



TOM TORLAKSON
State Superintendent
of Public Instruction

Restart Timeline

- All LEAs with school closures
 - March 27: LEA Restart Application Data
- LEAs applying for Restart funds
 - March 27: LEA Restart Program Application
- March 30: CDE submits Restart application to ED



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LEA Restart Application Data

- All LEAs with school closures related to wildfires need to complete the form
- Information collected will also inform California's Emergency Impact Aid Application
- Form information
 - LEA
 - School
 - NCIS number
 - Days closed

Immediate Aid to Restart School Operations (Restart) Program

Funding Source

U.S. Department of Education (ED)

Program Description

The purpose of the Restart Grant program is to assist local educational agencies (LEAs) and non-public schools with expenses related to the restart of elementary and secondary schools in areas where a major disaster or emergency was declared related to the consequences of Hurricanes Harvey, Irma and/or Maria or the California Wildfires in 2017.

Please note that under the *Bipartisan Budget Act of 2018*, these funds may be used to serve both LEAs (including charter school LEAs) and non-public schools. In general, Restart funds may be used for activities that help the eligible LEA or non-public school reopen and restore normal operations.

Authorized Restart program activities are the following:

- Recovery of student and personnel data
- Replacement of school district information systems, including hardware and software
- Financial operations
- Reasonable transportation costs
- Rental of mobile educational units and leasing of neutral sites or spaces
- Initial replacement of instructional materials and equipment, including textbooks
- Redeveloping instructional plans, including curriculum development

- Initiating and maintaining education and support services, and such other activities related to the purpose of the Restart program that are approved by the U.S. Department of Education.

Please note, however, that Restart funds may be used only to supplement, not supplant, any funds made available through the Federal Management Agency or through a State.

Projected Allocation

Up to \$2.5 billion for two separate programs: (1) the Restart Program; and (2) the Temporary Emergency Impact Aid for Displaced Students (Emergency Impact Aid) program. The ED will determine the amount to allocate to the respective programs based on information provided by state educational agencies in applications for the Restart and Emergency Impact Aid programs.

Eligible Recipients

Local education agencies (LEAs) (which include: local school districts, county offices of education, and charter schools), non-public schools, and private schools.

Application Process

On behalf of impacted LEAs, the CDE is applying for a Restart Program grant from the U.S. Department of Education. Interested LEAs must complete an application by Tuesday, March 27, 2018, to EmergencyServices@cde.ca.gov.

The CDE will submit California's Restart Program Grant on Friday, March 30, 2018.

Resources

- U.S. Department of Education Project SERV web page:
<https://www2.ed.gov/programs/restart/index.html>

Questions

Marguerite Ries, Federal Policy Liaison, Government Affairs Division, 916-319-0650 or EmergencyServices@cde.ca.gov



California Public Employees' Retirement System
P.O. Box 942715 | Sacramento, CA 94229-2715
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Actuarial Circular Letter

February 8, 2018
Circular Letter: 200-015-18
Distribution: X, XII, XVI

To: All School Employers
Subject: Employer Rate Impact due to Changes in Actuarial Assumptions

Purpose

The purpose of this Circular Letter is to inform you of recent action by the CalPERS Board to adopt new actuarial assumptions and a new strategic asset allocation and the impact these changes are expected to have on employer contribution requirements.

At the CalPERS Board of Administration meeting held in Sacramento on December 20, 2017, the Board approved new actuarial assumptions based on a recently completed experience study of CalPERS membership. The Board also adopted a strategic asset allocation that largely keeps its investment strategy unchanged, holding the fund's expected long-term rate of return at 7.0 percent per year.

Background

The changes adopted by the Board represent the culmination of nearly two years of work on the asset liability management (ALM) process. The ALM process is an integral part of the CalPERS 2017-22 Strategic Plan to fund the System through an integrated view of pension assets and liabilities and to improve long-term pension and health benefit sustainability. This process was conducted as a joint effort by the Investment, Actuarial and Financial offices. Throughout the entire process, and particularly over the last year, CalPERS staff has engaged extensively with stakeholders to educate them on the process and the recommendations, and to obtain their input. This process included an examination of the risk and/return

characteristics of possible asset allocations as well as modeling the impact these asset allocations would have on the funding of the system.

In December 2016, the Board voted to reduce the discount rate from 7.5 percent to 7.0 percent over three years. That action was prompted by the conclusion that the asset allocation at that time was unlikely to produce a long-term average rate of return above 7.0 percent. Employers have since been provided with projections that show the impact of this reduction in the discount rate. The asset allocation chosen by the Board in December 2017 is comparable to the previous asset allocation and also has an expected long-term rate of return of 7.0 percent per year, which allows CalPERS to continue on its planned schedule to reduce the discount rate to 7.0 percent over a period of three years ending with the June 30, 2019 Actuarial Valuation.

