

Note: These regulations are new to the CCR.

California Code of Regulations

Title 10: Investments

Division 1: California Secure Choice Retirement Savings Investment Board

Chapter 15: California Secure Choice Retirement Savings Trust

Section 10000. Existing Definitions

All meanings of the words or terms defined in California Government Code Sections (100000-100050); California Welfare and Institutions Code Section 12302.2; California Unemployment Insurance Code Sections 1088.9, 601, 606.5, and 621; and Title 26 of the United States Code (“Internal Revenue Code”) sections 408(a), 408(b), or 408A shall apply wherever the same words or terms are used throughout this Chapter.

NOTE – Authority Cited: Government Code Section 100010; Government Code Section 100048; California Welfare and Institutions Code Section 12302.2; California Unemployment Insurance Code Section 601; California Unemployment Insurance Code Section 606.5; California Unemployment Insurance Code Section 621; California Unemployment Insurance Code Section 1088.9; Internal Revenue Code Section 408(a); Internal Revenue Code Section 408(b); and Internal Revenue Code 408A.

Section 10001. Additional Definitions

The following definitions shall also apply wherever the terms are used throughout this Chapter:

- a) “Account” means a Participating Employee or Participating Individual’s Individual Retirement Account (“IRA”) within the meaning of Section 408(a), 408(b), or 408A held within the Program.
- b) “Administrator” means the third-party administrator, or administrators, hired by the Board to perform recordkeeping, manage investments, and provide other administrative functions necessary or desirable for operation of the Program.
- c) “Automatic Escalation” means an automatic annual increase in a Participating Employee or Participating Individual’s Contribution Rate.
- d) “Board” means the California Secure Choice Retirement Savings Investment Board.
- e) “Compensation” means W-2 wages, as defined in 26 Code of Federal Regulations (“CFR”) 1.415(c)-2(d)(4)
- f) “Contribution” means any deposit from a Participating Employee or Participating Individual to an Account.

- g) "Contribution Rate" means the percentage amount of a Participating Employee's Compensation to be withheld and contributed to his or her Account via payroll deduction pursuant to an election made under Section 10006 of these regulations.
- h) "Disclosure Form" means the form (or forms) and other information about the Program provided to Employees on behalf of the Program.
- i) "Eligible Employee" means any Employee of an Eligible Employer who is at least eighteen years of age, provided however, that an Eligible Employee does not include: (i) any Employee on whose behalf an Employer makes contributions to a Taft-Hartley pension trust fund; (ii) any Employee covered under the federal Railway Labor Act (45 U.S.C. Sec. 151), or (iii) any Employee engaged in interstate commerce so as not to be subject to the legislative powers of the state, except insofar as application of this title is authorized under the United States Constitution or laws of the United States.
- j) "Eligible Employer" means an Employer, as defined under Section 10001(n) of these regulations, that has five or more Employees and does not provide a Tax-Favored Retirement Plan.
- k) "Employee" means any individual who is a resident of California, or a non-resident with California source income, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee under Unemployment Insurance Code Sections 621 et seq, and who receives an IRS Form W-2 ("W-2") with California wages from an Eligible Employer.
- l) "Employee Information Packet" means the packet of information provided by the Program to be distributed to Eligible Employees by Eligible Employers that includes the Disclosure Form and the Opt-out Form and other information determined to be necessary by the Program.
- m) "Employer" means an individual or non-governmental entity engaged in a business, industry, profession, trade, or other enterprise in the state, whether for profit or not for profit, determined to be an employer under common law rules applicable in determining an employer-employee relationship, except as provided in subdivisions (b)-(d) in Unemployment Insurance Code Section 606.5.
- n) "Enrollment Date" means the date by which a Participating Employer shall offer Eligible Employees the opportunity to enroll in the Program. The Enrollment Date shall be either:
 - a. The date no later than 30 days following the Registration Date; or
 - b. For Eligible Employees hired after an Eligible Employer begins participating in the Program, the date no later than 30 days following their hire date.
- o) "Exempt Employer" means an Employer that either (i) has fewer than five Employees as reported on the DE 9C for the quarter ending September 30 of each Program Year; or (ii) that provides or contributes to a Tax-Favored Retirement Plan; or (iii) is the federal

government, the state, any county, any municipal corporation, or any of the state's units or instrumentalities.

