

CLIENT NEWS BRIEF

Lozano Smith-ACSA Joint Alert – Election Remedy for CalSTRS Creditable Service Issue Forthcoming

On August 29, 2012, CalSTRS issued an Employer Information Circular entitled “Positions Not Eligible for Creditable Service.” This Circular identified several positions as not being eligible for CalSTRS, including “Director of Human Resources.” This Circular gave rise to a wave of uncertainty and angst regarding whether many positions previously considered certificated positions were, in fact, improperly reported to CalSTRS. This Circular followed a CalSTRS audit of San Francisco Community College District which found several employees were not performing creditable service. The CalSTRS audit findings in the SFCC District case are now headed toward hearings. Thus, what work counts as creditable service has become an issue of statewide concern for all K-12 and community college districts.

Since this past spring, Lozano Smith and the Association of California School Administrators (ACSA) have been working closely to seek clarification from CalSTRS on the creditable service issue. The two organizations have engaged CalSTRS in an ongoing dialogue for several months to outline emerging issues following the August 2012 Circular. While numerous issues have been discussed, we have focused on engaging CalSTRS in discussions regarding the need for a remedy to address the growing concerns of administrators who came from positions that were clearly CalSTRS eligible into positions where the employee’s eligibility for CalSTRS service credit is now uncertain. Specifically, Human Resource Administrator positions have been at the forefront of recent discussions.

CalSTRS has now confirmed that it plans to issue a clarifying Circular “in the next few weeks.” That clarifying Circular will contain a remedy allowing some members to elect to remain in CalSTRS, thereby securing their CalSTRS retirement benefit despite the uncertainty regarding whether their current position as a Human Resource Administrator is performing creditable service work.

Some technical details of the election remedy have not yet been clarified by CalSTRS. Those details include: (a) whether the employer or the employee should initiate an election remedy; (b) whether the remedy will be available for retirees or only current employees; and (c) if a deadline to make an election will be put in place and, if so, when it will be.

The election remedy is an incremental step towards addressing growing concerns regarding creditable service issues. Discussions with CalSTRS suggest that a more comprehensive legislative solution may be required in order to clarify what counts as creditable service.

As the dialogue with CalSTRS continues, districts and administrators should be aware that some positions previously considered certificated may, in fact, not be performing creditable service. In the event of an audit, the job description and employee interviews will be important pieces in determining whether the actual duties performed by the employee qualify as creditable service. Therefore, it is advisable to review the job description of any administrative

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position that is not clearly performing creditable service work to determine if corrective action may be needed.

Additionally, Lozano Smith and ACSA are continuing to work toward a solution that will address the creditable service issue now facing school districts across the state. Coalition building among various stakeholders, including K-12 administrators and their community college counterparts, will continue to be an important part of this goal. To that end, Lozano Smith and ACSA are working to broaden the coalition by involving other interested organizations, including the Association of California Community College Administrators (ACCCA), the Association of Chief Human Resource Officers (ACHRO), the Association of Chief Business Officers (ACBO), the California Association of School Business Officials (CASBO), and the California School Boards Association (CSBA).

If you have any questions regarding whether a position meets the test for CalSTRS eligibility, how to ensure that your job descriptions describe creditable service work, or how to best protect CalSTRS retirement benefits for your district's administrators, please feel free to contact one of our [eight offices](#) located statewide, or contact your ACSA representative. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

In partnership with ACSA, for further information, contact [Sal Villasenor](#).



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