The completion of the ALM cycle also coincided with a review of the actuarial assumptions used in the actuarial valuations through a process called an experience study. An experience study is a summarization of actual system experience over a defined period and, along with future expectations, is used in setting new actuarial assumptions. Experience studies which include reviews of both economic and demographic assumptions are required at least every four years under the Public Employees' Retirement Law. The last study was conducted in 2013.

Discussion

The 2017 change in the strategic asset allocation did not result in a change in the discount rate. Therefore, the new strategic asset allocation does not result in a change in the employer contribution requirements projected in the June 30, 2016 Actuarial Valuation. The assumption changes resulting from the experience study, on the other hand, will impact projected employer contribution requirements. The experience study resulted in several assumption changes including: mortality, retirement rates (service and disability), salary scale and inflation. All changes will affect the calculation of the required employer contribution.

All other new assumptions will be implemented in the June 30, 2017 Schools actuarial valuation, setting employer contribution rates effective July 1, 2018.

The annual inflation assumption will be reduced in two steps and will be 2.625 percent for the June 30, 2018 valuation and 2.50 percent for the June 30, 2019 valuation. This is consistent with the change in the discount rate assumption which will be 7.25 percent for the June 30, 2018 valuation and 7.00 percent for the June 30, 2019 valuation. Assumptions other than inflation, salary scale and the discount rate will further be referred to as demographic assumptions.

Below is a table showing the estimated impact the new demographic assumptions will have on the schools employer contribution rates beginning in fiscal year 2018-19.

Category	Estimated Change in Total Normal Cost Rate (% of Payroll)	Estimated Change in Total Employer Rate over 5 years* (% of payroll)
Schools	(0.1%)	0.3%

* Total Employer rate includes the normal cost and Unfunded Actuarial Liability (UAL). Assumes the increase in unfunded liability due to the assumption changes will be amortized in accordance with current Board policy, i.e. over a 20-year period and phased-in over five years.

With the enactment of the Public Employees' Pension Reform Act of 2013 (PEPRA) new benefits were put in place for new public employees in California hired on or after January 1, 2013. PEPRA requires all new members to contribute at 50 percent of the total normal cost of their pension benefit as determined by the actuary. However, the PEPRA member rate is not adjusted unless the total normal cost changes by 1 percent of payroll or more.

Below is a table which illustrates the estimated impact on the total PEPRA normal cost from the change in demographic assumptions.

Category	Estimated Change in PEPRA Total Normal Cost Rate (% of Payroll)
Schools (2% at 62)	(0.3%)

The information in this circular letter is intended to provide the estimated impact of the assumptions changes on the Schools employer contribution rates and PEPRAs member rates. The CalPERS Board is expected to adopt the actual 2018-19 schools employer rates at its April 2018 meeting. That rate setting process will include additional information not available when this circular letter was prepared.

The results of the experience study are described in detail in the 2017 experience study report which can be found online at www.calpers.ca.gov.

Questions

If you have any questions, please call the CalPERS Customer Contact Center at **(888) CalPERS (or 888-225-7377)**.

Scott Terando, Chief Actuary
Actuarial Office

Charter Schools and the Applicability of the California Labor Code

This Fiscal Alert addresses whether the California Labor Code applies to charter school employees. The question was raised after the October 2017 legal opinion of Hansberger & Klein (H&K), PLC, was shared with the External Services Subcommittee of the Business and Administration Steering Committee. H&K's information relates to the impact of the March 2017 opinion in *Gateway Community Charter School v. Heidi Spiess* (9 Cal. App. 5 499) by the Third District Court of Appeals. FCMAT is providing this Alert in response to questions from county offices and others. It should be considered as analysis, not as legal advice.

The application of the Labor Code to the public education system is not always clear; the Education Code is also inconsistent with the Labor Code. Although FCMAT cannot resolve these differences and inconsistencies, this Alert will address those provisions concerning the question at hand on whether twice-monthly payroll payments are required for charter schools.

Although the terms independent and dependent are not defined in the Charter Schools Act, they are often used to describe the relationship between an authorizing district and a charter school. FCMAT will refer to independent charter schools in this Fiscal Alert as those that are separate from the authorizer. Dependent charter school employees are considered employees of the authorizing entity and are usually conversion schools, subject to the same rules as other district employees.

Public employers are not subject to the Labor Code unless a Labor Code provision expressly makes a public agency subject to its provisions. Labor Code Section 204 expressly exempts certain employees from specified Labor Code sections, including employees that are "executive, administrative, and professional employees ..." (Labor Code Section 204(a)).

