

Community Property Guide

For California Educators Involved in Divorce or Legal Separation



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CalSTRS is governed by the Teachers' Retirement Law. The information in this booklet is general. If there is a conflict between the law and this booklet, the law prevails.

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1. Introduction

In California, retirement benefits are community property and may be affected by dissolution of marriage (divorce), legal separation or termination of domestic partnership.

Divorce, legal separation or termination of domestic partnership may require the division of a member's retirement benefits.

CalSTRS works with members, former spouses or registered domestic partners and their legal representatives to resolve community property issues involving retirement benefits. With proper documentation, a member's account may be divided or acknowledged as the member's sole and separate property. CalSTRS will implement the stipulations as defined in a court order provided they are within the boundaries of the Teachers' Retirement Law.

About This Guide

This guide gives readers an overview of the benefit programs available to members and nonmember spouses¹ and illustrates how CalSTRS retirement benefits can be affected by divorce, legal separation or termination of domestic partnership. In doing so, it describes methods CalSTRS uses to divide community property, what happens when a member or nonmember spouse dies, and general tax information.

This guide is intended to assist in drafting court orders and completing forms applicable to CalSTRS member accounts. It is not a substitute for the law. If differences appear between the law and this guide, the law prevails.



CalSTRS members participate in a hybrid retirement system that includes a traditional defined benefit plan (Defined Benefit), a cash balance plan (Defined Benefit Supplement) and a voluntary defined contribution plan (CalSTRS Pension2[®]).

¹ "Nonmember spouse" means a member's spouse, former spouse, registered domestic partner or former registered domestic partner who is being or has been awarded a community property interest in the member's Defined Benefit, Defined Benefit Supplement or Cash Balance account under Education Code section 22651. This term is also used when a spouse or partner is also a CalSTRS member.

Although CalSTRS benefits can be affected by California community property laws, the parties can negotiate how they are affected.

2. CalSTRS Retirement Accounts Affected by Community Property Laws

Community property laws affect CalSTRS retirement benefits. It is up to the parties involved to determine whether the retirement benefits will be divided and, if so, what percentage will be awarded to the former spouse.

Membership status limits the methods of division that can be used to award a community property interest of the retirement account to a former spouse.

Members divorcing before receiving a retirement or disability benefit may divide the Defined Benefit and Defined Benefit Supplement accounts by either the time rule formula or the segregation method.

Members divorcing while receiving either a retirement or disability benefit may no longer use the segregation method to divide the Defined Benefit and Defined Benefit Supplement accounts.

Participants divorcing before receiving a Cash Balance retirement or disability benefit must divide the Cash Balance Benefit account using the segregation method. Participants divorcing while receiving a Cash Balance retirement or disability benefit may not divide the Cash Balance Benefit account using the segregation method; rather, the account must be divided by assigning a community property share in the form of a specified percentage or a flat dollar amount.

Defined Benefit Program

Upon meeting certain criteria, membership in the Defined Benefit Program guarantees a specific monthly retirement benefit based on a formula set by law, not on the amount of contributions in the Defined Benefit account.

Retired members receive a monthly benefit for life and may choose a monthly option benefit for one or more qualifying survivors for life. When choosing the survivor option, the member receives a reduced monthly benefit to pay for the cost of the option.

A member's age and service credit are used to determine eligibility for retirement. A member is eligible to retire at age 50 with at least 30 years of service credit, or at age 55 with at least five years of service credit.

Contributions

As a member of the Defined Benefit Program, you contribute 8 percent of your creditable compensation as required by the Teachers' Retirement Law. Your employer contributes an amount equal to 8.25 percent of your salary to help pay benefits. Active members of the Defined Benefit Program also may be contributing to their Defined Benefit Supplement account.

Upon retirement, members receive a lifetime benefit based on their years of service credit, final compensation and age. Members who choose to leave CalSTRS-covered employment before retirement can leave their contributions and interest in their Defined Benefit, Defined Benefit Supplement or Cash Balance accounts or take a cash refund. Accumulated state and employer contributions are not refundable to members from the Defined Benefit account.

Service Credit

Members of the Defined Benefit Program accumulate service credit in years and partial years when creditable compensation is earned. Service credit is one of the factors used to determine eligibility for benefits. Service credit is not earned under the Defined Benefit Supplement or Cash Balance programs.

Defined Benefit Supplement Account

Active Defined Benefit Program members who earned service credit after the year 2000 have a Defined Benefit Supplement account. This account may provide additional funds to Defined Benefit members when they retire or leave CalSTRS-covered employment.

Funding for this account is from the following sources:

- Contributions made by the member and the employer for service in excess of one year of service credit. These provisions began July 1, 2002.
- Some members also receive special limited-term payments or compensation intended to enhance future Defined Benefit retirement benefits. Effective July 1, 2002, member and employer contributions on these payments are credited to the Defined Benefit Supplement accounts.

- From January 1, 2001, to December 31, 2010, one-fourth of members' 8 percent retirement contributions to CalSTRS were redirected to their Defined Benefit Supplement account. The redirection did not affect their CalSTRS Defined Benefit pension. Starting January 1, 2011, their entire 8 percent contribution is credited to their Defined Benefit account.

Upon retirement, members may choose to receive the balance in their Defined Benefit Supplement account as a lump-sum payment, a rollover or an annuity. With a balance of less than \$3,500, the account must be paid as a lump-sum payment or rolled over to a qualified plan such as CalSTRS Pension2.

Cash Balance Benefit Program

The Cash Balance Benefit Program is designed for part-time, substitute and temporary educators. Employers must contribute an amount equal to at least 4 percent of a participant's pay, and participants typically contribute 4 percent of their pay. Contributions rates may vary based on collective bargaining, but combined employer and participant rates may not be less than 8 percent.

Upon retirement, Cash Balance participants can choose to receive all contributions and interest as a lump-sum payment, a rollover to another qualified plan, or an annuity with an account balance of \$3,500 or more.

For complete descriptions of the Defined Benefit, Defined Benefit Supplement and Cash Balance programs, see the *Member Handbook* at CalSTRS.com

NOTE



With a balance of \$3,500 or more, members may choose an annuity, a lump-sum payment or a rollover to a qualified plan.

3. Registered Domestic Partners

This section provides information regarding the definition of a registered domestic partnership and the community property rights associated with termination of a registered domestic partnership.

Registered Domestic Partnership Defined

A registered domestic partnership is created when partners of the same sex, or partners of opposite sexes when one partner is at least 62 years old, complete and file a Declaration of Domestic Partnership with the Secretary of State. Under California law, registered domestic partners have the same rights, protections and benefits, and are subject to the same responsibilities, obligations and duties, as spouses.

Terminating a Domestic Partnership

CalSTRS benefits are considered community property under California law. When a member is in a registered domestic partnership, benefits earned during this time are considered community property. Upon termination of

a registered domestic partnership, CalSTRS benefits may be divided. If this happens, the division of the member's benefits is subject to the same procedures for filing and implementing a court order as in a divorce.

Members who terminate a registered domestic partnership and want information on how it might affect their benefits should mail a request along with a copy of the termination document and property settlement agreement to CalSTRS.

Tax Considerations

The federal government does not recognize domestic partners as spouses for federal tax purposes. We recommend that the parties consult with a tax adviser for questions on tax issues.

4. Joinder of CalSTRS

A nonmember spouse has the right to file a community property claim against a member's CalSTRS benefit. The claim can be made at any time, but CalSTRS cannot divide an account until properly joined.

Joinder is a legal term that means specific court documents are filed with the court which, in this case, makes CalSTRS a party to the divorce action. CalSTRS cannot enforce a court order dividing a member's benefits until it becomes a party to the divorce action.

NOTE

CalSTRS is not bound by *any* community property court order unless properly joined.

How to File the Joinder Forms

Although anyone can file the joinder forms, you may choose to seek legal assistance when preparing joinder forms. County processes are subject to change and a court may reject any form that does not conform to current standards.

When the joinder forms have been filed and served on CalSTRS, CalSTRS will send a response to all involved parties and to the court where originally filed. The joinder process may take up to 30 days to complete.

Prior to processing a court order dividing a member's benefits, CalSTRS must be in receipt of the final acknowledgement from the court. Upon receiving the court's acknowledgement, CalSTRS is properly joined as a party to the specific action and is then authorized to comply with an acceptable, certified court order.

NOTE

CalSTRS is not permitted to provide legal advice or assist in the preparation of any court forms.

Effects of a Joinder

As a result of a joinder, a member who is not yet receiving a monthly benefit is prevented from making account changes such as designating beneficiaries. Also, all benefit applications will be deferred from processing until CalSTRS receives a filed and certified copy of a court order, property settlement agreement or judgment that addresses the community property interest in the member's account.

If a member is already receiving a benefit, the payments will not be interrupted due to the joinder. However, the monthly benefits may be subject to division by the court order.

A joinder also allows a representing attorney or nonmember spouse to obtain specific account information without a subpoena or written authorization from the member.

To monitor a joined account, a legal hold is placed on the member's account until all determinations of community property have been made. At that time, the legal hold may be removed or may remain to monitor the account for the future division of the member's benefits.

When both parties are CalSTRS members, CalSTRS need only be joined to the case once. Legal holds will be placed on each account and will be removed as the community property issues are resolved.

5. CalSTRS Court Order Requirements

Before dividing a member’s account, CalSTRS must be provided with an acceptable certified copy of the court order as determined by the Teachers’ Retirement Law, which is part of the California Education Code.

Since the language in the court order must be specific and properly address the disposition of the community property interest in the member’s account, we recommend that the preparer send a draft of the court order to CalSTRS for review before filing it with the court.

NOTE

CalSTRS does not provide any type of legal advice to members or nonmember spouses concerning the division of a member’s account and does not assist with the drafting of a court order.

Referring to CalSTRS

Court orders requiring CalSTRS to recognize a community property interest in an account must specifically refer to the “California State Teachers’ Retirement System,” “STRS” or “CalSTRS.”

Member and Nonmember Spouse Information

Court orders must provide the following information about the member and nonmember spouse:

- Date of marriage
- Date of separation
- Name and current mailing address

Requirements

To protect the privacy of the individuals, Social Security numbers and birth dates may be provided under separate cover. Verification of the nonmember spouse’s vital information will be required prior to the division of any account. CalSTRS may request legible copies of the former spouse’s Social Security card and a birth verification document, such as the birth certificate, passport, or driver’s license, and a filed copy of the Judgment of Dissolution.

The date of marriage and date of separation required in all court orders will be used for the division of member accounts other than for retired members. These dates are used to identify the community period pursuant to California Education Code section 22652.

Accounts Affected

Benefit accounts that may be affected include:

- Defined Benefit
- Defined Benefit Supplement
- Cash Balance

Only accounts identified in the court order will be divided. If there is an intention to exclude a specific account from the division, the account should be separately identified and referenced.

A separate court order is not necessary for each account. All three accounts can be addressed in the same court order.

The percentage of benefits awarded to the nonmember spouse from each account must be clearly stated in the order.

Benefits Affected

All member benefits, including the following, may be subject to community property division:

- Service retirement
- Coverage A disability benefit (disability allowance)
- Coverage B disability benefit (disability retirement)
- Options election
- One-time death benefit

To ensure the goals of the parties are covered, address each account benefit in the court order.

Methods of Division

The court order must specify how each account will be divided. The two methods typically used for the division of the community property interest in a member's account are the time rule formula and the segregation method. Any service credit or accumulated contributions and interest not specifically awarded in the court order using one of these methods shall be deemed the exclusive property of the member.

For more information, see Chapter 6, "Methods of Dividing Community Property."

Tax Liability

The member and nonmember spouse are responsible for their own tax liabilities incurred as a result of community property payments received from CalSTRS, unless the court order states otherwise. Because of this rule, CalSTRS must have the nonmember spouse's Social Security number before any community property payment can be made. CalSTRS provides each party an *Income Tax Withholding Preference Certificate* form to indicate a tax withholding preference.

NOTE

To obtain information regarding taxation of CalSTRS benefits, see the *Member Handbook* and other publications at CalSTRS.com. For more specific information, visit irs.gov or ftb.ca.gov.

