

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 Civil Code Sections 1798 et seq.; California Government Code Sections 7290 et seq.; California Government Code Sections 100000-100050; California Unemployment Insurance Code Sections 606.5, 621, 679, and 1088.9; California Welfare and Institutions Code Section 12302.2; and Title 26 of the United States Code (“Internal Revenue Code”) Sections 401(a), 401(k), 403(a), 403(b), 408(a), 408(b), 408(k), 408(p), 408A, and Internal Revenue Code Section 7705 shall apply wherever the same words or terms are used throughout this Chapter.

NOTE – Authority Cited: Sections 100010 and 100048, California Government Code. Reference: Section 1798 et. seq., California Civil Code; Sections 7290 et seq.; Sections 100000, 100002, 100010, 100012, 100014, 100032, 100043, and 100048, California Government Code; Sections 606.5, 621, 679, and 1088.9, California Unemployment Insurance Code; Section 12302.2, California Welfare and Institutions Code; Sections 401(a), , 401(k), 403(a), 403(b), 408(a), 408(b), 408(k), 408(p), 408A, and 7705, Internal Revenue Code.

Section 10001. Additional Definitions

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

- a) “Account” means a Participant’s Individual Retirement Account (“IRA”) held within the Program.
- b) “Administrator” means the third-party administrator selected by the Board to operate the Program.
- c) “Automatic Escalation” means an automatic annual increase in a Participating Employee’s Contributions as set forth in Section 10007 of these regulations.
- d) “Beneficiary” means the individual(s) or entity(ies) entitled to receive the proceeds of a Participating Employee’s or Participating Individual’s Account upon their death.
- e) “Board” means the California Secure Choice Retirement Savings Investment Board.
- f) “Client Employer” means an Employer that is involved in a Tri-Party Employment Relationship due to obtaining the services of a third-party entity.

- g) "Compensation" means a Participating Employee's wages from their Covered Employer reportable as wages, tips, or other compensation on an Internal Revenue Service Form W-2 ("W-2") and, in the case of sole proprietor or a partner in a partnership, such individual's Earned Income.
- h) "Contribution" means any monies contributed to an Account.
- i) "Contribution Rate" means the percentage or amount of a Participating Employee's Compensation to be withheld and contributed to their Account via payroll deduction under the Program.
- j) "Covered Employer" means an Employer that has five or more employees, at least one of whom is an Eligible Employee, that does not maintain or contribute to a Tax-Qualified Retirement Plan ; and that is not the federal government or any state, county, municipal corporation, foreign government, or other government entity, unit, or instrumentality. If the conditions of Government Code Section 1000046(a) are met, Covered Employer also means a provider of in-home supportive services as regulated by Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code. Notwithstanding the foregoing, the Board shall have the authority to determine whether employers that derive all or part of their income from activities that are illegal under federal law are Covered Employers.
- k) "Earned Income" means the net earnings from self-employment in the Participating Employer as determined under Internal Revenue Code Section 401(c) for which personal services of the individual are a material income-producing factor.
- l) "Eligible Employee" means any employee of a Covered Employer who: is at least eighteen years of age; has the status of an employee under Unemployment Insurance Code Sections 621 et seq; and who receives a W-2 with California wages. Notwithstanding the foregoing, an Eligible Employee shall also include a sole proprietor or partner in a partnership that is a Covered Employer.
- m) "Employee Information Packet" means the packet of information provided by the Program that includes the Opt-Out Form, instructions for Employees on how to opt out of the Program, and other information required under Government Code Section 100014.
- n) "Employer" means a sole proprietor, partnership, corporation, or other entity, whether for profit or not for profit, that is an employer under common law rules.
- o) "Enrollment Date" means the date by which a Participating Employer shall offer Eligible Employees the opportunity to enroll in the Program.
- p) "Exempt Employer" means an Employer that either (i) has fewer than five employees, as determined under the methodology described in Section 10003(a) of these regulations; (ii) maintains or contributes to a Tax-Qualified Retirement Plan; or (iii) is the federal

government, the state, any of the state's units or instrumentalities, any county, any municipal corporation, or any other government entity, unit, or instrumentality.