- p) "Implementation Date" means the date the Board opens the Program for enrollment to all Eligible Employers.
- q) "Opt-out Form" means the form, paper or electronic, through which an Eligible Employee can note their decision to opt out of participation in the Program.
- r) "Participating Employer" means an Eligible Employer that registers with the Program to provide its Eligible Employees access to the Program.
- s) "Pilot Program" means a period of time during which some Eligible Employers may participate in the Program prior to the opening of the Program for enrollment to all Eligible Employers.
- t) "Program" means the California Secure Choice Retirement Savings Program.
- u) "Program Year" means January 1 through December 31.
- v) "Participating Employee" means an Eligible Employee enrolled in the Program. References herein to a Participating Employee include a Participating Individual as the context requires.
- w) "Participating Individual" means an individual who enrolls in the Program under such terms and conditions as determined by the Program.
- x) "Registration Date" means the date by which each Eligible Employer is required to register with the Program.
- y) "Tax-Favored Retirement Plan" means an Employer-provided retirement plan; including, but not limited to: a defined benefit plan or defined contribution plan which is intended to be tax qualified under Internal Revenue Code Section 401(a); a Taft-Hartley Plan; a Simple 401(k), Simplified Employee Pension ("SEP-IRA") plans, Savings Incentive Match Plan for Employees ("SIMPLE") plans, a plan described by Internal Revenue Code Section 403(a) or 403(b); and an employer-provided automatic enrollment payroll deduction IRAs that qualify for favorable federal income tax treatment under the Internal Revenue Code.
- z) "Trust" means the California Secure Choice Retirement Savings Trust.

Section 10002. Administration

The Board intends that, consistent with Government Code Sections 100000-100050, Welfare and Institutions Code Section 12302.2, and Unemployment Insurance Code Section 1088.9, the Program be operated, and these rules be construed, in a manner consistent with applicable

regulations and guidance provided by the U.S. Department of Labor relating to payroll deduction IRA programs that are not pension plans under Title I of the Employee Retirement Income Security Act..

Section 10003. Employer Registration and Employee Enrollment

- (a) On or before the Registration Date, each Eligible Employer shall register with the Program.
- (b) The Implementation Date shall be the date reported to the Governor and Legislature required in Government Code Section 100043(b)(1) and shall not be the date of the launch of the Pilot Program.
- (c) Except as provided in Section 10003(d), the Registration Dates are as follows:
 - (1) An Employer employing 100 or more Employees: Implementation Date + 12 months
 - (2) An Employer employing 50 or more Employees: Implementation Date + 24 months
 - (3) An Employer employing 5 or more Employees: Implementation Date + 36 months
- (d) Eligible Employers may determine to accelerate their Registration Date, provided the Program may delay the Enrollment Date applicable to such Employer's Employees if it determines to be in the best interests of Program administration.
- (e) To determine the number of Employees for purposes of this section, Eligible Employers shall use data as submitted on the DE 9C filed for the quarter ending September 30 of each year.
- (f) To register with the Program, an Eligible Employer shall use the internet portal established by the Administrator. Eligible Employers shall provide the following information:
 - (1) Employer name and Doing Business As name, if applicable,
 - (2) Federal Employer Identification Number or California State Employer Payroll Tax Account Number,
 - (3) Employer mailing address,
 - (4) Name, title, telephone number, and email address of an individual designated by the Employer as the primary contact for the Program,
 - (5) Number of Employees as determined pursuant to paragraph (e) of this section, and
 - (6) Any other information reasonably required by the Program for the purposes of administering the Program.
- (g) An Eligible Employer who lacks access to the internet may request to register with the Program by alternate means established by the Administrator. Such Eligible Employers shall make the request to the Administrator no later than 15 days prior to the Registration Date.
- (h) The initial Enrollment Date for each Eligible Employer shall be a date that is not more than 30 days after the Employer's Registration Date.
- (i) The Enrollment Date for new hires will be on or about the date that the Eligible Employee typically completes new hire paperwork, but in no event later than 30 days following the Eligible Employee's start date.

- (j) Eligible Employees who initially choose not to participate in the Program may enroll in the Program at any time.
- (k) An Eligible Employer formed after the Implementation Date or Employers who were previously ineligible for the Program, must register with the Program at a time of their choosing but no later than 12 months after the date it becomes eligible for the Program.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100014; Government Code Section 100032; Government Code Section 100043; Government Code Section 100048; Unemployment Insurance Code Section 1088.9.

Section 10004. Employer Exemptions

- (a) An Employer shall be exempt from the Program if:
 - (1) The Employer employs fewer than five Employees as reported on the DE 9C for the quarter ending September 30 of each Program Year;
 - (2) The Employer provides or contributes to a Tax-Favored Retirement Plan; or
 - (3) The Employer is the federal government; the state; any county; any municipal corporation; or any of the state’s units or instrumentalities.
- (b) By the Implementation Date, the Program will notify Employers with a method whereby Exempt Employers may certify their exemption from the Program.

