



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**GOVERNMENT CODE - GOV**

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 5. PERSONNEL [18000 - 22980]** ( Division 5 added by Stats. 1945, Ch. 123. )

**PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21716]** ( Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2. )

**CHAPTER 2. Administration of System [20090 - 20260]** ( Chapter 2 added by Stats. 1995, Ch. 379, Sec. 2. )

**ARTICLE 4. Correction of Errors and Omissions [20160 - 20164.5]** ( Article 4 added by Stats. 1995, Ch. 379, Sec. 2. )

**20160.** (a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts exist:

- (1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.
- (2) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.
- (3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 20164.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

- (1) That the correction cannot be performed in a retroactive manner.
- (2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.
- (3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**20161.** Notwithstanding any other provision of this part or of Section 12438 or 16302.1 to the contrary, the following shall apply:

(a) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.

(b) When there has been a payment of death benefits, a return of accumulated contributions, a contribution adjustment, or a deposit of contributions, and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, or an overpayment of fifty dollars (\$50) or less was received, this system may dispense with a return of accumulated contributions.

(c) When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posted to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments.

(d) The dollar amounts specified in subdivisions (a) and (c) shall be adjusted in accordance with any changes in the dollar amounts specified in Section 12438.

*(Amended by Stats. 2019, Ch. 330, Sec. 3. (SB 782) Effective January 1, 2020.)*

**20163.** (a) If more or less than the correct amount of contribution required of members, the state, or any contracting agency, is paid, proper adjustment shall be made in connection with subsequent payments, or the adjustments may be made by direct cash payments between the member, state, or contracting agency concerned and the board or by adjustment of the employer's rate of contribution. Adjustments to correct any other errors in payments to or by the board, including adjustments of contributions, with interest, that are found to be erroneous as the result of corrections of dates of birth, may be made in the same manner. Adjustments to correct overpayment of a retirement allowance may also be made by adjusting the allowance so that the retired person or the retired person and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled. Losses or gains resulting from error in amounts within the limits set by the Department of General Services for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoff by the Department of General Services, shall be debited or credited, as the case may be, to the reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

(b) No adjustment shall be made because less than the correct amount of normal contributions was paid by a member if the board finds that the error was not known to the member and was not the result of erroneous information provided by him or her to this system or to his or her employer. The failure to adjust shall not preclude action under Section 20160 correcting the date upon which the person became a member.

(c) The actuarial equivalent under this section shall be computed on the basis of the mortality tables and actuarial interest rate in effect under this system on December 1, 1970, for retirements effective through December 31, 1979. Commencing with retirements effective January 1, 1980, and at corresponding 10-year intervals thereafter, or more frequently at the board's discretion, the board shall change the basis for calculating actuarial equivalents under this article to agree with the interest rate and mortality tables in effect at the commencement of each 10-year or succeeding interval.

*(Amended by Stats. 2016, Ch. 31, Sec. 148. (SB 836) Effective June 27, 2016.)*

**20164.** (a) The obligations of this system to its members continue throughout their respective memberships, and the obligations of this system to and in respect to retired members continue throughout the lives of the respective retired members, and thereafter until all obligations to their respective beneficiaries under optional settlements have been discharged. The obligations of the state and contracting agencies to this system in respect to members employed by them, respectively, continue throughout the memberships of the respective members, and the obligations of the state and contracting agencies to this system in respect to retired members formerly employed by them, respectively, continue until all of the obligations of this system in respect to those retired members, respectively, have been discharged. The obligations of any member to this system continue throughout his or her membership, and thereafter until all of the obligations of this system to or in respect to him or her have been discharged.

(b) For the purposes of payments into or out of the retirement fund for adjustment of errors or omissions, whether pursuant to Section 20160, 20163, or 20532, or otherwise, the period of limitation of actions shall be three years, and shall be applied as follows:

(1) In cases where this system makes an erroneous payment to a member or beneficiary, this system's right to collect shall expire three years from the date of payment.

(2) In cases where this system owes money to a member or beneficiary, the period of limitations shall not apply.

(c) Notwithstanding subdivision (b), in cases where payment is erroneous because of the death of the retired member or beneficiary or because of the remarriage of the beneficiary, the period of limitation shall be 10 years and shall commence with the discovery of the erroneous payment.

(d) Notwithstanding subdivision (b), where any payment has been made as a result of fraudulent reports for compensation made, or caused to be made, by a member for his or her own benefit, the period of limitation shall be 10 years and that period shall

commence either from the date of payment or upon discovery of the fraudulent reporting, whichever date is later.

(e) The board shall determine the applicability of the period of limitations in any case, and its determination with respect to the running of any period of limitation shall be conclusive and binding for purposes of correcting the error or omission.

*(Amended by Stats. 2009, Ch. 130, Sec. 13. (AB 966) Effective January 1, 2010.)*

**20164.5.** (a) For purposes of this section, "disallowed compensation" means compensation reported for a member by the state, school employer, or a contracting agency that the system subsequently determines is not in compliance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1), Section 20636 or 20636.1, or the administrative regulations of the system.

(b) If the system determines that the compensation reported for a member by the state, school employer, or a contracting agency is disallowed compensation, the system shall require the state, school employer, or contracting agency to discontinue reporting the disallowed compensation. This section shall also apply to determinations made on or after January 1, 2017, if an appeal has been filed and the member, the retired member, survivor, or beneficiary has not exhausted their administrative or legal remedies.

