the member’s own serious illness or injury. The member must return to active service with a CalPERS-covered employer following the leave. There is no maximum time limit to Serious Illness Leave of Absence that a member can purchase.

**SERVICE LEAVE**

Service leave is time off to work with a college or university; a local, state, federal, or foreign government agency; or certain nonprofit organizations.

Members may purchase a maximum of two years’ credit for each service leave. Members must return to CalPERS-covered employment after service leave. By law, some service leaves of absence are not eligible for CalPERS service credit, even if the employer gives prior approval.

**CREDIT FOR ABSENCE FROM EMPLOYMENT FOR MILITARY SERVICE**

G.C. sections 20990 through 20998 provide that a member who was absent on military service may be eligible to receive credit for the absence at employer cost. To be eligible for this service credit the member must have:

1. Been in the employment of a CalPERS covered agency prior to entering military service.
2. Been granted a military leave or have resigned from employment for the purpose of entering active duty in the armed forces.
3. Entered active duty within 90 days after leaving agency employment.
4. Returned to employment with the same agency, the State, or another agency contracting with CalPERS within six months after discharge from active duty. If the member did not return to employment within six months after discharge, they may be eligible to purchase this service credit.
**LAYOFF, PRIOR SERVICE, AND OPTIONAL MEMBER SERVICE**

**CERTIFICATION**
When a member requests to purchase Service Credit for layoff, prior service, or optional member service, they are provided with a *Request for Service Credit Cost Information – Layoff, Prior Service & Optional Member Service* form (PERS-MSD-372). On this form, they indicate the prior employer information, including the period of employment. The member completes sections 1-3, and the employer completes sections 4-6, as appropriate. If this employment is with the State or with a California State University, employer certification is not required and this form is sent to CalPERS using the address on the form for processing. Upon completion, the employer returns the form to the member.

**LAYOFF**
G.C. section 21022 allows certain local members, under specified conditions, to purchase service credit for a period of unemployment resulting from a layoff. The section only applies when a member previously laid off is then rehired by the same public agency and only when the public agency has contracted for this provision. No similar provision exists in the Public Employees' Retirement Law for State and school employees who have been laid off and are later rehired.

**PRIOR SERVICE**
Prior Service is service rendered before the date of contract between a public agency and CalPERS or for service rendered before the effective date a contract exclusion is removed, pursuant to G.C. section 20503, for those in previously excluded classes. Prior Service is also service rendered for the State of California before January 1, 1932, or for part-time State Employment between January 1, 1932 and September 19, 1939. (G.C. sections 20055, 20930, 20931, 20933, 20934 and 20972)

If included in the agency’s contract, the cost of Prior Service is an expense of the agency where the member rendered the Prior Service. The cost of the Prior Service liability is included in the employer’s rate of contribution.

Public agencies may amend their contract to allow members to purchase Prior Service which is not provided at employer cost (G.C. section 21031).

**OPTIONAL MEMBER SERVICE**
Optional Member Service is service rendered prior to membership in certain exempt, appointed, or elected positions that allow employees the option of joining CalPERS. Employees can purchase service credit for Optional Member Service if they are (or elect to become, if eligible) a CalPERS member.

Employees cannot purchase credit for Optional Member Service if the position held is ineligible due to law or the employer’s CalPERS contract or if the credit request is received after retirement.

The following employees are considered to be rendering Optional Member Service:

- A State employee who was appointed by the Governor, Lieutenant Governor, Attorney General, Controller, Secretary of State, Treasurer, or Superintendent of Public Instruction and is exempt from civil service.

- Some officials elected or appointed to a fixed term of office with a city or county and elected officials of the state or a contracting agency. (This may include city attorneys, assistant city attorneys, and elected/appointed officials of schools and contracting agencies; however, eligibility is determined by the dates of your term of office).

- An employee of the California State Senate or Assembly whose wages are paid from funds controlled by either body.

Employees must be in one of the above positions on the date they request their cost information, and they must elect CalPERS.
membership before or at the same time the credit is elected. There are no limitations on the amount of time that can be purchased.

Employees who are CalPERS members, but no longer in an Optional Member Service position may be eligible to purchase credit for their past service under the Service Prior to Membership credit type.

**Contract Exclusions**
If the requested employment is excluded by the employer’s CalPERS contract, the purchase of this service credit is not possible. If the exclusion was removed or superseded by law after the employment was rendered, service credit rights would depend on the Government Code provisions under which the exclusion was removed.

**Payment Methods**
A member may elect, at any time prior to retirement, to make contributions for redeposit or other types of eligible service credit. If a member elects a cash lump-sum payment, no notification for installment payments will be sent to the employer because the account will have been paid in full.

If the employer has a pre-tax resolution or agreement with CalPERS, employees can make installment payments as pre-tax deductions from their active payroll. Since pre-tax payments cannot continue into retirement, they will automatically convert to after-tax payments after retirement. Also, if a member separates from their employer, the member’s pre-tax payroll deductions will need to be converted to after-tax (or taxed) payments made directly to CalPERS.

Except in unusual cases where the employer requires pre-tax installment payments only, the member may also make installment payments on an after-tax basis for service credit purchases. The member has the flexibility of modifying the payment schedule for after-tax payments; however, the member cannot adjust pre-tax payment schedules once they are elected.

If a member files an election with CalPERS for a service credit purchase such as redeposit, service prior to membership or other “public service”, and chooses to make contributions by installment payments, CalPERS will certify and approve the election and send the agency an authorization for payroll deductions.

In the event an employee is making installment payments and permanently separates from employment, they should contact CalPERS directly at the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).
Employee: employeeName
employeeID:

Employee: employeeName
employeeID:

Please change the following effective
effectiveDateOfRequest:

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<th>OLD (oldCategory)</th>
<th>NEW (newCategory)</th>
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<tbody>
<tr>
<td>Employee Contribution Rate:</td>
<td>[oldEmpRate]</td>
<td>[newEmpRate]</td>
</tr>
<tr>
<td>Subject To Social Security:</td>
<td>[oldSSIndicator]</td>
<td>[newSSIndicator]</td>
</tr>
<tr>
<td>S&amp;B Survivor Election:</td>
<td>[oldSBIIndicator]</td>
<td>[newSBIIndicator]</td>
</tr>
</tbody>
</table>

If you have any questions, please visit our Web site (systemWebsite), or you may contact us toll free at 888 CalPERS (or 888-725-7777).

[divisionName]