

Section 218 Agreement FAQs

These FAQs will be updated as needed. Please check back regularly.

What is the problem with my Social Security benefits?

VTA employees participate in defined-benefit pension plans. They are the VTA/ATU Pension Plan and the CalPERS Pension Plan. For our employees to participate in Social Security, there must be a Section 218 Agreement with the Social Security Administration (SSA) in place. There is no record of VTA ever having entered into a Section 218 Agreement.

VTA has been paying the employer portion of Social Security taxes as far back as we have records. VTA is also withholding Social Security taxes from employee paychecks. This shows the intent has always been to have our employees covered by Social Security in addition to the VTA/ATU Pension Plan and/or CalPERS. The problem is that without a Section 218 Agreement in place, the SSA does not have to provide benefits to our employees based on their time at VTA.

VTA has a plan to correct this but we need your help! All current employees have the power to protect our Social Security benefits and we ask all our employees to support and to cast a ballot for a Section 218 Agreement.

Does this affect me and how?

This issue affects all past and current VTA employees who have ever participated in a defined-benefit pension plan during their time at VTA. This applies to every job classification in both the CalPERS and VTA/ATU pension plans.

Without a Section 218 Agreement in place, all VTA employees are at risk of having their Social Security benefits reduced or eliminated.

The good news is that the SSA is currently providing benefits even without a Section 218 Agreement although this can change at any time. The SSA can choose not to provide Social Security benefits to VTA employees until a Section 218 Agreement is in place. This is true even though VTA employees contribute to Social Security and VTA pays the employer portion of Social Security taxes.

What is VTA doing to address this?

CalPERS is the State Social Security Administrator in California. VTA is working closely with CalPERS to put a Section 218 Agreement in place. Putting a Section 218 Agreement in place can only be done through an election. VTA must follow CalPERS's detailed process to allow current employees to vote on whether to participate in Social Security. For this to be successful, only "YES" votes ensure that all past, present and future employees will get their Social Security benefits.

How does the vote work?

Within the next few months, VTA will complete the paperwork to hold the vote. The law requires VTA to mail a notice of the election at least 90 days before the election date. VTA expects to hold the election in the first quarter of 2021.

Under the law, only VTA's current employees participating in a particular pension plan (VTA/ATU Pension Plan or the CalPERS Pension Plan) can vote in the Section 218 election for that pension plan. More than half of the employees eligible to vote in a plan's election must affirmatively vote **"YES"** for this to succeed.

Let's put that into numbers. The VTA/ATU Pension Plan currently has approximately 1500 members. At least 751 current ATU employees must vote **"YES"** to have a Section 218 Agreement for the VTA/ATU Pension Plan. For the CalPERS plan, at least 313 of the approximately 625 employees under that plan will have to vote **"YES"** to have a Section 218 Agreement for the CalPERS plan. If someone does not vote, fills out their ballot incorrectly, or submits their vote too late, they are counted as a **"no"** vote. That's why it is critically important that **YOU** and all your colleagues vote.

What is VTA doing to support the voting process?

VTA recognizes the importance of this issue and VTA's Board of Directors created a subcommittee to address it. The subcommittee consists of Board Chairperson Cindy Chavez, Vice Chairperson Glenn Hendricks, and Alternate Member Howard Miller. This subcommittee and staff are working hand-in-hand with your union leadership to address this problem in a unified effort.

VTA and the unions recognize that a successful vote is in the best interest of all employees. For this reason, we are committed to educating current employees on the issue. In addition to direct mailings to each current employee, VTA will hold several virtual town hall meetings. VTA will regularly communicate with employees via email, posted signs and bulletins, a new web page on The Hub, an external website at <https://www.vta.org/section-218>, and will hold supervisor briefings. If needed, VTA may also reach out to employees individually, either via phone or in person. VTA is exploring other ways to maximize participation like having people vote by mail or in person before the election date. VTA will continue to collaborate with the unions on all these efforts.

What happens if the vote fails?

We are working hard to make sure that the vote does not fail. However, if it does, the plan affected by that vote will continue to lack a Section 218 Agreement. This means that the SSA will not be required to provide Social Security benefits for the members of that pension plan. This could mean that the plan's members lose all or a portion of their Social Security benefits.

If the vote fails, could we try again?

Yes. VTA could try again after a one-year waiting period. However, during that time, VTA may be required to stop withholding Social Security taxes from employee paychecks and stop paying the employer portion of Social Security taxes. As a result, employees could lose at least one year of credit toward Social Security eligibility. Depending on your particular situation, this could significantly reduce your Social Security benefits.

Why is VTA still taking Social Security taxes out of my paycheck if there is no Section 218 Agreement?

The SSA currently honors past contributions and employer-paid taxes by providing Social Security benefits even when there is no Section 218 Agreement in place. VTA is continuing to withhold Social Security taxes and is paying the employer portion of the tax with the goal of avoiding a gap in Social Security coverage until a Section 218 Agreement is in place. This good-faith effort of continuing the practice of taking these deductions also shows SSA our commitment to rectify the problem.

I'm already receiving Social Security benefits. Does this mean I'm going to stop receiving benefits?

The SSA's current practice is to provide benefits as if there were a Section 218 Agreement in place. But nothing requires the SSA to continue this practice. If we do not have a successful vote, that practice could end at any time.

Why can't former employees vote?

The laws and regulations created by Congress, the Social Security Administration, the State Legislature, and CalPERS restrict voting to current employees who also participate in a defined-benefit pension plan. VTA has no choice in this regard; it must follow the law.

How far back does this go?

VTA's predecessor, the Santa Clara County Transit District, should have entered into a Section 218 Agreement with the SSA in the early 1970s. CalPERS is the state agency responsible for maintaining Section 218 Agreements. CalPERS conducted an audit and informed us that a Section 218 Agreement for VTA or the Santa Clara County Transit District did not exist. VTA has reviewed its records and confirmed this is true.

Records show that the Santa Clara County Transit District withheld Social Security taxes and paid the employer portion of the taxes at least as far back as December 1974. This means the issue has been around at least since December 1974 for members of the VTA/ATU Pension Plan.

How can I get more information?

All communications regarding this issue will be posted to <https://www.vta.org/section-218> and VTA's internal website, The Hub. You can also email SocialSecurity.Section218@vta.org for more information. If you are a represented employee, you may also contact your union or your supervisor. Non-represented employees can also contact their managers.