November 24, 2020

Mr. Harry M. Keiley
Board Chair, Teachers' Retirement Board
California State Teachers' Retirement System
Submitted via email to: Board@CalSTRS.com

Re: Significant Concerns with Legislative Proposal on Overpayment Recovery (Agenda Item for Regular Meeting, December 9, 2020)

Dear Board Chair Keiley,

On behalf of the undersigned statewide educational organizations and local educational agencies (LEAs), we write to express significant concerns with a legislative proposal being considered by the Teachers' Retirement Board on December 9, 2020. We urge the Board to not sponsor this proposed legislation until CalSTRS can establish, in partnership with stakeholders, a more thorough investigation of the underlying causes behind reporting errors and identify steps CalSTRS can take to address those issues.

We appreciate the proposal's intention to ameliorate the impact of reporting errors that affect retired members who experience an overpayment recovery because their benefit amount has decreased. The underlying cause of those overpayments, however, remains the inaccurate reporting of creditable compensation. Nearly half of all LEAs over a five-year period would be subject to overpayment recovery under this proposal, according to an estimate by CalSTRS. This error rate highlights a systemic problem. It is a problem that LEAs aggressively wish to address, as we have expressed *throughout* the stakeholder engagement process on this measure. As currently written, this proposal does nothing to improve reporting accuracy.

Before introducing a bill that creates major new cost pressures on LEAs—during an economic recession and pandemic—CalSTRS needs to engage in a holistic conversation about how to provide clearer creditable compensation guidance to employers and members. Specifically:

1. CalSTRS must produce a point-in-time definitive interpretation of relevant statutes and regulations relating to the treatment of compensation.

2. When an LEA requests a statement from CalSTRS to interpret and apply creditable compensation laws to the LEA's represented set of facts, they need consistent and timely answers – answers that remain true during subsequent audits.

3. When CalSTRS provides guidance to LEAs on how to report compensation, and CalSTRS later determines that advice to be erroneous, that error should be classified as a system error, not an employer error.

4. For purposes of audits and other corrective actions by CalSTRS, LEAs should be held responsible for the rules in effect at the time the compensation is reported, unless expressly superseded by state or federal law.

5. When CalSTRS changes its internal interpretation of creditable compensation laws, those changes must be preceded by prior notice to LEAs and applied only prospectively.

6. Employer audit reports should be posted on the CalSTRS website.

During CalSTRS' feedback process for this proposal, stakeholders repeatedly raised the need for a more holistic review of the reporting and audits process. Notably, on October 29, 2020, the chief business officials from over a dozen county offices of education were asked to provide feedback on this policy proposal. They plainly articulated the fact that clear and consistent reporting guidance is not being provided by CalSTRS. Today, we underscore their message: **Do not introduce legislation to increase LEA costs due to employer "errors" until CalSTRS can provide timely, consistent, and reliable guidance on reporting.**

We urge the Board to table this proposed legislation until it can establish, in partnership with stakeholders, a more thorough investigation of the underlying causes behind reporting errors and the steps CalSTRS can take to address those issues. For any questions or conversation relating to this letter, please contact Derick Lennox, Legislative Advocate with the Association of California School Administrators: dlennox@acsa.org.

Sincerely,

Derick Lennox Legislative Advocate Association of California School Administrators	Carlos Machado Legislative Advocate California School Boards Association
Elizabeth Esquivel Senior Director of Policy and Governance California Association of School Business Officials	Karen Stapf-Walters Executive Director California County Superintendents Educational Services Association

Kyle Hyland
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John Roach
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Tim Taylor
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Scott Kuykendall
Superintendent of Schools
Stanislaus County

Jeff Vaca
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Michael Hulsizer
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cc: Members, Teachers' Retirement Board
Jack Ehnes, Chief Executive Officer, CalSTRS
Diane Stanton, Acting Public Affairs Executive Officer, CalSTRS