Forms and Applications

After determining a community property issue exists, CalSTRS will review all forms and benefit applications for compliance with the court order. CalSTRS may require a court order or other information from a member once a community property issue has become evident. Applications or account change requests may be delayed pending resolution.

When a member is eligible to retire and has chosen a retirement date, the member may submit a properly completed retirement application to preserve the effective date of retirement. When the community property issues are resolved, the retirement application will be forwarded for processing. In most cases, retirement benefits will be paid retroactive to the member's chosen retirement date.

NOTE

Preparing the Court Order Related to CalSTRS

Individuals preparing a court order regarding CalSTRS should consult with an attorney for advice pertaining to their individual circumstances. The individual participants, along with their attorneys, are responsible for determining:

- What benefits a member is entitled to and the effects of dividing those benefits.
- The language in the court order to the satisfaction of the parties.

The language in the court order must be consistent with the Teachers' Retirement Law and properly address the disposition of the community property interest. To avoid conflicts, send a draft of the court order to CalSTRS for review before filing it with the court. CalSTRS can only review a draft stipulation and order for content, since each court can have its own form requirements.

6. Methods of Dividing Community Property

The Teachers' Retirement Law provides the primary methods for dividing the community property interest in a member's account.

The two primary methods are:

Time rule formula—This formula can be used by members who divorce either prior to or while receiving a retirement or disability benefit.

Segregation method—This method can only be used by members who divorce prior to receiving a retirement or disability benefit.

In addition to the two primary methods of division, the court order may state that when a member receives a benefit, the nonmember spouse will get a predetermined percentage or flat dollar amount.

Sample time rule and segregation orders are included in Chapter 11, "Forms and Samples." These samples are guidelines for drafting a court order specific to CalSTRS. Individual circumstances must be considered by the parties.

CalSTRS will comply with the provisions of any judgment to the extent permitted by the Teachers' Retirement Law. CalSTRS, however, cannot provide legal advice or advise which method of division to use.

Time Rule Formula

Defined Benefit Account Considerations

The time rule formula is commonly used in divorce cases to calculate the portion of the member's Defined Benefit that the nonmember spouse is to receive. This formula can be used by members who divorce prior to receiving a retirement benefit or while receiving a retirement or disability benefit.

When using the time rule formula to divide a benefit, the language of a court order must be specific and address the following issues:

- Types of benefits
- Payment by separate warrant
- Member dies before nonmember spouse
- Court-ordered election of an option
- Nonmember spouse dies before member
- Lump-sum death benefit

Example of Time Rule Formula

25 years of service credit earned during community period
÷ 32 total years of service credit at retirement = 78.125%
x 50% = 39.06% former spouse share

\$1,000	Sample benefit
+ 400	Longevity bonus
<hr/>	
\$1,400	Total monthly benefit

\$1,400	
x .3906	Nonmember spouse share
<hr/>	
\$ 546.84	Nonmember spouse benefit

\$1,400	
- 564.84	
<hr/>	
\$ 853.16	Member benefit

Defined Benefit Supplement Account Considerations

When using the time rule formula to divide the Defined Benefit account, the parties may be able to use either the time rule formula or the segregation method to divide the Defined Benefit Supplement account.

The following are ways of dividing the Defined Benefit Supplement account:

- **Defined Benefit Supplement account with time-rule formula division:** The percentage derived by the time rule formula for the Defined Benefit account will be applied to the entire Defined Benefit Supplement account at member's retirement unless otherwise specified in the court order. If the intention is to award an amount other than the time-rule formula percentage, the court order should provide a specific percentage to be applied to the Defined Benefit Supplement account which determines the nonmember spouse's share.

The member's distribution choices for the Defined Benefit Supplement account may be limited or affected depending on the requirements relating to the Defined Benefit account as outlined in the Teachers' Retirement Law.

- **Defined Benefit Supplement account with the segregation method of division:** When segregating the Defined Benefit Supplement account, a separate nonmember spouse account will be created for the nonmember spouse. The contributions and interest awarded to the nonmember spouse will be removed from the member account to a nonmember spouse account.

When the segregation method is used to divide the Defined Benefit account, the same method must also be used to divide the Defined Benefit Supplement account. Account segregations can only be done before a member receives a retirement or disability benefit.

When the parties choose to divide only the Defined Benefit Supplement account, the segregation method must be used.

Again, the Defined Benefit and Defined Benefit Supplement accounts do not have to be divided using the same method unless the member is in benefit status.

Types of Benefits

Only benefit types specified in the court order will be divided. However, when the court order specifies "any" or "all" benefits payable, CalSTRS will interpret this to mean the nonmember

spouse is to be awarded a community property portion in all benefits, including retirement, refund, disability and lump-sum death benefits.

If a court order states only the member's "retirement benefits" or "pension" are to be divided, then just the monthly service retirement benefit will be affected. The order will not be applied to any other benefits payable, including refund, disability or lump-sum death benefits.

Payment by Separate Warrant

When the community property interest in a member's account is divided and the parties involved expect the nonmember spouse to receive a benefit payment directly from CalSTRS, the court order must specify that CalSTRS is to pay the nonmember spouse "directly by separate warrant." Without such language, the member will be responsible for making all payments due to the nonmember spouse.

Member Dies Before Nonmember Spouse

When choosing the time rule formula, the nonmember spouse will receive a prorated share of the member's monthly benefit.

Therefore, when the member dies, the surviving nonmember spouse's benefit also terminates. To provide a continuing benefit for a nonmember spouse, the nonmember spouse must be elected as an option beneficiary.

Court-Ordered Election of an Option

An option is an account feature that allows the member to take a reduced benefit for life and redistribute the retirement benefit over the member's life and the life of one or more option beneficiaries after the member's death. The election of an option has a cost that permanently reduces the monthly benefit by an actuarially determined amount.

If the member is required to elect the former spouse as an option beneficiary, the court order must specify this. A court order also may require the amendment of an existing option that was elected by a retired member. If the court order is silent as to the option, the member may keep the former spouse as an option beneficiary, or cancel or change the option by notifying the CalSTRS board in writing of this intention.

If the nonmember spouse had previously been named as an option beneficiary, and the court order does not require the member to maintain the option for the nonmember spouse, it is the member's responsibility to file the appropriate form in order to cancel or change the current option election. Should the member fail to properly cancel the option previously elected for a nonmember spouse, the option will remain in effect for the nonmember spouse.

The court order should also state how the cost of the option, in the form of a reduced monthly benefit, will be applied. The cost of electing an option benefit may be shared by the retired member and nonmember spouse, or one party may be required to pay the total cost. If it is intended for the nonmember spouse to continue to receive the same benefit amount that he or she received during the life of the member, the cost of the option must be carried solely by the nonmember spouse. Before making an option election requirement, it is advised the parties obtain estimates from CalSTRS.

For additional information, see Chapter 7, "Benefits Payable After Member's Death."

For a description of Defined Benefit options, visit CalSTRS.com or see the *CalSTRS Member Handbook*.

Nonmember Spouse Dies Before Member

When using the time rule formula of division, it is important that a court order address who will receive the nonmember spouse's share of the benefits should the nonmember spouse predecease the member.

The nonmember spouse's benefits can be awarded to another recipient named by the nonmember spouse or revert to the member.

When the court order on file does not specify this information, then by default, the nonmember spouse's monthly benefit will stop and revert to the member.

If the deceased nonmember spouse's benefit is awarded to a named beneficiary by the nonmember spouse, the monthly benefit is payable only as long as the CalSTRS member is living and receiving a benefit.

It is imperative the nonmember spouse provide the specific beneficiary designation information to CalSTRS as soon as possible. The designation can be provided on a *Community Property Court Ordered Payee Designation* form, available from the CalSTRS Community Property Office, or the nonmember spouse may provide the information to CalSTRS in writing. **The names and contact information of the intended designees must be on file prior to death.**

When this essential information is not filed with CalSTRS, then by default upon the nonmember's death, the benefits will revert to the member. An additional certified, acceptable court order would be required before CalSTRS could make any payment of the nonmember's benefits to any other party.

Lump-Sum Death Benefit

The nonmember spouse may be awarded a community property share of any and all lump-sum death benefits payable upon the member's death, including, but not limited to, any return of the member's contributions and interest, and the one-time lump-sum death benefit. The court order must specifically state that a portion of the lump-sum death benefits is to be payable to the nonmember spouse. The specific amount will be calculated based upon the method stated in the court order.

Segregation Method

Using the segregation method of division to settle the community property interest offers the parties an alternative method of dividing the retirement benefits. This division method is only available when the member is not already receiving a retirement benefit or disability allowance.

The segregation method divides the member's CalSTRS account into two individual accounts. The nonmember spouse's community property share will be removed from the member account and deposited into a newly established, separate and distinct nonmember spouse account. The member retains the balance of the account. The account segregation will include contributions, interest and service credit from the member's Defined Benefit account and only contributions and interest from the Defined Benefit Supplement and/or Cash Balance accounts.

The nonmember spouse account will accumulate interest only on the balance in the segregated account. The member's service credit, contributions and interest can continue to grow.

When an account has been segregated, the nonmember spouse will have complete control over the nonmember spouse account and can independently decide when to retire or request a refund of the accumulated contributions and interest. Under the segregation method, the nonmember spouse is entitled only to the rights and benefits explicitly set forth in the Teachers' Retirement Law, including:

- A monthly retirement benefit, when eligibility requirements are met.
- A full refund of accumulated contributions and interest.
- The right to designate a death benefit recipient for payment of any accumulated or residual contributions and interest remaining in the nonmember spouse account at time of death.

In addition, when the nonmember spouse takes a monthly benefit, the nonmember spouse may qualify for a prorated share of retirement benefit enhancements for which the member was eligible on the date of separation. These enhancements could include the highest 12 months of consecutive compensation for the final compensation figure and eligibility for a share of the longevity bonus.

The decision to segregate the member's account can be made only by the parties involved in the divorce. The segregation method may not be appropriate for all divorces but can be advantageous, depending on each party's specific needs. See the Methods of Division Comparison chart at the end of this chapter for a side-by-side comparison of the time rule and segregation divisions.

Nonmember Spouse Account Retirement or Refund

To qualify for a lifetime monthly benefit, available at age 55 or later, a nonmember spouse must meet the following criteria:

- The member must have had at least five years of service credit during the community period.
- The nonmember spouse account must have at least 2.5 years of service credit. If the nonmember spouse account has less than 2.5 years of service credit, CalSTRS must refund the account balance.

The nonmember spouse's monthly retirement benefit is calculated using the following criteria:

- The member's highest 12 or 36 consecutive months average annual compensation earnable up to the date of separation, depending on the member's years of service credit and date of separation.
- The nonmember spouse's age at retirement (age factor).
- The service credit awarded to the nonmember spouse by the court order.

When an account is segregated, the nonmember spouse will not benefit from any future enhancements or salary increases that might increase or affect the member's monthly benefit at retirement. The only benefit calculation factor that will change is the nonmember spouse's age factor. The nonmember spouse's age factor will maximize at age 63. See chart on page 16 for age factor values between age 55 and 63.

Member Redeposit of Refunded Nonmember Spouse Account

The Teachers' Retirement Law allows the member to redeposit all or a portion of the service credit, contributions and interest refunded to the nonmember spouse.

After the nonmember spouse refund is complete, CalSTRS notifies the member that the service credit is available for purchase.

Effect of Segregation on Member Benefit Enhancements

Members with segregated accounts are still eligible for benefit enhancements. CalSTRS will consider the member's total years of service credit when determining eligibility for enhanced benefits. However, CalSTRS will use only the years of service credit remaining in the member's account after the segregation as the basis for calculating the member's retirement benefit.

The three benefit enhancements that may affect the calculation of a member's retirement benefit are:

- The final compensation for Defined Benefit members retiring with 25 or more years of service credit is based on the highest average annual compensation earnable for one school year instead of three.
- A career factor bonus of 0.2 percent is added to the member's age factor, up to a maximum age factor of 2.4 percent, for members retiring with 30 or more years of service credit.
- A longevity bonus is permanently added to the member's monthly retirement benefit if the member accumulated at least 30 years of service credit on or before December 31, 2010.

