

Sonoma County Office of Education

Timing of Payments

Payroll Concepts August 2021



Timing of Payments

Certificated

Education Code 45048

- (a) Each salary payment for any calendar month may be made on the last working day of the month and shall be paid not earlier than the last working day of the month and not later than the fifth day of the succeeding calendar month except that teachers employed for less than full time in classes for adults, in a day or evening high school, or in a special day or evening class maintained in connection with an elementary school shall be paid on or before the 10th day of the succeeding calendar month for services performed during the preceding calendar month.
- (b) If the school district provides for the payment of the salary of employees employed in positions requiring certification qualifications once each two weeks, twice a month, or once each four weeks, pursuant to Section **45038**, each salary payment may be made on the last working day of the regular payroll period and shall be made not earlier than the last working day of the regular payroll period and not later than the eighth working day of the following regular payroll period.
- (c) If a salary payment is not made timely as required by this section, the amount of the salary payment due shall be increased by an amount of interest on the unpaid amount for each day of delay.
- (d) A certificated employee of a school district who qualifies for a salary increase shall be paid the increased salary not later than three regular pay periods or three months, whichever is longer, after the employee files proper documentation where required for the salary increase. The district shall additionally pay the employee daily interest on the amount owed to the employee calculated from the date that the employee was entitled to the salary increase if the school district does not pay the employee his or her salary increase within three regular pay periods or three months, whichever period is longer, after the employee files proper documentation where required for the salary increase. All amounts due the employee resulting from the salary increase and not paid to the employee at the time that the employee actually receives the salary increase shall be paid to the employee within 20 business days of the date that the employee actually received the salary increase. The district shall additionally pay the employee daily interest on the amount owed to the employee calculated from the date that the employee was entitled to the salary increase if the district does not pay the employee all amounts due the employee resulting from the salary increase within 20 business days following the date that the employee actually received the salary increase.
- (e) The amount of interest required by subdivisions (c) and (d) shall be determined by the method established in Section 19521 of the Revenue and Taxation Code.
- (f) This section shall not prohibit a school district from making a payment of earned salary before the last working day of the month or regular payroll period.

Education Code 45049 excerpt

- A certificated employee works in addition to regular duties or at summer school, the payment can be made in a lump sum, hourly, daily, or monthly rate of pay. o If the payment is a lump sum, then it must be paid 10 days after the services end.
 - o If the payment is hourly, daily or monthly, then the payment shall be paid on or before the 10th of the month after the end of the calendar month in which services were performed.
 - o If payment is not made timely than interest shall be added for each day of delay.
 - The amount of interest shall be determined by the method established in Section 19521 of the Revenue and Taxation Code.

STRS Retirement Reporting

Education Code 22119.3 excerpt

(a) “Creditable compensation” for members who are subject to the California Public Employees’ Pension Reform Act of 2013 means the following remuneration that is paid in cash by an employer for performing creditable service in that position each pay period the creditable service is performed:

(1) Salary or wages.

(2) Remuneration that is paid in addition to salary or wages, only if it is paid to all persons who are in the same class of employees in the same dollar amount, the same percentage of salary or wages, or the same percentage of the amount being distributed.

(b) Creditable compensation shall be paid to all persons in the same class of employees in accordance with a publicly available written contractual agreement, including, but not limited to, a salary schedule or employment agreement, and shall include:

(1) Remuneration that is paid for the use of sick leave, vacation leave, or an employer-approved compensated leave of absence, except as provided in paragraph (4) of subdivision (c).

(2) Member contributions that are picked up by an employer pursuant to Section 22903 or 22904.

(3) Amounts that are deducted from a member’s remuneration, including, but not limited to, deductions for participation in a deferred compensation plan; deductions to purchase an annuity contract, tax-deferred retirement plan, or insurance program; and contributions to a plan that meets the requirements of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United States Code.

(4) Notwithstanding paragraphs (6) and (8) of subdivision (c) of Section 7522.34 of the Government Code, remuneration that is paid for creditable service that exceeds one year in a school year.

(c) “Creditable compensation” does not mean and shall not include:

(1) Remuneration that is not paid in cash or is not paid to all persons who are in the same class of employees.

Classified

Education Code 45166

- Orders for the payment of wages and payroll orders and warrants for the payment of wages of employees a part of the classified service in any public school system shall be drawn at least once during each calendar month, for those districts not using the provisions of Sections 42644, 42645, or 42646 of this code. Such payment shall be made on the last working day of the month in which the employee was in paid status.
 - This section shall not prohibit a school district from making a payment of earned salary prior to the last working day of the pay period or of the month.
 - This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.
- (Enacted by Stats. 1976, Ch. 1010.)*

Education Code 45167 /88166

- Whenever it is determined that an error has been made in the calculation or reporting in any classified employee payroll or in the payment of any classified employee's salary, the appointing authority shall, **within five workdays** following such determination, provide the employee with a statement of the correction and a supplemental payment drawn against any available funds.

(Enacted by Stats. 1976, Ch. 1010.)

Education Code 42644

- Orders for the payment of wages and payroll orders for the payment of wages of employees employed full time in positions not requiring certification qualifications shall be drawn twice during each calendar month on days designated in advance by the governing board of each school district to which this section is made applicable. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month.