- q) "Implementation Date" means the date established by the Board in accordance with Government Code Section 100043(b)(1) et seq. that is the first date on which a Covered Employer may register for the Program. The Implementation Date is November 15, 2018.
- r) "IRA" means either a Roth IRA or a Traditional IRA.
- s) "Open Enrollment Period" means the period during which Eligible Employees who are not Participating Employees shall be given the opportunity to enroll in the Program, as prescribed in California Government Code Section 100032(f).
- t) "Opt-Out Form" means the form through which Eligible Employees can note their decision to opt out of participation in the Program.
- u) "Participant" means any person who is or was a Participating Employee, Participating Individual, or Beneficiary.
- v) "Participating Employee" means any person who is an Eligible Employee who enrolled in the Program, maintains a Program IRA, and is not a Participating Individual.
- w) "Participating Employer" means a Covered Employer that registers with the Program to provide its Eligible Employees access to the Program.
- x) "Participating Individual" means any person who enrolled in the Program independent of an employment relationship with a Covered Employer, as further defined in Section 10008 of these regulations, maintains a Program IRA and is not a Participating Employee.
- y) "Program" means the CalSavers Retirement Savings Program.
- z) "Roth IRA" means an IRA established under Internal Revenue Code Section 408A.
- aa) "Tax-Qualified Retirement Plan" means a retirement plan that qualifies for favorable federal income tax treatment under Internal Revenue Code Sections 401(a), 401(k), 403(a), 403(b), 408(k), or 408(p). An employer-provided payroll deduction IRA program that does not include automatic enrollment is not a Tax-Qualified Plan.
- bb) "Traditional IRA" means an IRA established under Internal Revenue Code Section 408(a).
- cc) "Tri-Party Employment Relationship" generally means a relationship in which an Employer enters into a service contract with a third-party entity for services including, but not limited to, payroll, staffing (both temporary and non-temporary), human resources, and Employer compliance with laws and regulations.

Section 10002. Administration

Consistent with California Civil Code Section 1798 et seq.; California Government Code Sections 7290 et seq.; California Government Code Sections 100000-100050; California Welfare and Institutions Code Section 12302.2; and California Unemployment Insurance Code Section 1088.9; the Program shall be operated, and these regulations be construed, in a manner consistent with applicable law and 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. Covered Employers

- (a) The number of employees for purposes of determining whether an Employer is a Covered Employer, and to determine the date by which the Covered Employer must register with the Program under Section 10004(b) of these regulations, shall be determined based on the average number of employees as reported on the Employment Development Department Form DE 9C for the quarter ending December 31 and the previous three quarters of available data from the Employer's DE 9C reports.
 - (1) A Covered Employer shall be deemed an Exempt Employer only if its average number of employees drops below five for a calendar year as determined using the methodology prescribed in subsection (a) of this Section.
- (b) An Employer shall cease to be a Covered Employer and Participating Employer either upon the effective date of its adoption of, or participation in, a Tax-Qualified Retirement Plan or if its average number of employees drops below five for a calendar year.
- (c) Each Employer that ceases to be a Covered Employer shall promptly notify the Program.
- (d) By April 1, 2019, and at least annually thereafter, the Program will notify Employers which, based on available information, appear to be Covered Employers and require those who have not previously registered for the Program to do so on or before the deadlines set forth in Section 10004(b). Employers who are erroneously identified as Covered Employers (e.g., Employers who were previously Covered Employers who are now Exempt Employers) may, but need not, certify their exemption from the Program. Certifications may be made using the procedures established under Section 10004(e).
- (e) For Employers in a Tri-Party Employment Relationship, the Covered Employer shall be:
 - (1) For a temporary services employer or leasing employer, as defined in California Unemployment Insurance Code Section 606.5(b), the temporary services employer or leasing employer.
 - (2) For a professional employer organization described under Internal Revenue Code Section 7705(e)(2)(A)-(E), without regard to the word "certified" in subparagraph (C), that enters into a contract with a Client Employer, the Client Employer.
 - (3) For a motion picture payroll services company defined under California Unemployment Insurance Code Section 679(f)(4), the motion picture production company defined under California Unemployment Insurance Code Section 679(f)(5).

Note – Authority Cited: Sections 100010 and 100048, California Government Code.

Reference: Sections 100000, 100012, 100032, 100043, California Government Code; Sections 606.5 and 679, California Unemployment Insurance Code; and Section 7705, Internal Revenue Code.