Note – Authority Cited: Government Code Section 100000; Government Code Section 100010; Government Code Section 100012; Government Code Section 100032; Government Code Section 100043; Government Code Section 100048.

Section 10005. Participating Employer Duties

- (a) Participating Employers shall:
 - (1) For each Eligible Employee provide to the Administrator:
 - (A) Eligible Employee’s full legal name;
 - (B) Eligible Employee’s Social Security Number or Individual Taxpayer Identification Number;
 - (C) Eligible Employee’s date of birth;
 - (D) Eligible Employee’s mailing address;
 - (E) Eligible Employee’s phone number, if available;
 - (F) Eligible Employee’s email address(es), if available; and
 - (G) Any other information requested by the Administrator for the sole purpose of administering the Program;
 - (2) Provide the Employee Information Packet to all Eligible Employees within 30 days of the initial Registration Date.
 - (3) Provide the Employee Information Packet to all newly-hired or Eligible Employees within 30 days.
 - (A) The Employee Information Packet shall be provided by the Administrator to Participating Employers electronically via email or by supplying Participating Employers the online location where the materials may be downloaded.

- (B) Upon request by a Participating Employer, the Administrator will provide the Employee Information Packet(s) in hard copy form.
 - i. Participating Employers must request hard copies no later than 45 days prior to the Enrollment Date.
 - ii. Eligible Employees may also request receipt of the Employee Information Packet in hard copy form.
- (4) Facilitate collection of Opt-out Forms and the record of employees' acknowledgement of receipt of the Disclosure Forms.
- (5) Remit Contributions for each Participating Employee each Compensation period to the Administrator at the default Contribution Rate, or at such other Contribution elected by the Participating Employee, or at a rate increased automatically by Automatic Escalation, as directed by the Administrator.
 - (A) Any rate change, or other alternate election impacting Participating Employee's Contributions, shall be made by the next practicable Compensation period and no later than the Compensation period occurring at least 30 days after the election.
- (6) Communicate to Eligible Employees (i) that the Participating Employer's role is limited to remitting Participating Employee Contributions, providing essential Eligible Employee contact information to the Administrator, collecting signed Disclosure Forms from Eligible Employees who request paper enrollment and remitting to the Administrator; and (ii) that the Participating Employer does not provide any additional benefit or promise any particular investment return on the Participating Employee's savings and that Eligible Employees shall refer questions about the Program to the Administrator.
- (7) Participating Employers shall remain neutral about the Program. Participating Employers shall not:
 - (A) Require, endorse, or discourage Eligible Employee participation in the Program.
 - (B) Provide Participating Employees advice or direction on investment choices, Contribution Rates, participation in auto-escalation, or any other Participating Employee decision about the Program.
 - (C) Remit any Contributions for any Participating Employee that completed an Opt-out Form.
 - (D) Exercise any authority, control, or responsibility regarding the Program other than as set forth in paragraph 1 of this section.
- (8) A Participating Employer is not a fiduciary for the Program, is not a sponsor of the Program, and shall not be liable as a plan sponsor.
- (9) A Participating Employer shall have no civil liability for acting in accordance with these regulations.

Note – Authority Cited: Government Code Section 100000; Government Code Section 100002; Government Code Section 100008; Government Code Section 100010; Government Code Section 100012; Government Code Section 100014; Government Code Section 100032; Government Code Section 100034; Government Code Section 100043; Government Code Section 100048.

Section 10006. Default program options and alternative elections for Contributions, Automatic Escalation, and investment options

(a) Default Elections

A Participating Employee who has not made an alternative election as specified in this section shall make Contributions to the Program according to the following default elections:

- (1) Contributions shall be made to a Roth IRA Account.
- (2) Contributions shall equal 5% of Compensation for each Compensation period.
 - (A) Before a default election under this section may be changed by the Board, the Board must first hold an interested persons' hearing on the proposed change; and
 - (B) The Program shall provide notice to Participating Employees no later than 90 days before the change is scheduled to take effect.
- (3) The Contribution Rate shall increase by an additional 1% of Compensation on each January 1 following the Participating Employee's initial enrollment up to a maximum Contribution Rate of 8%.
 - (A) If a Participating Employee has not participated in the Program for at least 180 days such Employee, participation in Automatic Escalation shall not be a default Account setting until the Program Year that occurs after they have exceeded 180 days of participation.
- (4) Contributions will be invested in an investment option, or options, selected by the Board that appropriately balances risk and return opportunities for Participating Employees.