The longevity bonus permanently adds \$200, \$300 or \$400 to the member's monthly benefit. If the member qualified for the longevity bonus on the date of separation, a proportionate share of the longevity bonus may be awarded to the nonmember spouse.

Enhancements do not apply to Cash Balance participants because service credit is not earned in Cash Balance accounts.

NOTE

Legal Hold

After the account segregation, a legal hold will remain on both the member and nonmember spouse accounts when the nonmember spouse is entitled to a portion of the member's longevity bonus. The legal hold will assist in monitoring benefit applications and ensure the accurate division of community property shares of the longevity bonus.

Court Order Must Specify Percentage of Defined Benefit and Defined Benefit Supplement Accounts

To segregate an account, the court order must clearly state a percentage of the community property interest to be awarded to the nonmember spouse—it cannot state a specific dollar amount. The community property portion may consist of accumulated contributions, interest and service credit.



Court Order Can Specify Dollar Amount for Cash Balance Account

The court order should be specific regarding the Cash Balance account. It can state a percentage or a flat dollar amount of community property to be awarded to the nonmember spouse.

Nonmember Spouse Forms

Nonmember spouse refund and retirement applications are available at CalSTRS.com and through the CalSTRS Legal Office. To obtain the appropriate form, call 916-414-1725 or write to:

CalSTRS
Community Property
P.O. Box 15275
Sacramento, CA 95851-0275

Age Factor Table (expressed as percentages)

If the segregation method was chosen, use this age factor table to estimate a nonmember spouse Defined Benefit monthly retirement benefit. The nonmember spouse's age is used in the benefit calculation. A nonmember spouse can apply for this benefit as early as age 55. The age factor will maximize at age 63.

		Months											
		0	1	2	3	4	5	6	7	8	9	10	11
Years	63	2.400	2.400	2.400	2.400	2.400	2.400	2.400	2.400	2.400	2.400	2.400	2.400
	62	2.267	2.267	2.267	2.300	2.300	2.300	2.333	2.333	2.333	2.367	2.367	2.367
	61	2.133	2.133	2.133	2.167	2.167	2.167	2.200	2.200	2.200	2.233	2.233	2.233
	60	2.00	2.00	2.00	2.033	2.033	2.033	2.067	2.067	2.067	2.100	2.100	2.100
	59	1.88	1.89	1.90	1.91	1.92	1.93	1.94	1.95	1.96	1.97	1.98	1.99
	58	1.76	1.77	1.78	1.79	1.80	1.81	1.82	1.83	1.84	1.85	1.86	1.87
	57	1.64	1.65	1.66	1.67	1.68	1.69	1.70	1.71	1.72	1.73	1.74	1.75
	56	1.52	1.53	1.54	1.55	1.56	1.57	1.58	1.59	1.60	1.61	1.62	1.63
	55	1.40	1.41	1.42	1.43	1.44	1.45	1.46	1.47	1.48	1.49	1.50	1.51



Methods of Division Comparison

The chart below provides a general side-by-side comparison of the segregation and time rule formula methods of division.

	Segregation Method	Time Rule Formula
Availability	Only available if the member has not yet retired and is not receiving a disability benefit.	Available if the member is active or retired.
Award calculation	The amount awarded to the nonmember spouse is typically 50 percent of the member's service credit, contributions and interest earned from the date of marriage through the date of separation. The award is negotiated by the parties and can be up to 100 percent of the community period.	The nonmember spouse is entitled to a percentage of the member's monthly benefit. CalSTRS can be required to determine the community property portion of a member's account by calculating service credit earned from the date of marriage to the date of separation.
Legal holds	Removed after segregation unless there is a longevity bonus or other account enhancement. Member controls member account. Nonmember spouse controls nonmember spouse account.	Remains on the account. The nonmember spouse may request benefit estimates at any time. Benefits are payable to nonmember spouse only when the member is receiving a benefit.
Access to nonmember spouse account and benefits	Immediately available since the nonmember spouse receives a separate account. Nonmember spouse may apply for a monthly benefit at age 55 or older when account has 2.5 or more years of service credit.	CalSTRS cannot pay the nonmember spouse until member retires. Nonmember spouse does not receive a separate account.
Lump-sum distribution	The nonmember spouse can apply for a refund of contributions and interest at any time. Member can repurchase refunded service credit.	The nonmember spouse cannot obtain a refund or access contributions and interest.
Monthly benefit	The nonmember spouse may be eligible at age 55 or older to apply for a lifetime monthly benefit. The nonmember spouse's monthly benefit is calculated using the member's final compensation on the date of separation, the nonmember spouse's age on the effective date of the benefit and the service credit awarded to the nonmember spouse. The age factor at age 55 is 1.4 percent. The maximum age factor is 2.4 percent at age 63.	A proportionate share of the member's benefit is payable to the nonmember spouse by CalSTRS when the member applies for a benefit. The benefit is calculated using the member's salary at the time of member's retirement.
Defined Benefit Supplement and Cash Balance accounts	A member's Defined Benefit Supplement account or Cash Balance account can only be divided by a specified percentage. These accounts contain only contributions and interest. Service credit does not apply.	Nonmember spouse receives a proportionate share of member's account if specified in the court order. This share is usually determined by the percentage derived from the time rule formula when calculating the nonmember's percentage of the Defined Benefit account.
Nonmember spouse's award of service credit, contributions and interest	Removed from member's accounts.	Remains in member's account.

7. Benefits Payable After Member's Death

This section provides information about the benefits that can be paid in the event of the member's death and how the benefits may be affected by divorce, annulment or legal separation. The Defined Benefit Program provides benefits when a member dies either before or after retirement. The benefits payable can be in the form of a one-time benefit payment, a monthly benefit, or both.

A one-time death benefit is payable to designated recipients under both Coverage A and Coverage B disability and survivor benefit programs. The amount of the benefit depends on the type of coverage and whether the member's death occurs before or after retirement. A member must, however, meet all eligibility requirements for this benefit to be payable.

When a member dies before retirement and certain requirements are met, the member's family may also qualify to receive a monthly survivor's benefit.

A lifetime monthly option benefit is payable only when the member has made an option election for one or more persons before retirement, at the time of retirement or, in certain circumstances, after retirement.

One-Time Death Benefit

The *Recipient Designation* form (formerly the *One-Time Death Benefit Recipient* form) is used to designate recipients to receive the one-time death benefit.

A one-time death benefit is payable to the one-time death benefit recipient or recipients under both Coverage A and B if eligibility requirements are met. The amount depends on the member's coverage and whether the death occurred before or after his or her retirement.

Effects of Divorce on a Member's One-Time Death Benefit

In the case of divorce, all or only a community property share of the one-time death benefit may be awarded to a nonmember spouse in a court order. When only the community property share is awarded to a nonmember spouse, the member may designate the remainder of the benefit by submitting a new *Recipient Designation* form. The nonmember spouse's awarded share cannot be altered and will always remain in effect.

In some cases when dissolution occurs, prior spousal designations for the one-time death benefit are null and void. If a member wishes to name the nonmember spouse as a recipient, the member must file a new *Recipient Designation* form.

Members must update this benefit designation to ensure the removal and addition of desired recipients, particularly in the case of dissolution. Failing to update the form may result in payments to a member's former spouse. The member is responsible for updating this form.

If there is no valid *Recipient Designation* form (or *One-Time Death Benefit Recipient* form) on file, the one-time death benefit, excluding the nonmember spouse's share, will be paid to the member's estate.

The Recipient Designation form is available at CalSTRS.com or by calling 800-228-5453.

Monthly Benefits

Monthly benefits may be paid to the member's eligible survivors if the member dies before retirement or if he or she is receiving a disability benefit at the time of death.

These monthly benefits are not the same as payments made to option beneficiaries of deceased CalSTRS members who elected a preretirement option or elected an option at the time of retirement.

Option Election

When a member's benefit is divided using the time rule formula, the nonmember spouse will receive a prorated share of the member's monthly benefit. When the member dies, the nonmember spouse's benefit also terminates. If the intention is to provide the nonmember spouse a continuing monthly benefit after the member's death, the member must elect an option.

To require an option election for the nonmember spouse, the court order must specify the type of option and how the cost of the option will be shared between the parties. As with any election of benefits, when an option election is required, it is the member's responsibility to complete the proper election forms and submit the forms to CalSTRS for processing. Whether or not the member submits proper forms to make the required option elections, the account will be processed according to the court order.

There are several options available. With most options, when the option beneficiary dies before the member, the member's benefit increases to the Member-Only Benefit. Following are current options with a brief description.

Option Elections for Community Property Consideration

100% Beneficiary Option provides the option beneficiary with 100 percent of the amount member was receiving.

75% Beneficiary Option provides the option beneficiary with 75 percent of the amount member was receiving.

50% Beneficiary Option provides the option beneficiary with 50 percent of the amount member was receiving.

Compound Option allows the member to elect one or more option beneficiaries for specifically allocated percentages of the member's benefit. This option gives the member the ability to apply for an option benefit for a nonmember spouse and another person. Three common ways of using the Compound Option are:

- Member elects one option beneficiary and keeps a portion of the benefit as a Member-Only Benefit. If the member dies before the option beneficiary, the option beneficiary's portion will continue to pay for his or her lifetime. All benefits stop for the Member-Only Benefit portion. No contributions or interest are payable on the member's portion because an option benefit will continue to be paid.
- Member elects two or more option beneficiaries and individual option types for each person. The member keeps a portion of the benefit as a Member-Only Benefit.
- Member elects two or more option beneficiaries, with an individual option type for each person, and does not keep any portion of the benefit as a Member-Only Benefit.

The election of an option may only be changed under specific, limited circumstances. Before electing an option, refer to the *Member Handbook* and the *Your Retirement Guide* for complete option information since certain restrictions may apply. Also consider getting retirement benefit estimates and meeting with a benefits counselor.

Addressing Option Benefits in a Court Order

The following are some common ways a court order may address option benefits for a nonmember spouse.

Sole Option Beneficiary Election

The order may require the member to provide the nonmember spouse with an option election for the Modified Benefit. In this case, the court order should indicate the nonmember spouse shall be named as the sole option beneficiary for the entire benefit. The order must also specify the election choice of the 100%, 75% or 50% Beneficiary Option.

Shared Sole Option Beneficiary Election of Individual Other Than Nonmember Spouse

A court order may award a nonmember spouse a portion of an option benefit that was elected for another individual, such as a current spouse. The nonmember spouse would then receive a percentage of the option benefit for the life of the named beneficiary.

Compound Option Election Required

If a member is required to provide a nonmember spouse with an option benefit on only the community property percentage, the member must elect a Compound Option. The court order must specify the option choices and percentage of the benefit that the nonmember spouse is to receive. The member may choose to elect other

option beneficiaries, or retain the balance as a Member-Only Benefit to receive the highest possible monthly benefit for the member's lifetime. An actuarially calculated cost will be assessed based on the date of birth of each option beneficiary the member elects.

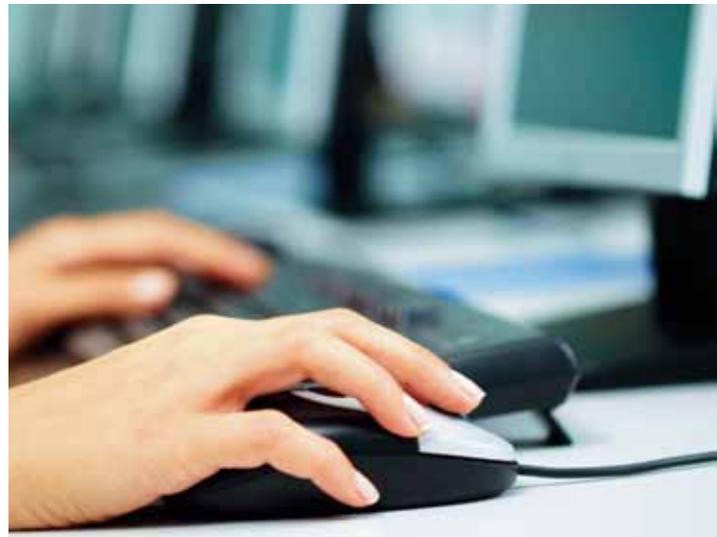
Example: The nonmember spouse is awarded a community property share of the member's monthly retirement benefit and must be named as an option beneficiary for the community property share only. The member must elect the Compound Option and name the nonmember spouse as option beneficiary for a community property share of the benefit. The member retains control of the remaining percentage and can elect a current spouse as an additional option beneficiary for any part of the remaining share or retain the balance as a Member-Only Benefit.