Section 10004. Employer Registration

- (a) Any Covered Employer may register with the Program on or after the Implementation Date and shall register no later than the date specified in paragraph (b) below. However, if a Covered Employer registers before the deadline specified in paragraph (b) below, the Program may delay the enrollment of such Covered Employer's Eligible Employees for purposes including, but not limited to, testing the Program platform among a limited set of Participating Employers, if the Program determines such a delay to be in the best interests of Program administration.
- (b) Each Covered Employer shall register with the Program no later than:
 - (1) For Covered Employers employing more than 100 employees, June 30, 2020.
 - (2) For Covered Employers employing more than 50 employees, June 30, 2021.
 - (3) For all other Covered Employers, June 30, 2022.
- (c) An Employer's number of employees for the purposes of this Section shall be determined under the methodology established under Section 10003(a) of these regulations.
- (d) An Employer that becomes a Covered Employer after the Implementation Date shall register with the Program within the later of 24 months after the date it becomes a Covered Employer, or the date specified in paragraph (b) above.
- (e) A Covered Employer may register with the Program using the Program's internet portal (employer.calsavers.com), by phone (855-660-6916), by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA 02459), or regular mail (CalSavers, P.O. Box 55759, Boston, MA 02205-5759).
- (f) Exempt Employers are prohibited from participating in the Program except for the facilitation of contributions identified in Section 10008(d) of these regulations.
- (g) Upon registration, a Participating Employer shall provide or confirm the following information to the Administrator for each Eligible Employee:
 - (1) Employer name, legal name, and "doing business as" name, if applicable;
 - (2) Federal Employer Identification Number or California Employer Payroll Tax Account Number;
 - (3) Employer mailing address; and
 - (4) Name, title, telephone number, and email address of an individual designated by the Employer as the primary contact for the Program.
- (h) Upon registration with the Program, a Covered Employer is a Participating Employer.

Note – Authority Cited: Sections 100010 and 100048, California Government Code.

Reference: Sections 100012, 100032, 100043, California Government Code and Section 1088.9, California Unemployment Insurance Code.

Section 10005. Participating Employer Duties

- (a) After a Covered Employer registers with the Program and becomes a Participating Employer the Participating Employer shall provide to the Administrator the following information for each Eligible Employee within 30 days:
 - (1) Employee's full legal name;
 - (2) Employee's Social Security Number or Individual Taxpayer Identification Number;

- (3) Employee's date of birth;
 - (4) Employee's mailing address;
 - (5) Employee's phone number, if available; and
 - (6) Employee's email address(es), if available.
- (b) For each Eligible Employee hired by a Participating Employer after it has registered with the Program, the Participating Employer shall provide the same information included in subsection (a) within 30 days of their hire date.
- (c) Participating Employers shall ensure the Employee Information Packet is delivered to all Eligible Employees within 30 days of the initial date of registration. Participating Employer may satisfy this obligation by providing the Program with appropriate contact information for their Eligible Employees to the Program. The Program will deliver the packet directly to the employees using available contact information.
- (1) After the date an Employer registers with the Program, Participating Employers shall ensure the Employee Information Packet is delivered to all new Eligible Employees within 30 days of their hire.
- (d) Participating Employers shall remit Contributions for each Participating Employee each payroll period to the Administrator at the applicable Contribution Rate.
- (1) Participating Employers shall remit all Compensation withheld to the Administrator as soon as administratively possible, not to exceed seven business days from the date of deduction.
- (e) Participating Employers shall remain neutral about the Program. Participating Employers shall not:
- (1) Require, endorse, or discourage employee participation in the Program.
 - (2) Provide Participating Employees or Beneficiaries of deceased Participating Employees advice or direction on investment choices, Contribution Rates, participation in Automatic Escalation, or any other employee decision about the Program.
 - (3) Remit any Contributions for any Eligible Employee who completed an Opt-Out Form.
 - (4) Exercise any authority, control, or responsibility regarding the Program other than as set forth in this Section.
- (f) A Participating Employer is not a fiduciary of the Program, is not a sponsor of the Program, and shall not be liable as a fiduciary or plan sponsor.
- (1) A Participating Employer shall have no civil liability for acting in accordance with these regulations.

Note – Authority Cited: Sections 100010 and 100046, California Government Code. Reference: Sections 100000, 100002, 100012, 100014, 100032, 100034, 100043, and 100046, California Government Code.

Section 10006. Employee Enrollment

- (a) The initial Enrollment Date for each Eligible Employee shall be a date that is not more than 30 days after the date the Employee Information Packet is delivered.
- (b) The Enrollment Date for an Eligible Employee hired by a Participating Employer after it begins participating in the Program shall be the date 30 days following their hire date.
- (c) An Eligible Employee who does not opt out of the Program is deemed to have read and understood the content in the Employee Information Packet if the Eligible Employee has

been furnished a copy of the Employee Information Packet pursuant to Section 10005(c) and has been provided an opportunity to opt out of the Program.