- The governing board of each school district which has an average daily attendance of 5,000 or more, and the governing board of each school district with an average daily attendance of less than 5,000 in a county with a population in excess of 4,000,000 persons as determined by the 1960 federal census, shall make the provisions of this section applicable to the board, whenever a majority of the employees of the district employed full time in positions not requiring certification qualifications petition the board in writing to do so.
- The governing board of a school district which has an average daily attendance of less than 5,000, other than such a school district situated in a county with a population in excess of 4,000,000 persons as determined by the 1960 federal census, may, on the petition in writing of a majority of the employees of the district employed full time in positions not requiring certification qualifications, make the provisions of this section applicable to the board.
(Enacted by Stats. 1976, Ch. 1010.)

Education Code 42646 excerpt

- Alternative payroll procedure for classified employees allows payment issue dates on or before the 10th of the month following the end of the pay period. The payroll procedure may provide for salary payments, including salary advances more frequently than once a month.
 - **Example:** Most districts in Sonoma County use the payment issue date on or before the 10th of the month following the end of a pay period for the following types of Supplemental payroll for substitute, temporary and additional hours' payment.

California Labor Code Section 224

- The provisions of Sections 221, 222 and 223 shall in no way **make it unlawful for an employer to withhold or divert any portion** of an employee's wages when the employer is required or empowered so to do by state or federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, or when a deduction to cover health and welfare or pension plan contributions is expressly authorized by a collective bargaining or wage agreement.
- Nothing in this section or any other provision of law shall be construed as authorizing an employer to withhold or divert any portion of an employee's wages to pay any tax, fee or charge prohibited by Section 50026 of the Government Code, whether or not the employee authorizes such withholding or diversion.
(Amended by Stats. 1968, Ch. 559.)

Deferred Net Pay

Education Code 45165

- The governing board of any school district not paying the annual or monthly salaries of persons employed by the district in 12 equal monthly payments may withhold, upon election by the individual employee, from each payment made to such employee an amount as follows:

8.333%

(a) For an employee employed **11 months** of a year an amount equal to **8¹/₃ percent** thereof and the total amount deducted to be paid not later than the 10th day of September next succeeding.

16.667%

(b) For an employee employed **10 months** of a year an amount equal to **16²/₃ percent** thereof and the total amount deducted to be paid in two equal monthly installments not later than the 10th day of August and the 10th day of September next succeeding.

(c) For an employee employed nine months a year an amount equal to 25 percent thereof and the total amount deducted to be paid in three equal monthly installments not later than the 10th day of July, the 10th day of August and the 10th day of September next succeeding.

- If the provisions of Section 42644 are made applicable to any district the provisions of this section shall apply except that the amount deducted from each regular pay period and ultimate dates for payment of the amount deducted shall be computed and set in accordance with the system adopted under Section 42644.
- Once an employee has elected to be brought under the provisions of this section such election **shall not be revocable until the commencement of the next ensuing fiscal year**. However, in the event any employee leaves the service of the district by death or otherwise before receiving such moneys as may be due him, the **amount due him shall be paid within 30 days** of the last working day to him or any other person entitled thereto by law.
- This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

(Enacted by Stats. 1976, Ch. 1010.)

Payment of Terminated Employees

California Labor Code Section 220

- Sections 201.3, 201.5, 201.7, 203.1, 203.5, 204, 204a, 204b, 204c, 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.
 - Allows the **exemption of school districts and community colleges** from CA Labor Code 201, which provides for immediate payment of terminated employers by CA employers.
 - **Terminated employees may be paid their final pay on the next scheduled payroll cycle.**

Payment of Deceased Employees

- If an employee leaves the service of the district or charter school by death or otherwise before receiving the moneys that may be due to him or her. The **recommendation** is to pay the amount due to him or her within 30 days. Payable to the deceased or to any other person entitled to those moneys by law.
- Please see resources for an example of how to process payroll for a deceased employee.

IRS Link: How do I report wages paid to a deceased employee?

<https://www.irs.gov/instructions/iw2w3>

- Find the specific requirements for deceased employee wages in the General Instructions for Forms W-2 and W-3.

PERS Retirement Reporting

Circular Letter 200-204-05

The California Government Code requires that employers identify the pay period in which compensation was earned, regardless of when it is paid or reported to the California Public Employees' Retirement System (CalPERS). This is true whether the compensation being reported is the member's base pay or special compensation. The Government Code also specifies that the payrate reported is the monthly rate of pay or the base pay of the member paid pursuant to publicly available pay schedules. Payrate cannot include special compensation.

CalPERS is finding that employers are reporting special compensation on a prospective basis, that is before it has actually been earned. Effective immediately all compensation reported to CalPERS is to be reported as earned. Special compensation must be reported separately as earned, without lump sums or prospective payments and is not to be included in payrate. The CalPERS' Procedures Manual and Web site are being updated to clarify these requirements.

CalPERS relies on the information reported by employers to provide services such as retirement estimates, benefit payments and for setting the employer contribution rates. Failure to properly report information to CalPERS can result in inflated benefit payments which would cause an adjustment to the retiree's benefits plus the need to recover the benefit overpayment. Please make sure that all information reported is complete, accurate and timely.

<https://www.calpers.ca.gov/docs/circular-letters/2005/200-204-05.pdf>