Compound Option Community Property Share Only After Retirement

When a member is retired with an option election, the member can change the option election to a Compound Option to provide an option benefit for the nonmember spouse as required in a court order.

By changing to the Compound Option election, the member can provide for both a current spouse and the nonmember spouse.

The Compound Option also stabilizes the benefit awarded to the nonmember spouse and prevents any changes to the community interests at the member's death.



Cost for the Option

The court order should specify which party will pay the cost for the option, in the form of a reduced benefit. The cost can be applied either to the nonmember spouse's benefit, the member's benefit, or shared by both parties.

With the Compound Option, if the court order specifies the nonmember spouse is to receive the same benefit, both before and after the member's death, the cost of the option is applied to the nonmember spouse's monthly benefit.

It is important the court order addresses the option cost and how it will be applied.

Changing or Canceling an Option Beneficiary After Retirement

A retired member who elected an option beneficiary may change or cancel the option due to a divorce or termination of a registered domestic partnership.

The cancellation will not be effective until certain requirements are fulfilled. CalSTRS must be in receipt of a court-certified copy of the judgment, court order and property settlement agreement confirming that the member is no longer required to maintain the nonmember spouse as an option beneficiary.

Furthermore, a court order alone does not automatically change or cancel an option election. The retired member must file a *Cancellation or Change of Option After Retirement* form or provide the cancellation request in writing to CalSTRS. The notification must include a certified copy of a court order and the cancellation date cannot be earlier than the effective date of the judgment, decree or court order. Additionally, the effective date for the change or cancellation will be the date the certified copy of the court order is received by CalSTRS. The final divorce decree, the judgment of nullity or order of separate maintenance must have been entered on or after January 1, 1978.

To obtain a *Cancellation or Change of Option After Retirement* form, visit CalSTRS.com or call 800-228-5453.

No Option Beneficiary Elected or Required

When the court order does not address an option election for the nonmember spouse, the nonmember spouse will only receive the community property percentage during the life of the member. Typically, the nonmember spouse's community property share will then be a percentage of the member's benefit amount and will terminate upon the death of the member.

A member who has retired with a Member-Only Benefit is not permitted within the Teachers' Retirement Law to later elect a former spouse as an option beneficiary regardless of a court order.

Court Order Language Should Be Specific

The court order must clearly define how all benefits and accounts will be divided. The court order should be drafted to meet the specific needs of the member and nonmember spouse with regard to the nonmember spouse's share of the one-time death benefit and any option election and must include language that complies with the Teachers' Retirement Law.

Sample court orders are located in the "Forms and Samples" chapter, beginning on page 27.

CalSTRS cannot provide legal advice. These samples are provided only as a guide for drafting orders for CalSTRS benefits. Members should consult with an attorney for advice pertaining to their individual situation.

8. Spousal or Registered Domestic Partner Signature Requirements on Benefit Forms and Applications

All CalSTRS benefit forms and applications require the signature of the member's spouse or registered domestic partner. This includes forms for retirement, option election, option change or cancellation, and any refund. The beneficiary *Recipient Designation* form also requires the signature of the member's spouse or registered domestic partner.

The purpose of this requirement is to protect the spousal interest in the benefit. When a spouse or registered domestic partner's signature is not present, the member must sign under penalty of perjury a completed *Justification for Non-Signature of Spouse* form indicating the reason the signature is absent. CalSTRS will not make any requested changes to the member's account until this requirement is met.

Signature Refusal

If a spouse or registered domestic partner refuses to sign an application or form, the member may bring an action in court to enforce or waive the signature requirement. Either party may bring forth the action and must subsequently provide CalSTRS with a court order before any account changes are made. CalSTRS will delay processing a member's request pending receipt of this court order.

- Once made aware of a potential community property issue, CalSTRS may request a copy of the judgment of dissolution, separation or annulment documents to protect the interest of both the member and nonmember spouse.
- When a member is married or in a registered domestic partnership, any benefit forms and applications submitted must contain a spousal signature.
- When joined, CalSTRS will abide by the court order or the Judgment of Dissolution and Marital Settlement Agreement for the division of benefits.
- CalSTRS members may certify under penalty of perjury the current state of a marital situation and whether or not a former spouse or registered domestic partner was awarded a portion of the member's benefits.

NOTE

9. Retaining a Sole and Separate Interest in an Account

The parties may choose to retain full interest in their own retirement accounts. This may be a result of negotiating the community property assets. The value of the other marital assets can be considered to offset a nonmember spouse's interest in the CalSTRS retirement account, or the nonmember spouse may simply choose to relinquish any community property interest claim in the member's retirement account.

Regardless of how the determination is made, when a nonmember spouse chooses not to pursue the community property interest in the member's account, CalSTRS requirements must be met before the member's account is formally declared as the member's sole and separate property.

Judgment of Dissolution or Legal Separation Court Order

When the Judgment of Dissolution or Legal Separation court order specifies that the nonmember spouse has waived all rights and interest in the member's account, or states the CalSTRS retirement account is the member's sole and separate property, the account will be considered the member's sole property. If CalSTRS has been joined, a certified copy of the court order is required pursuant to Education Code section 22656.

CalSTRS Waiver of Community Property Form

Another way a nonmember spouse can waive interest is with a signed and notarized *CalSTRS Waiver of Community Property* form. The waiver is only applicable in cases of dissolution or the termination of a registered domestic partnership. However, a court order is the most binding way to relinquish a community property interest. The waiver is used only under certain circumstances and must be accompanied by a Judgment of Dissolution to verify that a dissolution or termination has occurred. The waiver is not valid until the marriage is terminated. The waiver form is available only from the CalSTRS Community Property office.

If after receiving the waiver and other required documents, CalSTRS determines that this method of waiving interest is appropriate, the member's account will be treated as the sole property of the member.

Since the waiver form is used only in cases of divorce or termination of a registered domestic partnership, the waiver form is not acceptable in lieu of a spousal signature on any form where a spousal signature is required.

NOTE

Acknowledgement as Sole and Separate Property

After the requirements have been satisfied, CalSTRS will acknowledge the retirement account as the sole and separate property of the member. The member can then independently make any eligible changes to the account, such as canceling or changing an option, or designating or changing beneficiaries by filing the appropriate forms.



10. Requests for Account Information

A member or the legal representative for the member may request information on a CalSTRS account by submitting a written request with the member's authorization to release information. Unless joined, CalSTRS may not release information to any other party without written authorization from the member or a properly served subpoena.

Any person other than the member may request information on an account after providing either a written authorization to release information, signed and dated by the member within the last 30 days or for a specified period, or a subpoena duces tecum.

Without written authorization or a subpoena, the nonmember spouse or the legal representative may request community property account information by sending a written request only after CalSTRS has been joined as a party to the action.

Subpoena Duces Tecum

Subpoenas must be personally served at CalSTRS headquarters:

100 Waterfront Place
West Sacramento, CA 95605-2807

CalSTRS will charge for clerical and copying costs as provided by California law.

Subpoenas must include a valid Notice to Consumer and Proof of Service, and be accompanied by a \$15 check as a deposit toward costs incurred.

Requesting a Community Property Statement of Account and Estimates

To request a community property statement of account, complete and submit a *Request for Community Property Statement of Account and Estimate of Benefits* form. The form must include all requested information to avoid processing delays. The form is located in the "Forms and Samples" section, beginning on page 27.

Upon receipt of the request or a subpoena, CalSTRS will provide a statement and information pertaining to the community property period.

Understanding the Statement of Account and Estimate

The information provided in the Defined Benefit Statement of Account is helpful when considering the method of division. This statement provides the effective date of membership, pre-tax and post-tax member contributions and interests, and the amount of service credit accrued during the marriage. The service credit reflected in the statement may be used to estimate the monthly benefit the former spouse might receive.

The statement also shows the total amount of contributions that might be available for refund by the nonmember spouse when the segregation method is elected. If a Defined Benefit Statement of Account is requested by a member or former spouse, CalSTRS will assume a 50 percent community property interest to the former spouse in the accumulated retirement contributions and service credit earned during the marriage. If the parties would like estimates reflecting a community property interest other than 50 percent, it is the responsibility of the parties to specifically request what community property percentage is to be used in the estimate.

The estimate provided is prepared using the member's current service credit and the assumed service credit earned by the estimated date of retirement. It is important to note the member's final compensation figure used in the estimates is based on current information provided to CalSTRS by the member's employer and is subject to change.

A Defined Benefit Supplement Statement of Account will be provided only when the member had a Defined Benefit Supplement account during the community property period. Since service credit is not applicable, the statement will only show contributions and interest. The nonmember spouse may also be entitled to a community property interest in this account.

A Statement of Account will be provided for a member's Cash Balance account when applicable.

Estimate Disclaimer

All estimates are provided to help the parties understand how the methods of division could affect the retirement benefits. All estimates are calculated using the information provided by the employer, the requestor and the member. Estimates are not binding to any of the parties or CalSTRS and are subject to change.

Information Not Provided by CalSTRS

CalSTRS cannot provide certain information you may need to consider when resolving your community property issues, such as:

- Actuarial valuations of retirement benefits.
- Employment data, including salary, payroll, earnings, personnel records, and health and dental insurance information. This information may be available from the member's employer.
- Information regarding Social Security is available in the CalSTRS *Member Handbook* and the fact sheet, *Social Security, CalSTRS and You*. Be aware that a member may be affected by the federal Windfall Elimination Provision or the Government Pension Offset. Additional information can be obtained by contacting Social Security at 800-772-1213 or at socialsecurity.gov.
- For information regarding a division of CalSTRS Pension2 accounts, contact TIAA-CREF, the Pension2 record keeper, at 888-556-2950. For information regarding other 403(b) and 457 savings programs, contact the administrators for those programs.

Estimates are calculated using information provided by the employer, the requestor and the member.

11. Forms and Samples

The following forms and samples are provided to assist in resolving CalSTRS community property issues. These forms are only examples and are not meant to be legal advice.

Joinder Forms

Joinder forms are required to be served upon CalSTRS in order to join CalSTRS as a party to the action and to enforce a court order for a division of member benefits. The joinder also permits the parties access to certain member account information.

The forms provided in the following pages are examples of California Judicial Counsel forms. They are not meant as “fill-in” forms. Court processes are subject to change and a court may reject any form that does not conform to current standards. Joinder forms are available online at courtinfo.ca.gov and many office supply stores.

The member, nonmember spouse or legal representatives may file the joinder forms. The three forms must be filed together with the court. The filed copies must then be served upon CalSTRS. They may be served by mail to:

CalSTRS
Community Property Office, MS 03
P.O. Box 15275
Sacramento, Ca 95851-0275

Request for Community Property Statement of Account and Estimate of Benefits

This form is used to request a Community Property Statement of Account, which provides the service credit, contributions and interest accumulated by the member during the marriage or registered domestic partnership. This information is essential in determining the estimated value of the nonmember spouse's community property share. Estimates of the monthly benefits that may be payable to the member and the nonmember spouse's are provided using both the time rule and the segregation methods of division when applicable.

To ensure a timely response, the *Request for Community Property Statement of Account and Estimate of Benefits* form must be signed and completed and mailed or faxed to the CalSTRS Community Property office. You'll find the form in the back of the booklet. The *Community Property Guide* is also available online at CalSTRS.com/publications.

The Statement of Account and Estimate of Benefits provided by CalSTRS is based on standard California community property laws and will be completed in approximately six weeks.