- (d) An Eligible Employee shall be enrolled in the Program if he or she does not opt out of the Program, either electronically (saver.calsavers.com), by phone (855-650-6918), or by completing the Opt-Out Form and submitting the form by overnight mail (CalSavers, 95 Wells Avenue, Suite 155, Newton, MA), or regular mail (CalSavers, P.O. Box 55759, Boston, MA, 02205-5759).
- (e) Eligible Employees who opt out of the Program may enroll at any time through the methods established in Section 10006(d) of these regulations.
- (f) If an Eligible Employee has not established an IRA to allow an orderly enrollment under the Program, the Program shall establish an IRA for such Eligible Employee.
- (g) If the Administrator is unable to enroll an employee for any reason, the Administrator shall notify the Participating Employer immediately with instructions to cease remitting Contributions for the employee. The Administrator shall subsequently notify the Employee. Such communications shall be held in the strictest confidence and shall not be used for any purpose outside of the Program.
- (h) After a Participating Employer has registered with the Program, the Participating Employer shall ensure the Employee Information Packet is delivered annually during the Open Enrollment Period to all Eligible Employees who are not Participating Employees through the procedures identified in Section 10005(c).
 - (1) The Open Enrollment Period shall begin October 1 and conclude November 30.
 - (2) Eligible Employees who are not Participating Employees shall be enrolled in the Program if they do not return a completed Opt-Out Form received during the Open Enrollment Period.

Note – Authority Cited: Sections 100010 and 100046, California Government Code. Reference: Sections 1000000, 100002, 100008, 100012, 100014, 100032, 100043, and 100046, California Government Code; and Section 1088.9, California Unemployment Insurance Code.

Section 10007. Default Program options and alternative elections for Contributions, Automatic Escalation, and investment options for Participants

(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) At a Contribution Rate of 5%.
- (2) Have Contributions subject to Automatic Escalation whereby 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) Participating Employees who choose an alternative Contribution Rate shall have Contributions subject to Automatic Escalation unless they choose to opt out of Automatic Escalation by notifying the Program using the methods and addresses identified in Section 10006(d) of these regulations.

(B) A Participating Employee who has not participated in the Program for at least six calendar months during the calendar year shall not have Contributions subject to Automatic Escalation until the January 1 that occurs after six calendar months of participation.

1. The Administrator shall notify the Participating Employee of the Automatic Escalation increase at least 60 days before January 1 to provide them an effective opportunity to modify their Contribution Rate so that the Automatic Escalation provision will not apply.

(3) Have Contributions made to a Roth IRA.

(4) The first \$1,000 in Contributions will be invested in a capital preservation investment selected by the Board. All subsequent contributions shall be invested in a Target Date Fund selected by the Board based on the Participating Employee’s age as reported on the Program’s records and assumed retirement at age 65. The applicable Target Date Fund shall be determined as described in the following table:

<u>Date of Birth</u>	<u>Target Retirement Years</u>		<u>CalSavers Fund Name</u>
12/31/1947 or Earlier	2012	or earlier	CalSavers Target Retirement Income Fund
1/1/1948 - 12/31/1952	2013	- 2017	CalSavers Target Retirement 2015 Fund
1/1/1953 - 12/31/1957	2018	- 2022	CalSavers Target Retirement 2020 Fund
1/1/1958 - 12/31/1962	2023	- 2027	CalSavers Target Retirement 2025 Fund
1/1/1963 - 12/31/1967	2028	- 2032	CalSavers Target Retirement 2030 Fund
1/1/1968 - 12/31/1972	2033	- 2037	CalSavers Target Retirement 2035 Fund
1/1/1973 - 12/31/1977	2038	- 2042	CalSavers Target Retirement 2040 Fund
1/1/1978 - 12/31/1982	2043	- 2047	CalSavers Target Retirement 2045 Fund
1/1/1983 - 12/31/1987	2048	- 2052	CalSavers Target Retirement 2050 Fund

1/1/1988 - 12/31/1992	2053	-	2057	CalSavers Target Retirement 2055 Fund
1/1/1993 - 12/31/1997	2058	-	2062	CalSavers Target Retirement 2060 Fund
1/1/1998 - 12/31/2002	2063	-	2067	CalSavers Target Retirement 2065 Fund
1/1/2003 or Later	2068	or	later	[Funds to be added later - not a valid employee age]

