Today (November 25, 2013) CalSTRS issued a new Circular Vol. 29, Issue 3 – “Right of Retirement System Election When Changing Positions,” allowing any CalSTRS member who believes that they are, or may have been, employed in a position that is not clearly eligible for CalSTRS membership to have their employer file an election form (ES372) within 180 days in order to ensure that all of their service counts as creditable for retirement purposes.

This remedy comes in light of the statewide confusion created by the CalSTRS Circular Vol. 28, Issue 1 – “Positions Not Eligible for Creditable Service,” which called into question the eligibility of many positions previously thought to be performing service creditable to CalSTRS.

For example, if your district has a credentialed employee who is currently employed as a Human Resources Administrator, that position may not be considered to be performing creditable service work and the district should work with the employee to complete the election form. Other positions which may be at risk include: Chief of Police; Director of Buildings, Grounds and Maintenance; Director of Technology; Director of Payroll Services; Chief Business/Financial Officer.

A form should be completed for current employees to secure their retirement with CalSTRS if there is any doubt about whether any position previously held was performing creditable service work. The Circular does not specifically address the election remedy for retirees who may not have been performing creditable service during a portion of their career. However, the language of the Circular appears broad enough that districts may consider submitting an election form for those retirees that make that request.

Although the law normally requires CalSTRS members to complete an election form informing CalSTRS that they wish to remain in the CalSTRS retirement system within 60 days of moving to a non-creditable service position, CalSTRS is now allowing a one-time use of the employer correction procedure beyond the 60 day deadline. The forms will be accepted with an effective date as of the member’s date of hire into the position not performing creditable service.

In addition to completing the election form, the employer must submit a justification letter explaining that the member was not offered the opportunity to timely complete the election form. Additionally, the justification letter must identify the member’s name, CalSTRS client identification number or social security number, the previous position held and current position held. The start and end dates, employer name and report unit code for prior and current positions must also be included. The deadline for completing the election form and submitting the justification letter is Friday, May 23, 2014.

The CalSTRS Circular does not clarify what positions or duties will count as creditable service; however, it represents a major step forward by providing a remedy for the current problem while CalSTRS works with education stakeholders on the legislative front to resolve the confusion prospectively.
Lozano Smith and ACSA will continue their partnership with other stakeholder groups to assist with clarifying legislation and implementation of this remedy.

Even if your district is not certain whether it has employees in a position that CalSTRS may consider classified, you may want to ensure timely completion of the election form and the justification letter to eliminate any doubt over your employees’ participation in CalSTRS.

A copy of the CalSTRS Circular can be found [here](#).

The required election form (ES372) can be found [here](#).

If you have any questions about whether your position is performing creditable service work or questions about how to complete the election form, you may contact the CalSTRS Employer Services Helpline at (877) 277-5778 or 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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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.