Sample Court Orders

These sample court orders may serve as guides when drafting court orders regarding CalSTRS benefits. The member and nonmember spouse are responsible for determining what benefits each party should receive and the method of division to be used.

Any court order intended to divide a member's account must contain language consistent with the Teachers' Retirement Law. If an order is not in compliance with the law, CalSTRS reserves the right to require the parties to modify all conflicting aspects of the order. CalSTRS will not interpret a court order based on assumption.

You may need to seek the advice of an outside legal source as CalSTRS is not permitted to provide legal advice, assist in the completion of forms or assist in the preparation of court orders.

Sample A: Segregation Order

The sample segregation order applies only when the CalSTRS member has not retired and is not receiving a benefit of any kind at the time the order is filed with the court.

The language provided in the sample orders is intended to be used as a guide for content only.

NOTE

Sample B: Time Rule Formula

The sample time rule order applies to all members, either before or after retirement. This sample includes appropriate language that can be modeled with or without addressing election of an option and awarding death benefits.

For additional information about the time rule and segregation methods, see Chapter 6, "Methods of Dividing Community Property."

Forms and Samples

- Request for Community Property Statement of Account and Estimate of Benefits
- Pleading on Joinder
- Request for Joinder of Employee Benefit Plan
- Summons for Joinder
- Sample A Segregation Order
- Sample B Time Rule Formula

Request for Community Property Statement of Account and Estimate of Benefits Due to Dissolution of Marriage

The *Statement of Account and Estimate of Benefits* provided by CalSTRS is based on standard California Community Property laws and will be completed in approximately six weeks.

1. The Statement of Account includes the service credit and contributions earned by the member during the marriage or other specific dates as provided on the request form and will also include interest accrued through the date the statement is prepared. The Statement of Account totals represent 100 percent of the accumulations earned during the dates requested.
2. The Estimate of Benefits includes a general set of monthly benefits available to the member and nonmember spouse based on both the time rule and the segregation methods of division.

CalSTRS provides the statement and estimate using the information on this request and information submitted by the member's employers. It is subject to change and is not binding on CalSTRS or the requestor.

If CalSTRS has not already been provided with a court order, *attach a complete copy of the court documents referring to the CalSTRS account, if available.*

The requested information on a member's account will only be provided to the CalSTRS member, unless CalSTRS has been joined pursuant to Family Code section 2060, or if one of the following is submitted:

- A written authorization to release information signed and dated by the member within 30 days of the request; or
- A properly served subpoena for records. CalSTRS requires a \$15 deposit for all subpoenas. Subpoenas must be personally served to:

CalSTRS
100 Waterfront Place
West Sacramento, CA 95605

Faxed or mailed copies will not be processed.

Complete the form and return to:

CalSTRS
Community Property Office, MS 03
P.O. Box 15275
Sacramento, CA 95851

You may fax your request (except a subpoena) to the Community Property Office at 916-414-1722.

If you would like confirmation that your request has been received, please call the Community Property office at 916-414-1725.

Request for Community Property Statement of Account and Estimate of Benefits

LGL 722 (Rev. 8/10)

CALSTRS

California State Teachers' Retirement System
P.O. Box 15275, MS 03
Sacramento, CA 95851-0275
800-228-5453
CalSTRS.com

A request for information from a member's account can only be provided to the CalSTRS member, unless CalSTRS has been joined and made a party to the action pursuant to Family Code section 2060, or one of the following has been submitted:

- An authorization to release information signed and dated by the member dated no more than 30 days prior to the request; or
- A properly served subpoena duces tecum.

For additional information, see reverse side.

CALSTRS MEMBER NAME

CLIENT ID OR SOCIAL SECURITY NUMBER

MEMBER BIRTH DATE (MM/DD/YYYY)

NONMEMBER SPOUSE NAME

BIRTH DATE (MM/DD/YYYY)

If the nonmember spouse is also a CalSTRS member, provide SSN or Client ID: _____

A court order is on file with CalSTRS

I request a Statement of Account for Service Credit and Contributions earned during the period of:

(must provide complete dates below: month, day and year)

Date of Marriage: ____/____/____

Date of Separation: ____/____/____

Estimated dates of Retirement: 1. ____/____/____ **2.** ____/____/____

REQUESTER'S NAME

()
PHONE NUMBER

REQUESTER'S MAILING ADDRESS

CITY

STATE ZIP CODE

SIGNATURE OF REQUESTER

DATE (MM/DD/YYYY)

RELATIONSHIP TO CALSTRS MEMBER IF OTHER THAN MEMBER

COMMENTS



LGL722

PLEADING ON JOINDER-EMPLOYEE BENEFIT PLAN (FL-370)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT:	
CLAIMANT:	
PLEADING ON JOINDER-EMPLOYEE BENEFIT PLAN	CASE NUMBER:

TO THE CLAIMANT: You have been joined as a party claimant in this proceeding because an interest is claimed in the employee benefit plan that is or may be subject to disposition by this court. The party who obtained the order for your joinder declares:

1. Information concerning the employee covered by the plan:
 - a. Name:
 - b. Employer (*name*):
 - c. Name of labor union representing employee:
 - d. Employee identification number:
 - e. Other (*specify*):

2. Petitioner's
 - a. Attorney (*name, address, and telephone number*):

 - b. Address and telephone number, if unrepresented by an attorney:

3. Respondent's
 - a. Attorney (*name, address, and telephone number*):

 - b. Address and telephone number, if unrepresented by an attorney:

continued on back



PETITIONER: RESPONDENT:	CASE NUMBER:
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4. Petition for dissolution and response states
 - a. Date of marriage:
 - b. Date of separation:

5. Response states
 - a. Date of marriage:
 - b. Date of separation:

6. Judgment
 - a. has not been entered
 - b. was entered on *(date)*:
 - (1) and disposes of each spouse's interest in the employee benefit plan.
 - (2) and does not dispose of each spouse's interest in the employee benefit plan.

7. The following relief is sought:
 - a. An order determining the nature and extent of both employee and nonemployee spouse's interest in employee's benefits under the plan.
 - b. An order restraining claimant from making benefit payments to employee spouse pending the determination and disposition of nonemployee spouse's interest, if any, in employee's benefits under the plan.
 - c. An order directing claimant to notify nonemployee spouse when benefits under the plan first become payable to employee.
 - d. An order directing claimant to make payment to nonemployee spouse of said spouse's interest in employee's benefits under the plan when they become payable to employee.
 - e. Other *(specify)*:

f. Such other orders as may be appropriate.

Dated:

 (SIGNATURE OF ATTORNEY FOR)
 PETITIONER RESPONDENT

 (TYPE OR PRINT NAME)



REQUEST FOR JOINDER OF EMPLOYEE BENEFIT PLAN AND ORDER (FL 372)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT:	
CLAIMANT:	
REQUEST FOR JOINDER-OF EMPLOYEE BENEFIT PLAN AND ORDER	CASE NUMBER:

TO THE CLERK

1. Please join as a party claimant to this proceeding (*specify name of employee benefit plan*):
2. The pleading on joinder submitted with this application for filing.

Dated:

(SIGNATURE OF ATTORNEY FOR
 PETITIONER RESPONDENT)

(TYPE OR PRINT NAME)

ORDER OF JOINDER

3. IT IS ORDERED
 - a. The claimant listed in item 1 is joined as a party claimant to this proceeding.
 - b. The pleading on joinder be filed.
 - c. Summons be issued.
 - d. Claimant be served with a copy of the pleading on joinder, a copy of this request for joinder and order, the summons, and a blank *Notice of Appearance and Response of Employee Benefit Plan* (form FL-374).

Dated:

Clerk, By _____, Deputy



SUMMONS FOR JOINDER (FL-375)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT:	
CLAIMANT:	
SUMMONS (JOINDER)	CASE NUMBER:

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

¡ AVISO! Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.

this matter, you should do so promptly so that your response or pleading, if any, may be filed on time.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta o alegación, si hay alguna, puede ser registrada a tiempo.

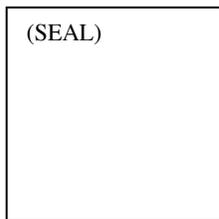
1. TO THE PETITIONER RESPONDENT CLAIMANT
 A pleading had been filed under an order joining (*name of claimant*):

as a party in this proceeding. If you fail to file an appropriate pleading within **30** days of the date this summons is served on you, your default may be entered and the court may enter a judgment containing the relief requested in the pleading, court costs, and such other relief as may be granted by the court, which could result in the garnishment of wages, taking of money or property, or other relief.

2. TO THE CLAIMANT EMPLOYEE BENEFIT PLAN
 A pleading on joinder has been filed under the clerk's order joining (*name of employee benefit plan*):

as a party claimant in this proceeding. If the employee benefit plan fails to file an appropriate pleading within **30** days of the date this summons is served on it, a default may be entered and the court may enter a judgment containing the relief requested.

Dated: _____ Clerk, By _____, Deputy



3. NOTICE TO THE PERSON SERVED: You are served

- a. As an individual.
 b. As (or on behalf of) the person sued under the fictitious name of:
 c. On behalf of:

- Under: CCP 416.10 (Corporation) CCP 416.70 (Incompetent)
 CCP 416.20 (Defunct Corporation) CCP 416.90 (Individual)
 CCP 416.40 (Association or Partnership) FC 2062 (Employee Benefit Plan)
 CCP 416.60 (Minor)

- d. By personal delivery on (*date*):

continued on back



FL375

PROOF OF SERVICE-SUMMONS (JOINDER)
(Use separate proof of service for each person served)

1. I served the
 - a. Summons and (1) Request for Joinder of Employee Benefit Plan and Order, Pleading on Joinder-Employee Benefit Plan, blank Notice of Appearance and Response of Employee Benefit Plan
(2) Notice of Motion and Declaration for Joinder (3) Order re Joinder
(4) Pleading on Joinder (specify title):
(5) Other:
 - b. On (name of party or claimant):
 - c. By serving (1) Party or claimant. (2) Other (name and title or relationship to person served):
 - d. By delivery at home business (1) Date of:
(2) Time of: (3) Address:
 - e. By mailing (1) Date of: (2) Place of:
2. Manner of service: (check proper box)
 - a. **Personal service.** By personally delivering copies. (CCP 415.10)
 - b. **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 41 5.20(a))
 - c. **Substituted service on natural person, minor, incompetent, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (**Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.**)
 - d. **Mail and acknowledgement service.** By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgement and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (**Attach completed acknowledgement of receipt.**)
 - e. **Certified or registered mail service.** By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) (**Attach signed return receipt or other evidence of actual delivery to the person served.**)
 - f. Other (specify code section):
 Additional page is attached.
3. The notice to the person served (item 3 on the copy of the summons served) was completed as follows (CCP 412.30, 415.10, and 474):
 - a. As an individual.
 - b. As the person sued under the fictitious name of:
 - c. On behalf of:
Under: CCP 416.10 (Corporation) CCP 416.60 (Minor)
 CCP 416.20 (Defunct Corporation) CCP 416.70 (Incompetent)
 CCP 416.40 (Association or Partnership) CCP 416.90 (Individual)
 FC 2062 (Employee Benefit Plan)
 - d. By personal delivery on (date):
4. At the time of service I was at least 18 years of age and not a party to this action.
5. Fee for service: \$.....
6. Person serving
 - a. Not a registered California process server.
 - b. Registered California process server.
 - c. Exempt from registration under Bus. & Prof. Code 22350(b).
 - d. California sheriff, marshal, or constable.
 - e. Name, address, telephone number, and if applicable, county of registration and number:

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on (date): _____ at (place): _____, California.

(Signature)

(For California sheriff, marshal, or constable use only)
I certify that the foregoing is true and correct and that this certificate is executed on (date): _____ at (place): _____, California.