(b) Alternative Elections

- (1) A Participating Employee may select a Contribution Rate other than the default Contribution Rate between 0% and 100% of Compensation, or represented as whole dollar amounts, through a method established by the Administrator.
 - (A) Participating Employees may select an alternative Contribution Rate, or whole dollar Contribution amount, as frequently as they choose, however Participating Employers may choose to limit such changes to no more than once every 30 days.
- (2) A Participating Employee may opt out of Automatic Escalation at any time by following procedures established by the Administrator.
- (3) A Participating Employee may select an alternative Automatic Escalation amount at least 0.25% of Compensation if their Contributions are represented as a percentage of Compensation or at least \$1 in additional monthly Contributions if their Contributions are represented by whole dollar amounts by following procedures established by the Administrator.
- (4) Alternate elections shall be implemented as quickly as practicable and no later than the nearest Compensation period 30 days following the election.

(c) Participating Individuals

- (1) The Program shall not allow for participation by individuals until it receives explicit authorization from the Board
- (2) If the Board allows participation by individuals, the Program may establish processes and procedures for Participating Individual transactions with the Program, including without limitation payroll and non-payroll Contributions, including minimum

and maximum Contribution amounts, in accordance with annual Contribution limits established by the Internal Revenue Service and any applicable federal laws and regulations.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100032; Government Code Section 100034; Government Code Section 100043; Government Code Section 100048; Internal Revenue Code Section 408A.

Section 10007. Contributions

(a) Participating Employees

- (1) The initial Participating Employee Contributions shall be facilitated by the Participating Employer no later than the first Compensation period that occurs following 30 days after creation of the Participating Employee's Account.
- (2) A Participating Employee may elect to make non-payroll Contributions to an Account in accordance with procedures developed by the Administrator.
- (3) The Program shall establish procedures for payroll and non-payroll Contributions, including maximum Contribution amounts, in accordance with annual Contribution limits established by the Internal Revenue Service and any applicable federal laws and regulations.

(b) Participating Employers

- (1) Participating Employers are prohibited from contributing to a Participating Employee's Account.
 - (A) This provision shall not apply to Participating Employers who are also Eligible Employees participating in the Program.
- (2) Amounts deducted by the Participating Employer pursuant to this Section shall not exceed the amount of the Participating Employee's Compensation remaining after any payroll deductions required by law to have higher precedence, including a court order.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100043; Government Code Section 100048; Internal Revenue Code Section 408A.

Section 10008. Rollovers and Distributions

- (a) A Participating Employee or Participating Individual may request a rollover or a distribution of funds by submitting a properly completed distribution request to the Administrator in a manner established by the Program.
- (b) The Program shall establish procedures for rollovers to and from an Account and distributions from an Account, in accordance with applicable regulations established by the U.S. Treasury Department and the Internal Revenue Service, and any other federal laws and regulations.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100012; Government Code Section 100043; Government Code Section 100048; Internal Revenue Code Section 408A.

Section 10010. Confidentiality

- (a) The Board will treat Account information as confidential, including without limitation, names, addresses, telephone numbers, personal identification information, Contributions, and earnings.
- (b) The Board may disclose Account information to persons or entities other than those described in Section 10006 if the Administrator receives a signed release from the Participating Employee or Participating Individual consenting to disclosure of some or all of the Account information to a specific person or entity. For purposes of this paragraph Account information includes information pertaining to:
 - (1) An Account;
 - (2) Primary and contingent beneficiary designations;
 - (3) Distributions from the Account; or
 - (4) Other information contained in any order from a court of competent jurisdiction.
- (c) A written authorization to release information is valid indefinitely, unless a specific end date is provided in the written statement.

Note – Authority Cited: Government Code Section 100002; Government Code Section 100010; Government Code Section 100014

Section 10011. Subpoena

A subpoena for information available from the Program must be addressed to the Program. The Program reserves the right to object to any subpoena on the grounds that the subpoena fails to provide a reasonable time for preparation and travel, is otherwise unreasonable or oppressive, or that service was improper, in addition to any other basis legally available. To facilitate prompt processing, copies of subpoenas should be served at the Program. Faxed subpoenas are not acceptable.

Note – Authority Cited: Government Code Section 100010; Government Code Section 100048.

Section 10012. Disclosure

The Board may disclose aggregated anonymized data that does not include information that is identifiable to an individual Eligible Employee or Participating Employer for purposes of research associated with the Program. The Board may disclose information that it is required to disclose under the California Public Records Act. The Board may disclose Account information to the Administrator, the providers of investments for the Program, regulatory agencies to the extent disclosure is required by law, and to other persons or entities to the extent the Board determines disclosure is necessary to administer the Program.

Note – Authority Cited: Government Code Section 100010; Government Code Section 100048; Government Code Section 6250 et seq.