

CLIENT NEWS BRIEF

Proposed Amendments to CalSTRS Creditable Compensation Regulations Have LCAP Implications

Proposed amendments to the California State Teachers' Retirement System (CalSTRS) creditable compensation regulations would allow employers to establish a class of employees based upon employment in a program established under a Local Control and Accountability Plan (LCAP). The proposed amendments modify the CalSTRS creditable compensation regulations that came into effect on January 1, 2015.

CalSTRS member benefits are based in part on the "creditable compensation" paid during a defined period of months during a member's career. Creditable compensation consists of "base salary" and certain types of "remuneration in addition to salary" paid in cash to the employee by a CalSTRS employer to all persons in the same "class of employees" for performing creditable service in that position. A class of employees is typically established in one of two ways: (1) the CalSTRS members are employed to perform similar duties; or (2) the CalSTRS members are employed in the same type of program. (Ed. Code, § 22112.5; Cal. Code Regs., tit. 5, § 27300.) Currently, the regulations define a "program" as any educational program established pursuant to state or federal law. (Cal. Code Regs., tit. 5, § 27300, subd. (a)(2)(A).)

The proposed amendments expand the regulatory definition of a "program" to include a local educational program established under an LCAP. This change is significant because employees in different programs can be in different classes even if they perform similar duties. If employees in an LCAP program are treated as a separate class, they could have a longer work day, a different work year, and potentially a separate salary schedule that recognizes additional hours or days worked with a higher base salary.

Creating a separate salary schedule for employees in an LCAP program could eliminate the need to compensate those employees for extra work in the program through a stipend. This could also make clear that the additional days or hours are part of the base work year for the separate class and therefore all related earnings would be creditable to the defined benefit plan. As currently structured, many stipend payments ultimately end up credited to the member's defined benefit supplement account because the additional service for which the stipend is paid is considered "service in excess of a year."

If the CalSTRS Teachers' Retirement Board adopts the proposed amendments, employers that wish to place CalSTRS members employed in LCAP programs in separate classes and utilize separate salary schedules will need to consider legal implications such as members' collective bargaining rights and uniform salary schedule requirements. The public comment period for the proposed amendments ended on April 25, 2017. The board may review the proposed amendments for adoption as early as June 2017. For a copy of the modified text of the proposed regulations, click [here](#).

For a copy of Lozano Smith's co-authored article with ACSA explaining the 2015 creditable compensation regulations in greater detail, click [here](#).

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Lozano Smith continuously tracks the CalSTRS regulatory process and precedential CalSTRS decisions. If you have any questions about the new CalSTRS creditable compensation regulations or how retirement law governs public schools and their employees, please contact the authors of this Client News Brief or an attorney at one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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