(Signature)

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SAMPLE "A" SEGREGATION ORDER

THIS SAMPLE IS NOT INTENDED TO BE USED AS A FILL-IN FORM.
The language of this sample shows a standard community property division of the CalSTRS account based on California Law. CalSTRS may reject an order that does not comply with the terms of the Teachers' Retirement Law. On your request, CalSTRS will review the language regarding CalSTRS benefits in your Stipulation and Order before you file it with the court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: [name of county required]

In re Marriage of:) CASE NO: [case number required]
)
Petitioner: [name required], and) STIPULATION AND ORDER REGARDING
) CALIFORNIA STATE TEACHERS'
) RETIREMENT SYSTEM (CalSTRS)
)
Respondent: [name required])
)

The CalSTRS Member and the Nonmember Spouse hereby stipulate as follows:

Pursuant to the Judgment of Dissolution of Marriage filed on [date required] in which the Court reserved personal jurisdiction over both parties to this action and reserved jurisdiction as to the subject matter of this action relating to the amount and distribution of the community property interest pursuant to the Request for Joinder of the California State Teachers' Retirement System filed on or about [date required], the nonmember spouse is entitled to receive a community property share from the member account(s). The parties hereto are awarded an interest in the member's Defined Benefit Account, Defined Benefit Supplement Account and/or Cash Balance Account(s) as provided by the California State Teachers' Retirement System.

The purpose of the Stipulation and Order is to define said interests and this Stipulation and Order shall supersede said Judgment of Dissolution of Marriage and shall be controlling regarding the definition and payment of the parties interests in any and all accounts held by the member.

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4 REQUIRED INFORMATION:

- 5 A. Member name, current address, date of birth and Client Identification number.
- 6 B. Nonmember spouse name, current address, date
7 of birth and social security number.
- 8 C. The address of CalSTRS is:
9 California State Teachers' Retirement System
10 P.O. Box 15275, Sacramento, CA 95851
- 11 D. The parties' date of marriage is [date required].
- 12 E. The parties' date of separation is [date required].
- 13
- 14 F. CalSTRS membership date is [date required].
- 15

Note Regarding Social Security
Numbers

CalSTRS must be provided proper verification of a nonmember spouse's social security number and birth date. However, for security purposes since a filed court order becomes a public record, it is suggested that the social security number not be on a public record document. You may provide the social security number under separate cover.

16 DIVISION OF ACCOUNT:

- 17 G. Upon receipt of a filed and court-certified copy of this Stipulation and Order,
18 CalSTRS shall divide the community property portion of the member's CalSTRS
19 Defined Benefit Account, Defined Benefit Supplement Account and/or Cash Balance
20 Account(s) into two separate and distinct accounts. Nonmember spouse shall
21 receive [specific percentage] percent of the community property portion as defined
22 below.
- 23
- 24 H. The community portion of the accounts to be segregated includes accumulated
25 service credit and the contributions attributable to the period of service from [date
26 required], through [date required]. Any portion of these accounts not explicitly
awarded to the nonmember spouse shall be deemed the exclusive property of the
member.

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- I. The nonmember spouse shall have the right, through the separate account, to designate a beneficiary or beneficiaries to receive the accumulated retirement contributions and accumulated interest remaining in the separate account of nonmember spouse on the date of death and any accrued allowance attributable to the separate account which is unpaid on the date of death.

- J. The nonmember spouse shall have the right to a refund of accumulated retirement contributions and interest in the separate account.

- K. The nonmember spouse shall have the right to elect to receive retirement payments at the earliest date allowed under the terms of the CalSTRS plan provided that all CalSTRS requirements are met prior to commencement of payments.

- L. The nonmember spouse may redeposit only those accumulated retirement contributions previously refunded to the member and in which the court has determined to be a community property interest. The nonmember spouse shall inform CalSTRS in writing of the intent to redeposit within 180 days after the judgment or court order that specifies the redeposit rights of the nonmember spouse is entered.

- M. Nothing contained in this Stipulation and Order shall be construed to require CalSTRS to provide to the nonmember spouse any benefit that is contrary to the Teachers' Retirement Law.

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N. Jurisdiction is reserved by the court to amend or modify this Stipulation and Order, or to make such further orders as are necessary to enforce or clarify the terms of this order. This order authorizes CalSTRS to require such further orders as are necessary to meet the requirements of the Teachers' Retirement Law.

[DATED] [JUDGE OF THE SUPERIOR COURT]

[DATED] Member signature

[DATED] Nonmember spouse signature

Note regarding signatures

CalSTRS does not require the signatures of the parties. Only the signature of the Superior Court Judge is required. However, the court where the order is filed may require the parties' signatures.

1 **SAMPLE "B" TIME RULE FORMULA METHOD OF DIVISION**

2 **THIS SAMPLE IS NOT INTENDED TO BE USED AS A FILL-IN FORM.**
3 **The language of this sample shows a standard community property division of the CalSTRS account based**
4 **on California Law. CalSTRS may reject an order that does not comply with the terms of the Teachers'**
5 **Retirement Law. On your request, CalSTRS will review the language regarding CalSTRS benefits in**
6 **your Stipulation and Order before you file it with the court.**

7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF: [name of county required]

8 In re Marriage of:) CASE NO: [case number required]
9)
10 Petitioner: [name required] and) STIPULATION AND ORDER REGARDING
11) CALIFORNIA STATE TEACHERS'
12) RETIREMENT SYSTEM (CalSTRS)
13 Respondent: [name required])
14)

15 The CalSTRS Member and the Nonmember Spouse hereby stipulate as follows:

16 Pursuant to the Judgment of Dissolution of Marriage filed on [date required] in which
17 the Court reserved personal jurisdiction over both parties to this action and reserved
18 jurisdiction as to the subject matter of this action relating to the amount and distribution
19 of the community property interest pursuant to the Request for Joinder of the California
20 State Teachers' Retirement System filed on or about [date required], the nonmember
21 spouse is entitled to receive a community property share from the member account(s).
22 The parties hereto are awarded an interest in the member's Defined Benefit Account,
23 Defined Benefit Supplement Account and/or Cash Balance Account(s) as provided by
24 the California State Teachers' Retirement System.

25 Any and all benefits can mean Service
26 Retirement, Disability Retirement and
Disability Allowance.

27 The purpose of the Stipulation and Order is to define said interests and this Stipulation
28 and Order shall supersede said Judgment of Dissolution of Marriage and shall be
29 controlling regarding the definition and payment of the parties interests in any and all
30 accounts held by the member.

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REQUIRED INFORMATION:

- A. [Member name, current address, date of birth and Client Identification number].
- B. [Nonmember spouse name, current address, date of birth and social security number].
- C. The address of CalSTRS is:
California State Teachers' Retirement System
P.O. Box 15275, Sacramento, CA 95851
- D. The parties' date of marriage is [date required].
- E. The parties' date of separation is [date required].
- F. CalSTRS membership date is [date required].

Note Regarding Social Security Numbers

CalSTRS must be provided proper verification of a nonmember spouse's social security number and birth date. However, for security purposes since a filed court order becomes a public record, it is suggested that the social security number not be on a public record document. You may provide the social security number under separate cover.

1
2 DIVISION OF ACCOUNT: All account divisions must be stated in a percentage, either by
3 formula or specified percentage.

4
5 G. The method to calculate the monthly benefit payable to the nonmember spouse is:

6 (Use one of these two methods)

7
8 1. TIME RULE FORMULA CALCULATION: A fraction, with the numerator
9 being the service credit earned by the member during the marriage,
10 and the denominator is the member's total service credit in CalSTRS at
11 retirement, multiplied by [specific
12 percentage], multiplied by the
13 member's total allowance.

14 or

15 2. Deduct [specific percentage]
16 from CalSTRS member's total
17 allowance.

Note Regarding Total Allowance

Unless otherwise addressed in the court order, the member's total allowance will include all applicable account features, which may include unused sick leave, longevity bonus, purchased service credit and career factor bonus.

18
19 H. Nonmember spouse shall also be entitled to his/her share of any cost-of-living
20 increases or other similar increases, but only to the extent permitted within the
21 Teachers' Retirement Law.
22
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1
2 OPTION ELECTIONS:

3
4 I. At the earliest date possible the member is
5 ordered to make a pre-election of a
6 retirement option that provides a
7 continuing monthly benefit payable to the
8 nonmember spouse if the member
9 becomes deceased. The nonmember
10 spouse shall continue to receive the
11 community interest in the same monthly
12 amount as was received prior to the
13 member's death. The member will make

14 the initial Compound Option Election choice, and, further, name the nonmember spouse
15 as the 100% Beneficiary Option for the determined community percentage only.

16 CalSTRS will apply the actuarially-calculated cost (option factor) solely to the
17 nonmember spouse's share and this election
18 will not affect the member's remaining benefit.

19 Member shall be required and is responsible to
20 complete all forms necessary to elect this
21 option. The member may retain the remaining
22 portion as Member-Only benefit; or, name
23 additional beneficiaries for the remaining benefit of which the member shall pay
24 the cost.
25
26

J. The nonmember spouse shall be entitled to a community property share only of any
lump-sum amount due upon the member's death, which shall be calculated based on

Note Regarding Options

- An option is required in order to pay an ongoing monthly benefit to the nonmember spouse upon member's death; otherwise all monthly benefit payments to the nonmember spouse will cease.
- With divorce, an option can only be elected when the member has not yet retired.
- A retired member may keep an existing option in place or change to the compound option to provide the nonmember spouse a continuing option benefit for the community property share only.
- The preretirement election of an option language is only applicable when the member is not yet retired.

Note Regarding Compound Option Cost

The nonmember must pay the entire actuarially calculated cost of the option or the benefit will decrease upon the member's death. See Chapter 7 for a description of all options and death benefits.

1
2 the formula set forth in paragraph "G," including but not limited to a proportional share
3 of the member's contributions, interest and one-time death benefit.

4
5 K. Should the member fail to make any of the above required elections for said death
6 benefits, this Stipulation and Order shall be controlling and the member shall be deemed
7 to have elected all death benefits prior to the member's death.

8
9 L. Should the nonmember spouse predecease the member, the nonmember spouse's
10 community property interest shall be payable to a beneficiary or beneficiaries as
11 designated by the nonmember spouse for as long as the member is alive and
12 receiving benefits. The nonmember spouse is required to notify CalSTRS of such
13 designations in writing. Should the nonmember spouse fail to make such designation
14 in writing prior to death, said benefits and payments will immediately revert to the
15 CalSTRS member.

16
17 M. Pursuant to this Stipulation and Order, the California State Teachers' Retirement
18 System shall pay any and all payments directly to the nonmember spouse by
19 separate warrant.

20
21 N. The nonmember spouse shall begin receiving the determined community property
22 share of the member's allowance upon receipt of a court certified copy of this order
23 but not until the member retires and/or begins receiving benefits.

24
25 O. Once the benefits become payable, should CalSTRS fail to make such payments as
26 directed by this Stipulation and Order, the affected member or nonmember spouse
must notify CalSTRS immediately.

1 P. The member and nonmember spouse shall each assume and bear responsibility
2 for any and all income taxes attributed to the respective benefits received by each
3 party. Neither party shall have any responsibility for the payment of income taxes
4 attributable to the benefits received by the other and each party shall hold the other
5 harmless from any such responsibility.

6
7 Q. Nothing contained in this Stipulation and Order shall be construed to require
8 CalSTRS to provide to the nonmember spouse any benefit that is contrary to the
9 Teachers' Retirement Law.

10
11 R. Jurisdiction is reserved by the court to amend or modify this Stipulation and Order,
12 or to make such further orders as are necessary to enforce or clarify the terms in
13 this order. This order authorizes CalSTRS to require such further orders as are
14 necessary to meet the requirements of the Teachers' Retirement Law.

15
16
17 -----
[DATED]

[JUDGE OF THE SUPERIOR COURT]

18
19
20 -----
[DATED]

Member signature

21
22
23 -----
[DATED]

Nonmember spouse signature

24
25 **Note Regarding Signatures**

26 CalSTRS does not require the signatures of the parties. Only the signature of the Superior Court Judge is required. However, the court where the order is filed may require the parties' signatures.

12. Frequently Asked Questions

This section provides answers to some of the most commonly asked questions received by the CalSTRS Community Property Office. If you still have questions after reviewing the contents of this guide, write or call us. See the back cover for contact information.

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Court Orders	53
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General Information

Should I include my Social Security number when writing to CalSTRS?