Labor Code Section 220 establishes the exemption of various public agencies from specified sections of the Labor Code, including the section involved in the Gateway matter. Section 220 reads:

(a) Sections 201.3, 201.5, 201.7, 203.1, 203.5, 204, 204(a), 204(b), 204(c), 204.1, 205, and 205.5 do not apply to the payment of wages of employees directly employed by the State of California. Except as provided in subdivision (b), all other employment is subject to these provisions.

FCMAT

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(b) Sections 200 to 211, inclusive, and Sections 215 to 219, inclusive, do not apply to the payment of wages of employees directly employed by any county, incorporated city, or town or other municipal corporation. All other employments ... are subject to these provisions.

The listed sections include the obligation to pay wages to a dismissed employee within 72 hours of discharge, late payment penalties, and provisions requiring payment at least twice monthly for most employees, including payment by the 26th of the month for the entire balance of the month. Section 220 exempts municipal corporations from application of those rules; school districts are municipal corporations. (See *Division of Labor Law Enforcement v. El Camino Hosp. Dist.* (1970) 8 Cal. App. 3d Supp. 30; *Kistler v. Redwoods Community College Dist.* (1993) 15 Cal. App. 4th 1326, 1336-1337.)

Accordingly, Gateway was primarily a determination of whether or not a public benefit corporation that operated charter schools was a municipal corporation and therefore exempt from the late payment penalties of Section 203. The court determined the charter school was not a municipal corporation and not exempt from the Labor Code sections enumerated in Section 220, and therefore was subject to Section 203. The H&K opinion letter correctly indicates Section 204(a), the obligation to pay at least twice monthly, applies to nonexempt charter school employees. It does not apply to exempt employees of charter schools because 204(a) includes language exempting executive, administrative, and professional personnel, saying:

However, salaries of executive, administrative, and professional employees of employers covered by the Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of the Fair Labor Standards Act, as amended through March 1, 1969, in Part 541 of Title 29 of the Code of Federal Regulations, as that part now reads or may be amended to read at any time hereafter, may be paid once a month on or before the 26th day of the month during which the labor was performed if the entire month's salaries, including the unearned portion between the date of payment and the last day of the month, are paid at that time. (For purposes of this letter, FCMAT assumes these executive employees are subject to the FLSA, but does not validate or verify that assumption as part of this specific analysis.)

Education Code Section 45038 also governs when charter school employees are paid. That section reads:

- a. The governing board of a school district or charter school may arrange to pay the persons in positions requiring certification qualifications employed by it, or any one or more of those employees or one or more groups or categories of those employees, in either 10, 11, or 12 equal payments instead of by the school month.
- b. In lieu of the arrangement in subdivision (a), orders for the payment of salary, and payroll orders for the payment of salary and warrants for the payment of salary of employees employed in positions requiring certification qualifications may be drawn once each two weeks, twice a month, or once each four weeks as determined by the governing board.

While this seems to indicate a charter school's certificated teachers and other certificated personnel could be paid monthly, that rule may only apply to those teachers and others holding credentials, and likely does not apply to other noncredentialed teachers (those who are permitted by Education Code Section 47605(1) to provide instruction in a charter's noncore, noncollege prep courses).

Education Code Section 45048 permits any monthly payment to a district's certificated employees to be made on the last day of the month. While Section 45048 is in the same article as Section 45038, Section 45048 does not mention charter schools where it mentions school districts as does Section 45038. While it is possible that Section 45048 would be interpreted to include charter schools, it is unlikely.

Classified employees in merit districts should be paid on the last working day of the month, pursuant to Education Code Section 45166. The payment date of nonmerit system classified employees is less clear, and is not addressed in this Alert. These rules do not apply to charter school classified employees. Section 45166 applies to "any public school system," which is an undefined term. However, an interpretation that it applies to the entire state school system, of which charter schools are clearly a part, is unlikely. Given the mega-waiver from application of most Education Code provisions to charter schools, a charter school wishing to test use of this theory would likely have to first make itself expressly subject to this section.

As to when a charter school's nonexempt staff should be paid, Labor Code Section 204(a) provides in pertinent part:

- (a) All wages ... earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer. ... Labor performed between the 1st and 15th days ... shall be paid for between the 16th and the 26th day of the month ... and labor performed between the 16th and the last day ... shall be paid for between the 1st and 10th day of the following month.

While this provides a good deal of flexibility in payment dates for nonexempt staff, it also is fairly ambiguous. Accordingly, Labor Code Section 204(d) also provides:

- (d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

Simplistically, this permits the twice-monthly payments to be made to nonexempt personnel on the 15th and last days of the month. Labor Code Section 204 applies to nonexempt employees but not to a charter's exempt employees.