(1) In the case of an active member, all contributions made on the disallowed compensation shall be credited against future contributions to the benefit of the state, school employer, or contracting agency that reported the disallowed compensation, and any contribution paid by, or on behalf of, the member, including contributions under Section 20691, shall be returned to the member by the state, school employer, or contracting agency that reported the disallowed compensation.

(2) In the case of a retired member, survivor, or beneficiary whose final compensation at the time of retirement was predicated upon the disallowed compensation, the contributions made on the disallowed compensation shall be credited against future contributions, to the benefit of the state, school employer, or contracting agency that reported the disallowed compensation and the system shall permanently adjust the benefit of the affected retired member, survivor, or beneficiary to reflect the exclusion of the disallowed compensation.

(3) (A) In the case of a retired member, survivor, or beneficiary whose final compensation at the time of retirement was predicated upon the disallowed compensation as described in paragraph (2), the repayment and notice requirements described in this paragraph and paragraph (4) shall apply only if all of the following conditions are met:

(i) The compensation was reported to the system and contributions were made on that compensation while the member was actively employed.

(ii) The compensation was agreed to in a memorandum of understanding or collective bargaining agreement between the employer and the recognized employee organization as compensation for pension purposes and the employer and the recognized employee organization did not knowingly agree to compensation that was disallowed.

(iii) The determination by the system that compensation was disallowed was made after the date of retirement.

(iv) The member was not aware that the compensation was disallowed at the time it was reported.

(B) If the conditions of subparagraph (A) are met, the state, school employer, or contracting agency that reported contributions on the disallowed compensation shall do both of the following:

(i) Pay to the system, as a direct payment, the full cost of any overpayment of the prior paid benefit made to an affected retired member, survivor, or beneficiary resulting from the disallowed compensation.

(ii) Pay a penalty to an affected retired member, survivor, or beneficiary who was impacted by disallowed compensation equal to 20 percent of the amount calculated as a lump sum of the actuarial equivalent present value representing the difference between the monthly allowance that was based on the disallowed compensation and the adjusted monthly allowance calculated pursuant to paragraph (2) for the duration that allowance is projected to be paid by the system to the retired member, survivor, or beneficiary.

(4) The system shall provide a notice to the state, school employer, or contracting agency that reported contributions on the disallowed compensation and to the affected retired member, survivor, or beneficiary, including, at a minimum, all of the following:

(A) The amount of the overpayment to be paid by the state, school employer, or contracting agency to the system as described in subparagraph (B) of paragraph (3).

(B) The actuarial equivalent present value owed to the retired member, survivor, or beneficiary as described in clause (ii) of subparagraph (B) of paragraph (3), if applicable.

(C) Written disclosure of the state, school employer, or contracting agency's obligations to the retired member, survivor, or beneficiary pursuant to this section.

(5) The system shall, upon request, provide the state, a school employer, or a contracting agency with contact information data in its possession of a relevant retired member, survivor, or beneficiary in order for the state, a school employer, or a contracting agency to fulfill their obligations to that retired member, survivor, or beneficiary pursuant to this section. The recipient of this contact information data shall keep it confidential.

(c) (1) The state, a school employer, including a county superintendent of schools, school district, community college district, charter school, regional occupational center, or other local educational agency, or a contracting agency, as applicable, may submit to the system for review an additional compensation item that is proposed to be included, or is contained, in a memorandum of understanding adopted, or a collective bargaining agreement entered into, on and after January 1, 2022, that is intended to form the basis of a pension benefit calculation, in order for the system to review consistency of the proposal with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1), Section 20636 or 20636.1, and the administrative regulations of the system.

(2) A submission to the system for review under paragraph (1) shall include only the compensation item language and a description of how it meets the criteria listed in subdivision (a) of Section 571 or subdivision (b) of Section 571.1 of Title 2 of the California Code of Regulations, along with any other supporting documents or requirements the system deems necessary to complete its review.

(3) The system shall provide guidance regarding the submission within 90 days of the receipt of all information required to make a review.

(d) The system shall periodically publish a notice of the proposed compensation language submitted to the system pursuant to paragraph (c) for review and the guidance provided by the system.

(e) This section does not alter or abrogate any responsibility of the state, a school employer, or a contracting agency to meet and confer in good faith with the employee organization regarding the impact of the disallowed compensation or the effect of any disallowed compensation on the rights of the employees and the obligations of the employer to its employees, including any employees who, due to the passage of time and promotion, may have become exempt from inclusion in a bargaining unit, but whose benefit was the product of collective bargaining.

(f) For educational entities participating in the system, the final responsibility for funding payments under subparagraph (B) of paragraph (3) of subdivision (b) is that of the educational entity that is the actual employer of the employee. A county superintendent of schools shall have final responsibility for funding payments for its own employees and not for those employees of other educational entities that participate in the system under the auspices of a county superintendent of schools pursuant to contract.

(g) This section does not affect or otherwise alter a party's right to appeal any determination regarding disallowed compensation made by the system.

*(Amended by Stats. 2022, Ch. 231, Sec. 7. (AB 1824) Effective January 1, 2023.)*