To protect your privacy, we recommend using your Client ID instead of your Social Security number. One of these numbers is required to assure accurate account identification.

Which of my CalSTRS accounts are considered community property?

Since California is a community property state, all CalSTRS accounts including the Defined Benefit, Defined Benefit Supplement and Cash Balance accounts are subject to community property laws.

Will CalSTRS divide my 403(b) or CalSTRS Pension2 account since contributions are deducted from my paycheck along with my retirement contribution?

No. CalSTRS does not directly administer any 403(b) or Pension2 accounts. These are managed by third-party administrators. For information regarding a division or settlement of Pension2 accounts, contact TIAA-CREF, the Pension2 record keeper, at 888-556-2950. For

information regarding other 403(b) and 457 savings programs, contact the administrators for those programs.

How will my retirement account be affected if the community property interest is divided?

Your CalSTRS account can be affected in different ways, depending on the division method used. Within this guide, you will find general information that illustrates how the different division methods might affect accounts and benefits. You can request a statement that will show both the monetary value and service credit accrued in your accounts during your marriage. Also, you can request community property estimates using the time rule and segregation methods of division, if applicable. A *Request for Statement of Account and Estimate of Benefits Due to Dissolution of Marriage* form is located in Chapter 11, “Forms and Samples.”

What is a joinder?

Joinder is a legal term that means specific court documents have been filed with the court which, where CalSTRS benefits are concerned, makes CalSTRS a party to the divorce action.

Why is a joinder necessary?

The California Education Code requires the joinder to be on file with CalSTRS. We cannot enforce a court order to divide a member's benefits unless we are made a party to a divorce action using the joinder process.

A nonmember spouse has a right to file a community property claim against a member's CalSTRS benefits at any time.

A joinder is also a formal claim against the member's account.

As a party to the action, CalSTRS can provide community property-related account information to a nonmember spouse or other authorized representative.

I am not divorced, can my account be divided?

No, a member's Judgment of Dissolution must be on file with the court and the parties must either be divorced or legally separated for CalSTRS to process a community property division of the accounts. CalSTRS requires verification of the judgment.

I am the former spouse of a member and need information about the member's account. I have not yet decided to file a joinder. Is there another way to get the account information?

Before we can provide you with any member account information, we must receive either:

- A written authorization to release information signed and dated by the member within the last 30 days or another specified period of time, or
- A subpoena duces tecum.

How should I provide documents that have been requested by CalSTRS?

Send the information either by fax or mail. If we requested original documents, they must be delivered by mail or in person. When faxing or mailing in documents, always include a cover letter containing your contact information and the name and Client ID of the CalSTRS member, or you may attach a copy of the request letter.

Legal Hold (Flags)

What does the legal hold mean?

The legal hold is a flag placed on an account when a certain legal condition exists. When an account has a legal hold, the member cannot make any account or beneficiary changes without legal review and approval.

Why does CalSTRS place a legal hold on a member's account?

CalSTRS places a legal hold on a member's account for one or more of the following reasons:

- CalSTRS is made aware of a potential community property issue and must receive resolution before authorizing a change or paying any benefits on the account.
- CalSTRS is monitoring a deduction from a member's monthly benefit because of a community property award, child or spousal support order, or an account tax levy.
- CalSTRS is monitoring the account pending receipt of required community property documentation.
- CalSTRS is monitoring the account for future benefits to be paid upon the member's retirement or death pursuant to a court order on file.

The division of my retirement benefits has already been determined by a court order.

Why is there still a legal hold on my account?

The legal hold will remain on the account until all community property benefits are paid according to the court order on file. The legal hold remains on the account to monitor future monthly benefits payable and, in some cases, the member's death benefits. When there is no longer a reason to monitor an account, the legal hold is removed.

Benefits

Do I have to divide my account with my former spouse?

No, it is not always necessary to divide your account with your former spouse. It is up to both the member and nonmember spouse to decide whether or not the member's account will be divided.

Do both my Defined Benefit and Defined Benefit Supplement accounts have to be divided?

No. Typically, all accounts are divided if earned during the community term. However, the parties may choose to divide only the Defined Benefit account or divide only the Defined Benefit Supplement account.

Do both my Defined Benefit and Defined Benefit Supplement accounts have to be divided by the same method of division?

Yes, if the segregation method is used for the Defined Benefit Account. But if the time rule formula is used for the Defined Benefit account, the segregation method may be used for the Defined Benefit Supplement account.

My former spouse and I have decided not to divide the community property share of the account. What does CalSTRS require?

Your account can be declared your sole and separate property with an order from the court. In certain circumstances, a properly executed CalSTRS community property waiver form may be sufficient when received in conjunction with specific court documents. Furthermore, when the court order dividing the marital assets is silent about the CalSTRS account, the account may be considered the member's sole and separate property. The waiver form is only available through the CalSTRS Community Property Office.

How much of my Defined Benefit account could my former spouse receive?

A former spouse's share is generally 50 percent of the service credit and 50 percent of the contributions and interest earned during the marriage. It is up to the parties to negotiate the actual division or settlement.

What's the best way to divide my account?

We cannot recommend a method of division. At your request, CalSTRS will prepare estimates to show the approximate benefits your former spouse could receive. The estimates are a tool to help you decide which method of division might be best for you. You can request both time rule and segregation estimates.

I am the former spouse of an active member and have been awarded a share of the member's monthly retirement to be calculated by the time rule formula of division. When can I begin receiving my monthly benefits?

Under the time rule formula, a former spouse receives a share of the member's monthly retirement benefit. CalSTRS cannot pay your community property share of the monthly benefit until the member retires.

I have both a member and a nonmember spouse account. Can I combine these two accounts?

The nonmember spouse account is a separate and distinct account and cannot be combined with any other existing CalSTRS account.

I have both a member and nonmember spouse account. Can I retire at different times?

You can retire at different times when you meet the requirements of each retirement account.

I have just been awarded a nonmember spouse account. Can I receive a monthly benefit or am I required to take a refund of the account?

If your nonmember spouse account has less than 2.5 years of service credit, CalSTRS is required by law to immediately refund the account balance to you. Otherwise, you may choose a refund of your account balance at any time or, if you qualify at age 55 or later, you may apply for a monthly benefit from your nonmember spouse account.

I am a member. Can I purchase service credit refunded from my former spouse's nonmember spouse account?

When the nonmember spouse account is refunded to the nonmember, the service credit is available to purchase by the member. The purchase must be made before retirement.

When should I apply for a nonmember spouse benefit?

If you qualify for a monthly benefit from this account, you may apply at any time after age 55. Your benefit will be calculated based on the service credit awarded to you in the court order, multiplied by an age factor, multiplied by the member's final compensation calculation at the date of separation. The amount of service

credit will not change in the future. The final compensation calculation is also a set figure. The age factor will incrementally increase from 1.4 percent at age 55 to 2.4 percent at age 63.

What is an option benefit?

An option benefit is a plan feature that allows a member to provide a lifetime benefit to another person after the member's death. There is an actuarially calculated cost associated with an option election. Generally, in a community property situation, the cost can be deducted from the monthly benefit of either the member or nonmember spouse, or shared by both parties. This information must be specified in a court order.

What is a Compound Option?

The Compound Option allows a member to name one or more option beneficiaries. For example, in a community property situation, a member can name a former spouse as an option beneficiary for the community property share only. The member may then choose other option beneficiaries or retain the remaining share of the benefit as a Member-Only Benefit. Due to the complexity of this election, see the CalSTRS *Member Handbook* and *Your Retirement Guide* for additional information.

I am retired. How do I remove my former spouse as my option beneficiary?

You may cancel your option election if the option beneficiary is your former spouse or former registered partner and the Judgment of Dissolution, court order or termination order does not require that you maintain your former spouse as an option beneficiary. It is important that a court order address both the lifetime option benefit and the one-time death benefit. To cancel or change any current elections on file with CalSTRS, the appropriate forms must be submitted and approved.

Can the court award my former registered domestic partner a portion of my CalSTRS retirement benefits?

Upon the legal termination of a registered domestic partnership, the court may divide CalSTRS benefits, which are subject to many of the same community property laws that apply in a divorce.

What is the one-time death benefit?

The one-time death benefit is a one-time payment payable to the member's designated recipients upon the member's death. To elect a beneficiary, a *Recipient Designation* form must be filed with CalSTRS. This benefit is subject to a community property division and should be addressed in a community property court order. See the form for more information about this benefit.

My divorce is not final. Can I submit a new Recipient Designation form to remove my former spouse?

You may submit a new form at any time. However, changes to your account cannot be made until the community property issues are resolved, including any changes to your death benefit selection. Designations must comply with your court order.

I plan to retire at the end of this school year. However, my former spouse and I have not completed the divorce process. Will this delay my retirement?

Once you have decided on your retirement date, submit your retirement application in order to preserve your benefit effective date.

In general, to prevent delays it is important that a member forward dissolution documents to CalSTRS for review as soon as they are available. The Community Property Office will notify you of any additional documents that may be required. If all requirements are met, your retirement should not be delayed.

What happens if the member or nonmember spouse dies before the community property portion of accounts have been divided?

A court order is usually required to address any unresolved community property issues. CalSTRS is required to protect the community property interests of all parties, including the estate of the deceased party.

Court Orders

What divorce documents should I send to CalSTRS if I want the community property interest reviewed, and should the documents be originals?

Send photocopies of your entire Notice of Entry of Judgment and Marital Settlement Agreement and include all attachments. We will review these documents to determine the community property interests, if any, and whether the language meets legal requirements. When benefits are to be divided, you will be required to provide CalSTRS with filed certified copies. In many cases we will need additional documentation before we can divide an account or declare the account as sole and separate property of the member.

Why must I send the entire court order when it contains personal information not related to my CalSTRS retirement benefits?

CalSTRS must have a complete and unaltered copy of the court order to make an informed determination of any community property interest that may have been awarded to the nonmember spouse.

CalSTRS is committed to responsible information handling practices. Your personal information will be kept strictly confidential and used to conduct CalSTRS-related business only.

What is a certified copy?

A certified copy is a document that is filed with the court, signed by a judge and includes the original seal of the court. A certified copy ensures the authenticity of the document on file with the court and protects the interest of all parties. You can obtain a certified copy of your court order from the county clerk's office where your divorce was filed.

Will CalSTRS review a draft of the court order before I file it with the court?

Yes, at your request we will review your draft court order for language that can be accepted by CalSTRS.

Do you provide sample language for court orders regarding CalSTRS accounts?

Sample court orders are contained within this guide. These forms are intended to be used only as a guideline. CalSTRS cannot provide legal advice. Be sure to consult with your legal adviser for guidance pertaining to your individual situation.

Serving Documents

How can legal documents be served on CalSTRS?

- Child and spousal support orders can be served in person, or by mail or fax.
- Joinders can be delivered by mail, fax or in person.
- Certified court orders regarding legal termination or divorce can be sent by mail or in person.
- Subpoenas must be personally served at the CalSTRS headquarters:

100 Waterfront Place
West Sacramento, CA 95605

All subpoenas requesting documents must be accompanied by a deposit check of \$15. When requesting a personal appearance, a deposit of \$150 is required. Actual costs incurred will be charged as allowed by law.

13. Glossary of Terms

The following information provides definitions for terms relating to community property issues. For additional benefit information, see the *Member Handbook* and *Your Retirement Guide*. These and other CalSTRS publications are available at CalSTRS.com.

A

AGE FACTOR

The percentage of your final compensation that you will receive as a retirement benefit for every year you work. The age factor is based on your age on the last day of the month in which your retirement is effective. The basic age factor at age 60 is 2 percent. The maximum age factor is 2.4 percent. For example, if you retire at age 60 and have 20 years of service, you will receive 2 percent (your age factor at age 60) of your final compensation multiplied by the 20 years you worked, or 40 percent of your final compensation (2 percent X 20).

ANNUAL BENEFIT ADJUSTMENT

An automatic annual increase to your monthly benefit. The increase is effective on September 1 of each year after the first anniversary of your benefit effective date and appears on your October 1 payment. Annual benefit adjustments are calculated at 2 percent of your initial benefit. The increase is not compounded or linked to inflation.

