

PROPOSED REGULATORY ACTION BY CalPERS

Adoption of Article 6, Sections 579, 579.1, 579.2, 579.3, 579.4, 579.5, 579.24, of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

Article 6. 2013 Public Employees' Pension Reform Implementation

Section 579. Scope and Authority.

These regulations interpret and implement the pension reform provisions authorized by the California Public Employees' Pension Reform Act of 2013 (PEPRA) (Government Code sections 7522 through 7522.74), related Public Employees' Retirement Law (PERL) changes to Sections 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 21076, 21076.5, and 21400 (PERL provisions), and related changes to Sections 9355.4 through 9355.45 (Legislators' Retirement System provisions).

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, California Government Code. Reference: Sections 7522-7522.74, 9355.4-9355.45, 20281.5, 20516, 20516.5, 20677.96, 20683.2, 20791, 20176, 21076.5, and 21400, Government Code.

Section 579.1. New Members and Classic Members Defined.

- (a) For purposes of this Article, "New Members" are those individuals defined in Government Code section 7522.04(f). All Sections in this Article apply exclusively to New Members, unless expressly stated otherwise.
- (b) For purposes of this Article, "Classic Members" are members who do not meet the definition of New Members as provided by Section 7522.04(f).

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Section 7522.04(f), Government Code.

Section 579.2. Additional Definitions.

- (a) For purposes of determining whether an individual is an "Active Member" pursuant to Government Code section 7522.04(f)(3), the phrase shall mean an individual who meets the definition of a "Member" under Government Code section 20370(a), and who is employed by a CalPERS-covered employer.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Sections 7522.02(c), 7522.04(f)(3), 20020, 20370(a), Government Code.

Section 579.3. Subject to Reciprocity Defined.

- (a) “Reciprocity” is an agreement, either written or pursuant to statute, between retirement systems to allow members to move from one public employer to another public employer within a specific time limit without losing certain retirement and related benefit rights.
- (b) “Reciprocal Retirement System” means a public retirement system that has established Reciprocity with CalPERS with respect to the provision of certain retirement and related benefit rights.
- (c) For the purposes of determining whether an individual is “subject to reciprocity” pursuant to Government Code section 7522.02(c) and 7522.04, this phrase shall mean an individual who has established membership in a Reciprocal Retirement System, and who has met the following requirements:
- (1) The individual must continue membership in the Reciprocal Retirement System by leaving service credit and contributions, if any, on deposit.
 - (2) The individual must enter employment that results in membership in CalPERS within six (6) months of permanently separating from the employer at the most recent Reciprocal Retirement System.
 - (3) The individual must permanently separate from his or her employer at the most recent Reciprocal Retirement System before entering into membership in CalPERS.
- (d) When determining whether a newly hired individual is “subject to reciprocity,” CalPERS and CalPERS-covered employers shall utilize the following procedures:
- (1) Each newly hired individual shall be responsible for self-certifying whether he or she is a member in a Reciprocal Retirement System.
 - (2) If a newly hired individual confirms he or she is a member in a Reciprocal Retirement System, the employer shall obtain and record

the specific information identifying the name and the period of membership in the Reciprocal Retirement System.

- (3) Each newly hired individual must self-certify his or her previous service with a Reciprocal Retirement System by providing the employer the following information within ten (10) business days of request:
 - (A) The newly hired individual's name;
 - (B) The newly hired individual's identification number (Social Security Number or CalPERS ID);
 - (C) The name of the newly hired individual's most recent Reciprocal Retirement System;
 - (D) The newly hired individual's permanent separation date from the employer in the most recent Reciprocal Retirement System;
 - (E) The newly hired individual's first membership date in any prior Reciprocal Retirement System.
- (4) CalPERS will use the information provided by the employer and newly hired individual to determine the applicable retirement benefit formula for the newly hired individual.
- (5) The employer shall retain the retirement and benefit-related information provided by the newly hired individual including, but not limited to, the newly hired individual's self-certification. The employer shall provide this information to CalPERS upon request during the enrollment process or during any future investigations or audits.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Sections 7522.02(c), 7522.04, Government Code.

Section 579.4. Break in Service Defined.

For the purposes of determining whether an individual is a New Member pursuant to Government Code section 7522.04(f), a "break in service" shall mean a permanent separation from employment, and shall not include leaves of absence or other temporary leaves.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124 Government Code. Reference: Section 7522.04(f), Government Code.

Section 579.5. Similarly Situated Defined.

For the purposes of determining the member contribution rate for New Members pursuant to Government Code section 7522.30(c), the term "similarly situated" shall mean members with the same retirement benefit formula who also share similarities in job duties, work location, collective bargaining unit, or other logical work-related characteristics.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Sections 7522.04(f), 7522.30(c), Government Code.

Section 579.24. Final Compensation Calculations for Service Accrued Under PEPRA and the PERL

- (a) Retirement benefit provisions under PEPRA, including but not limited to Government Code sections 7522.10, 7522.32, and 7522.34, require retirement benefits for New Members to be calculated differently from retirement benefits for Classic Members under the PERL. Therefore, it is possible for a member to separately accrue service credit as a New Member for one period of service and as a Classic Member for another period of service.
- (b) Where a member has accrued service credit as a Classic Member and separately accrues service credit as a New Member, each with a period of service resulting in a different final compensation amount, CalPERS will apply one final compensation amount for the service credit accrued as a Classic Member, and a second final compensation amount for the service credit accrued as a New Member. CalPERS will then use both figures to calculate the total retirement benefit owed.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Sections 7522.10, 7522.32, 7522.34, Government Code.