

Title 2. California Public Employees' Retirement System

Proposed Adoption of Article 6,  
Sections 579.2, 579.3, 579.21, 579.22, and 579.25,  
of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

Article 6. 2013 Public Employees' Pension Reform Implementation

**Section 579.2. Additional Definitions.**

(b) The term "Retirement Plan" as used in Government Code section 7522.02(c) shall mean those Benefits (as that term is defined in Government Code section 20020) and optional benefits established by the PERL that would otherwise be available to the member had he or she been an employee of the subsequent employer (as that term is used in Section 7522.02(c)). This subdivision (b) shall apply to classic members.

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

**Section 579.3. Subject to Reciprocity Defined.**

(a) For purposes of this article, "Reciprocity" means the recognition by CalPERS of certain reciprocal benefit rights available to members who move from one public retirement system to another public retirement system. At a minimum, Reciprocity means recognition by CalPERS of a member's payrate during a period of service as a member of the other public retirement system for purposes of computing final compensation upon retirement. Reciprocity is established by statute or by an agreement between CalPERS and the other public retirement system, and includes, among others, those agreements between CalPERS and the California State Teachers' Retirement System, the Legislators' Retirement System, the Judges' Retirement System I and the Judges' Retirement System II.

(b) (1) For purposes of this subsection (b), "Applicable Date" shall mean the individual's appointment date for the most recent employment resulting in active membership in CalPERS. The "Applicable Date" may be a date that is later than the individual's original CalPERS membership date, such as when an individual was employed by a CalPERS-covered employer prior to being a member of the reciprocal retirement system.

(2) As used in Government Code sections 7522.02(c) and 7522.04, "subject to reciprocity" means that, on the Applicable Date, an individual is

eligible for Reciprocity pursuant to the terms of a statute or Reciprocity agreement to which CalPERS is a party, provided he or she did not have a break in service of more than six (6) months immediately preceding the Applicable Date.

(3) To be “subject to reciprocity,” an individual need not have made an affirmative election to invoke Reciprocity rights on the Applicable Date, nor must the individual actually exercise the Reciprocity rights when he or she retires, provided he or she is eligible for such Reciprocity on the Applicable Date.

(c) The following procedures shall be used to determine whether a newly hired individual is “subject to reciprocity” pursuant to Government Code sections 7522.02(c) and 7522.04:

- (1) Each newly hired individual shall be responsible for self-certifying in writing to the employer and to CalPERS that he or she is also a member of another public retirement system and is eligible for Reciprocity.
- (2) If a newly hired individual certifies that he or she is also a member of another public retirement system and is eligible for Reciprocity, the employer shall request the following information from the newly hired individual, and the newly hired individual must provide the following information within ten (10) business days of the request.
  - (A) The newly hired individual’s name, including the name that is used in the other public retirement system, if different;
  - (B) The newly hired individual’s identification number (Social Security Number or CalPERS ID Number);
  - (C) The name of the other public retirement system;
  - (D) The newly hired individual’s separation date from the employer in the other public retirement system;
  - (E) The newly hired individual’s first date of employment with the new employer; and
  - (F) The newly hired individual’s first date of membership in their earliest public retirement system that is subject to reciprocity, as that term is used and defined by this section.

- (3) CalPERS will use the information listed above to determine if the newly hired individual is “subject to reciprocity” (as defined in subdivision (b) above) pursuant to Government Code sections 7522.02(c) and 7522.04, and to determine the applicable retirement benefit formula for the newly hired individual.
- (4) The employer shall retain the retirement and benefit-related information provided by the newly hired individual including, but not limited to, the information listed above. 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 579.21. Determination of Final Compensation.**

For purposes of implementing Government Code section 7522.32 and determining the final compensation amount for New Members, CalPERS will apply a cap to all pensionable compensation used in the calculation of final compensation in accordance with Government Code section 7522.10 and Regulation section 579.22. The final compensation period used to calculate the defined benefit will be the applicable measurement period set forth in Government Code section 7522.32(a). Final compensation will be the annual average of the total final compensation for the applicable measurement period calculated in accordance with Regulation section 579.22, which amount shall be determined by dividing such total final compensation for each full calendar year and portion of a calendar year calculated under Regulation section 579.22(a)(1) and (2) by the number of years in such applicable measurement period. For example, if the applicable measurement period is 36 months (i.e., three years), final compensation taken into account in calculating a member’s defined benefit will be equal to the total sum of the final compensation for the applicable measurement period calculated for each full calendar year and portion of a calendar year under Regulation section 579.22(a)(1) and (2), divided by three years.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Sections 7522.04(f), 7522.10, 7522.32, Government Code.

#### **Section 579.22. Application of Pensionable Compensation Cap.**

- (a) For the purposes of administering Government Code section 7522.10, CalPERS will cap the pensionable compensation used to determine final compensation as specified in Government Code section 7522.32 in the following manner:
- (1) For each portion of the final compensation period that is comprised of a full calendar year from January 1 to December 31, the maximum pensionable compensation that may be taken into account for such calendar year will be equal to 100 percent of the applicable pensionable compensation cap for that calendar year. A member's final compensation for such calendar year will be equal to the lesser of the actual pensionable compensation earned by the member during such calendar year or the maximum pensionable compensation for such year.
  - (2) For each portion of the final compensation period that is comprised of less than a full calendar year, the maximum pensionable compensation that may be taken into account for the calendar year in which such final compensation is earned will be equal to the applicable pensionable compensation cap for such calendar year, multiplied by a fraction which is equal to the number of days of the final compensation period falling within that calendar year, divided by the total number of days falling within that calendar year. A member's final compensation for such portion of a calendar year will be equal to the lesser of the actual pensionable compensation earned by the member during such portion of a calendar year or the maximum pensionable compensation for such portion of a year.
- (b) Member contributions are not required on pensionable compensation paid to members that exceeds the cap articulated in Section 7522.10 on a calendar year basis. Notwithstanding anything to the contrary in this Regulation section 579.22, in determining the applicable pensionable compensation cap taken into account with respect to a member for any calendar year or portion of a calendar year that falls within the final compensation period, such cap will not exceed the maximum cap imposed on contributions that were made by, or on behalf of, such member for that calendar year or portion of a calendar year.

Note: Authority cited: Sections 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code. Reference: Sections 7522.04(f), 7522.10, 7522.32, 7522.34, Government Code

**Section 579.25. Public Safety Officer Exception to the 180-Day Wait Period.**

Government Code section 7522.56(f)(4) includes a 180-day wait period between the retirement date and the start date of post-retirement employment. An exception to this wait period is provided for public safety officers. For purposes of implementing Section 7522.56(f)(4), the term “public safety officer” shall include all peace officers as identified in Government Code section 3301.

Note: Authority cited: Section 7522.02, 20120, 20121, 20122, 20123, 20124, Government Code; Reference: Sections 3301, 7522.56(f)(4), Government Code. Sections 830.1, 830.2, 830.3, 830.31, 830.32, 830.33 except subdivision (e), 830.34, 830.35 except subdivision (c), 830.36, 830.37, 830.38, 830.4, and 830.5, Penal Code.