ANNUITY

Member-Only Defined Benefit Supplement or *Participant-Only Cash Balance Annuity*: A lifetime monthly payment. Any balance remaining upon your death will be paid to your one-time death benefit recipient or recipients.

100% Beneficiary Annuity: Provides a monthly payment for your lifetime and the lifetime of your annuity beneficiary. Upon your death 100 percent of your monthly annuity will be paid to your option beneficiary.

75% Beneficiary Annuity: Provides a monthly payment for your lifetime and the lifetime of your annuity beneficiary. Upon your death 75 percent of your monthly annuity will be paid to your option beneficiary.

50% Beneficiary Annuity: Provides a monthly payment for your lifetime and the lifetime of your annuity beneficiary. Upon your death 50 percent of your monthly annuity will be paid to your option beneficiary.

For the 100 percent, 75 percent and 50 percent beneficiary annuities, if your beneficiary dies before you, your benefit will rise to the Member-Only amount.

Period-Certain Annuity: A monthly payment made for any number of years from three to 10. The amount you receive is based on the number of years over which the annuity is paid; the lower the number of years, the higher the annuity. If you die before the annuity period ends, the remaining payments are paid to your one-time death benefit recipients.

B**BENEFICIARY**

Any person or entity receiving or entitled to receive payments after your death. Only a person (not an estate, trust or corporation) may be designated to receive an option benefit after your death.

BENEFIT

A monthly amount payable to a retired member, disabled member or beneficiary.

C**CASH BALANCE BENEFIT PROGRAM**

Alternative CalSTRS retirement plan for educators hired to work part-time for employers that offer the program. The Cash Balance Benefit Program is an alternative to Social Security, private plans and the CalSTRS Defined Benefit Program.

CLIENT ID

A CalSTRS randomly generated number used to identify members. CalSTRS uses this instead of your Social Security number to secure your identity. Find your Client ID on your *Retirement Progress Report* and CalSTRS correspondence.

COMMUNITY PROPERTY

Almost any property accumulated during a marriage except property received as a gift or inheritance. There are other exceptions which can be explained by an attorney or legal representative.

COMMUNITY PROPERTY PERIOD

The period of time starting from the date of marriage to the date of separation. The date of separation is important in determining each party's property rights.

COMMUNITY PROPERTY SHARE

The amount determined to be the property of each party in a divorce or legal separation. In relation to CalSTRS Defined Benefit Program, this is generally 50 percent of service credit and accumulated contribution plus interest that was credited into the member's retirement account during the marriage.

COMPOUND OPTION ELECTION

Provides a monthly benefit to one or more option beneficiaries after the member dies. This option election has various choices regarding the delegation of an option benefit. For example, in a community property settlement the member may elect the nonmember spouse as an option beneficiary for the community property share only. The member can name additional option beneficiaries for the remaining share or can choose to receive it as a Member-Only Benefit.

COURT CERTIFIED COPY

A legal document that has been filed with the court, signed by a judge, and includes the original seal of the court.

COVERAGE A

Disability and survivor benefits available to those who became members on or before October 15, 1992. Coverage A is mandatory for all members of the Defined Benefit Program who were receiving a disability benefit or a service retirement benefit with an effective date on or before October 15, 1992. Members who were not receiving a benefit on or before that date could choose to retain this coverage or elect Coverage B.

COVERAGE B

The disability and survivor benefits for new members after October 15, 1992. Active members who were hired on or before October 15, 1992, could have elected this coverage.

CREDITABLE COMPENSATION

Salary and other remuneration paid in cash by an employer to everyone in the same class of employees and paid to an employee for performing creditable service.

CREDITABLE SERVICE

Specific employment activities such as teaching, vocational or guidance counseling, services related to school curriculum, and administrative duties performed for an employer in a position requiring a credential, certificate or permit, or under minimum standards adopted by the Board of Governors of the California Community Colleges.

D**DEATH BENEFIT**

See One-Time Death Benefit.

DEFINED BENEFIT

A retirement benefit in which the benefit is guaranteed and generally based on a formula.

DEFINED BENEFIT PROGRAM

A benefit program within the State Teachers' Retirement Plan that provides lifetime retirement benefits (based on a formula using age, service credit and final compensation) and ancillary benefits for California's public school educators who are members of the program.

DEFINED BENEFIT SUPPLEMENT PROGRAM

A supplemental benefit program with benefits based on contributions and interest credited to individual member's accounts. From January 1, 2001 through 2010, funds come from 25 percent of your monthly CalSTRS contribution. Starting January 1, 2011, the 25 percent will be credited to your Defined Benefit account. Starting July 1, 2002, funds also come from compensation earned from service in one school year in excess of one year of service credit.

**DISABILITY ALLOWANCE
(COVERAGE A)**

A feature of the Defined Benefit Program selected by and offered to individuals who became members on or before October 15, 1992, that provides income replacement for disabled members. The benefit is paid as long as the individual is disabled or until the age of 60 when the member becomes eligible for service retirement.

DISABILITY RETIREMENT (COVERAGE B)

A feature of the Defined Benefit Program for individuals who became members after October 15, 1992, or elected this coverage during the special election held between October 1992 and April 1993. Those receiving payments under Coverage B are considered "retired" and will be paid as long as they are disabled, without regard to age.

E**EFFECTIVE DATE**

The date upon which the benefit becomes payable.

F**FINAL COMPENSATION**

The highest average annual earnable compensation during a specified period of CalSTRS-covered paid employment. The period is one year if you have at least 25 years of credited service or if it is included in a written collective bargaining agreement for classroom teachers. Otherwise, the period is three consecutive years (36 consecutive months) if you have fewer than 25 years of service credit.

FORMER SPOUSE

See nonmember spouse.

J**JOINDER**

The process of making CalSTRS a party to a dissolution proceeding. CalSTRS cannot enforce a court order dividing the benefits until joined as a party to the action.

L**LONGEVITY BONUS**

An increase to your monthly benefit if you had at least 30 years of service credit on or before December 31, 2010. You did not have to retire by December 31, 2010, to qualify for the longevity bonus, but you must have earned at least 30 years of service credit by this date. The bonus will be reduced by the option factor if you choose an option.

M

MEMBER

Any person who has performed service credit in the Defined Benefit Program for an employer and has earned creditable compensation for that service and has not received a refund for that service, unless specifically excluded by law.

Active Member: A member who is not retired or disabled and who earns creditable compensation during the school year.

Inactive Member: A member who is not retired or disabled and who has not earned creditable compensation during the current or preceding school year.

Disabled Member: A member who receives a disability benefit.

Retired Member: A member who has terminated employment and has retired from service or has retired for disability and receives a retirement benefit.

Vested Member: A member who has accrued five years of service credit to be eligible for service retirement or a disability benefit.

MEMBER-ONLY BENEFIT

The highest monthly benefit you can receive when you retire from service or disability before any reduction to provide for an option beneficiary.

MODIFIED BENEFIT

The monthly retirement benefit that has been reduced due to the cost associated with the election of an option beneficiary. The reduction will depend on which option is chosen and both the age of the member and the age of the option beneficiary.

N

NONMEMBER SPOUSE

A member's spouse or former spouse, or a member's registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the member's Defined Benefit, Defined Benefit Supplement or Cash Balance accounts.

A CalSTRS member may also be referred to as a nonmember spouse in a dissolution action regarding a CalSTRS account.

NONMEMBER SPOUSE ACCOUNT

An account awarded to a former spouse or registered domestic partner due to dissolution. The account is separate and distinct from a CalSTRS member account.

O

ONE-TIME DEATH BENEFIT

A one-time benefit paid to your death benefit recipients after you die.

OPTION

Plan feature that allows you to distribute your retirement benefit over your lifetime and the lifetime of other people.

OPTION BENEFICIARY

The person you name to receive a lifetime monthly benefit after your death.

OPTION 8 BENEFICIARY ELECTION

This option was changed effective January 1, 2007, to the Compound Option election. (See Compound Option Election.)

R

RECIPIENT

The beneficiary you name to receive your one-time death benefit.

REFUND

A distribution of all your post-tax contributions, tax-deferred contributions and interest credited on those contributions after you terminate employment with the California public school system.

A withdrawal or distribution of the funds in a nonmember spouse account.

REGISTERED DOMESTIC PARTNER

A registered domestic partner has many of the same rights and responsibilities as a spouse under California law, including laws concerning community property, child custody and support, and access to family court for the dissolution of a partnership. To register a domestic partnership with the California Secretary of State's office, you and your partner must be of the same sex, or if you and your partner are opposite sexes, one of you must be at least 62 years old.

RETIREMENT BENEFIT

A monthly benefit paid to a member each month after retirement.

RETIREMENT BENEFIT CALCULATION

The formula used to calculate the Member-Only amount CalSTRS members will receive each month after retiring for service. The formula is Service Credit x Age Factor x Final Compensation = Member-only Benefit.

S

SEGREGATION METHOD

A method used to divide a member's benefit accounts. Through this division, the nonmember spouse's share of benefits is placed in a separate "nonmember spouse" account.

SERVICE CREDIT

Accumulated period in years, including partial years, for which you earned creditable compensation and made contributions under the Defined Benefit Program. Service credit is one of the factors used to determine your eligibility for benefits payable under the Defined Benefit Program. Service credit cannot exceed 1.000 in any given school year.

SOLE AND SEPARATE PROPERTY

A term used in a dissolution action to stipulate the member will retain rights to the entire CalSTRS account. This may be addressed in a court order or waiver.

T

TIME RULE FORMULA

A method used to divide a member's benefit accounts. This method uses a set formula to determine the percentage of the member's benefit to be paid to the nonmember spouse.

The formula is service credit earned during marital period divided by total service credit at time of retirement. The percentage of the benefit amount earned during the marriage is multiplied by 50 percent. This figure now represents the share of the service credit to which the nonmember spouse would be entitled. This percentage is then multiplied by the member's total benefit to determine the nonmember spouse's share of the benefit.

14. Applicable Sections of the Education Code

Applicable Sections of the California Teachers' Retirement Law referenced within this guide.

Part 13, Chapter 12. Community Property

Section 22650	Power of court; rights of nonmember spouses
Section 22651	“Nonmember spouse” and “nonmember registered domestic partner” for community property purposes
Section 22652	Judgment or court order (court-ordered deduction)
Section 22653	Entitlement of nonmember spouse
Section 22655	Determination of community property rights in retirement allowance of retired member
Section 22656	Joinder of plan as party to action and service of judgment or court order
Section 22657	Application of other provisions of nonmember spouse
Section 22658	Separate administration of accounts of nonmember spouse
Section 22659	Requisite information from nonmember spouse
Section 22660	Designation of beneficiaries
Section 22661	Refund of accumulated retirement contributions
Section 22662	Redeposit of accumulated retirement contributions previously refunded to member
Section 22663	Purchase of additional service credit by nonmember spouse
Section 22664	Right to service retirement allowance
Section 22665	Determination of eligibility of member for retirement or disability allowance (service credit awarded to nonmember spouse)
Section 22666	Legislative intent (terminable interest doctrine abolishment)

Other Applicable Sections

Section 22007.5	Registered domestic partner
Section 22655.(7)(e)	Determination of community property rights in retirement allowance of retired member
Section 24203.6	Increase in monthly allowance (longevity bonus)
Section 24300	Election of options
Section 24300.6	Unmarried retirees (election of an option; new spouse)
Section 24305	Cancellation of elected option in event of dissolution of marriage or order of separation

Also see Part 14, Chapter 15, Community Property, regarding the Cash Balance Benefit Program.

CalSTRS Resources



WEB

CalSTRS.com
Click *Contact Us* to email

403bCompare.com

Pension2.com

CalSTRSbenefits.us



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800-228-5453
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Pension Abuse
Reporting Hotline



WRITE

CalSTRS
P.O. Box 15275
Sacramento, CA
95851-0275



VISIT

Member Services
100 Waterfront Place
West Sacramento, CA 95605

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CalSTRS.com/localoffices



FAX

916-414-5040