(b) Alternative Elections

- (1) A Participating Employee may elect a Contribution Rate other than the default Contribution Rate at any integer between 0% and 100% of Compensation.
- (2) A Participating Employee may opt out of Automatic Escalation or elect an alternative Automatic Escalation percentage at any time by notifying the Administrator using the methods established in Section 10006(d) of these regulations.
- (3) A Participating Employee may elect to make recurring non-payroll Contributions of at least \$10 to their Account. Such recurring non-Payroll Contributions must be made at least as frequently as quarterly and contributed electronically.
- (4) A Participating Employee may also elect to make non-recurring non-Payroll Contributions. Such Contributions may be made electronically or by personal check and must be a minimum of \$50.
- (5) A Participant may choose one or more investment options other than the default investment option by notifying the Administrator through the means established in Section 10006(d) of these regulations that the Participating Employee wishes to invest future contributions directly into another investment alternative or alternatives offered by the Program.
- (6) A Participating Employee may change investment elections for any portion of their existing balance in their Account by notifying the Administrator of a requested change in investment elections through the methods established in Section 10006(d) of these regulations. Alternative investment elections shall be implemented as soon as administratively possible.
- (7) Alternative contribution elections (including Contribution Rates, Automatic Escalation and opt out elections) shall be implemented as quickly as practicable but within 30 days following notification by the Administrator of the alternative election.

(c) Other contribution and Investment Election Rules

- (1) Participating Employers are prohibited from contributing to a Participating Employee's Account.
- (2) An individual who is both a Participating Employer and a Participating Employee may make Contributions to their own Account under the same terms and conditions as other Participating Employees.

- (3) Amounts withheld by the Participating Employer under 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.
- (4) A Participant may choose to make all or some of their Contributions to a Traditional IRA when a Traditional IRA feature is made available by the Administrator by notice posted on the Program's website (calsavers.com).

Note – Authority Cited: Sections 100010 and 100046, California Government Code. Reference: Sections 100002, 100008, 100012, 100032, 100034, and 100043; and Section 408A, Internal Revenue Code.

Section 10008. Individual Participation

- (a) An individual who is at least eighteen years of age, and who is not an Eligible Employee may choose to participate in the Program as a Participating Individual outside of an employment relationship with a Covered Employer when the feature is made available by the Administrator by notice posted on the program website (calsavers.com)
- (b) Any recurring Contribution made at least as frequently as quarterly made by a Participating Individual must be at least \$10. Non-recurring Contributions may be made electronically or by personal check. Each non-recurring Contribution must be in an amount equal to at least \$50. Non-recurring contributions must be made at least as frequently as quarterly.
- (c) Contributions by Participating Individuals may be invested pursuant to the investment provisions of Section 10007.
- (d) Businesses that use the services of Participating Individuals have not elected to participate in the Program merely because they, at the request of Participating Individuals, choose to facilitate remission of all or a portion of the money owed to such Participating Individuals to the Administrator for deposit into the Participating Individual's Account. Exempt Employers that intend for their programs to be exempt from ERISA are solely responsible for determining that their payroll deduction IRA programs satisfy IRS and DOL requirements for such exemption.

Note – Authority Cited: Sections 100010 and 100048, California Government Code Section. Reference: Sections 100002, 100012, and 100014, California Government Code.

Section 10009. Contributions and Distributions

- (a) It shall be the responsibility of the Participant to determine whether they are eligible for making contributions to a Roth or Traditional IRA and that the amount of their contributions to a Roth or Traditional IRA are within the Internal Revenue Code limits.
- (b) A Participant may choose to rollover or transfer funds into their Account when the feature is made available by the Program by notice posted on the Program's website (calsavers.com).

Note – Authority Cited: Sections 100010 and 100046, California Government Code. Reference: Sections 100002, 100008, 100012, and 100043, California Government Code; and Section 408A, Internal Revenue Code.

Section 10010. Confidentiality

- (a) The Board and the Administrator will treat Account information as confidential, including, without limitation, names, addresses, telephone numbers, personal identification information, Contributions, earnings, and any issues related to verification of identity for an Eligible Employee.
- (b) Any information compiled pursuant to the operations of the Program shall be maintained by the Board and protected consistent with the requirements of the Information Practices Act of 1977 (Civil 20 Code Section 1798 et seq.)
A written authorization to release information is valid indefinitely, unless a specific end date is provided in the written statement.

Note – Authority Cited: Sections 100010 and 100046, California Government Code. Reference: Section 1798 et seq., California Civil Code; Sections 100002 and 100014, California Government Code.

Section 10011. Disclosure

The Board may disclose anonymized data in accordance with applicable California law and procedures reasonably designed to exclude information identifiable to an individual employee or Participating Employer. The Board will disclose information that it is required to disclose under the California Public Records Act. The Board will disclose Account information to the regulatory agencies to the extent disclosure is required by law, and may release information to other persons or entities under contract to the Board to the extent the Board determines disclosure is necessary to administer the Program. The collection, storage, use, and disclosure of data by the Program and its contractors shall be administered consistent with Section 100010 of these regulations.

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