Education Code Section 45039 permits certificated employees of both districts and charter schools to be paid at the end of each month when paid on a 12-month basis. That section reads:

If the governing board of a school district or charter school arranges to pay persons employed by it in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, whether or not the persons are actually engaged in teaching during the month.

Conclusion:

A noncertificated charter school teacher can qualify as a professional, and thus be exempt from certain Labor Code provisions, yet still not be included in the Education Code provisions on payments to certificated charter school employees.

Various charter school legal counsel are advising their clients to pay all personnel, both exempt and nonexempt, twice monthly, likely because exemptions of any charter school employees are unclear under the Labor Code, because it is simple and fair to have similar payment schedules for all employees, and because the risks and costs of fighting the Division of Labor Standards Enforcement (DLSE) on these issues are high.

These twice monthly payrolls include payments on the 15th and last days of the month on the theory that, while Section 204(a) requires payment by the 26th, Section 204(d) indicates the requirements of the section are satisfied if the second payment in the month is made not later than the seventh day following the close of the payroll period. Labor Code Section 204(c) also indicates that employees covered by a collective bargaining agreement may be paid per the terms of the agreement. While charter schools seldom have such agreements, those that do may pay per those terms.

Dependent charter schools, as a whole, are exempt from the various provisions of the Labor Code because they are part of the school district. Independent charter schools, as a whole, are not exempt from those same Labor Code provisions because an independent charter school, or nonprofit operating the school, is not a municipal corporation. This leaves various charter school employees subject to or exempt from the Labor Code sections, depending on their status as exempt or nonexempt employees.

It can be argued that an independent charter's certificated employees could be paid the same as district employees but that would not include noncertificated administration or other professionals, and there could still be a dispute with the DLSE over application of the Labor Code to these employees. FCMAT believes this is why charter lawyers are recommending twice-monthly payments to all employees and why independent charters that are not doing so should consider it.

Additional Assistance

FCMAT encourages LEAs to begin and/or continue this discussion with their legal counsel if approached with how often charter school payrolls should be processed.



BETTY T. YEE
California State Controller

January 16, 2018

SUBJECT: Upcoming Reporting Changes for Government Compensation in California

Dear Superintendent:

This letter is to inform you of upcoming changes to the Government Compensation in California (GCC) reporting requirements. The changes outlined in this letter are being implemented in an effort to facilitate consistent reporting and improve the comparability and transparency of the compensation information published on the GCC website. The changes are as follows:

Calendar Year 2017

In the header portion of the 2017 GCC report template, a drop down field will be added requiring employers to indicate whether or not unfunded liability payments are included in the "Defined Benefit Plan: Employer's Share" column.

Calendar Year 2018

Employers will be required to report only the normal pension cost in the "Defined Benefit Plan: Employer's Share" column. Unfunded liability payments must be excluded.

The GCC reporting instructions reflecting the 2017 calendar year changes will be available on the State Controller's Office (SCO) website in early 2018 when the annual alert letters are mailed. The GCC reporting instructions reflecting the 2018 calendar year changes will be available on the SCO website in early 2019.

If you have any questions regarding these changes, please contact the Government Compensation Section at GCCsupport@sco.ca.gov or (916) 445-5153.

Sincerely,

A handwritten signature in black ink, appearing to read "George Lolás", is written over a horizontal line.

GEORGE LOLAS
Chief Operating Officer

cc: (David) Scott Klein, Chair, Local Government Advisory Committee on Financial Reporting



BETTY T. YEE
California State Controller

February 16, 2018

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SUBJECT: 2017 Government Compensation in California Report

Dear Superintendent:

This letter is to provide your office with the necessary information for preparing the Government Compensation in California (GCC) report for calendar year 2017. Please submit your report by **June 29, 2018**.

Our office sent a letter on January 16, 2018, notifying employers of a new field on the 2017 GCC reporting template related to the "Defined Benefit Plan: Employer's Share" column. Instructions for this new field are located on page 5 of the 2017 GCC reporting instructions.

The 2017 GCC reporting templates and instructions are available on the State Controller's Office website at http://www.sco.ca.gov/ard_locinstr_gcc_reporting.html. To submit your report using file transfer protocol, use the file folder address at <ftp://sd82gbnv:Cw7r2ahy6S@ftp.sco.ca.gov>.

For questions about the 2017 GCC reporting requirements, please contact the Government Compensation Section at GCCsupport@sco.ca.gov or (916) 445-5153. Additional information is available on the GCC website: www.publicpay.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "George Lolás", with a horizontal line extending to the right.

GEORGE LOLAS
Chief Operating Officer