



California State Teachers'
Retirement System
Executive Office
PO Box 15275
Sacramento, CA 95851-0275
www.CalSTRS.com

January 11, 2016

TO: All County Superintendents of Schools
District Superintendents of Schools
County Offices of Education and
Charter School Administrators

FROM: Jack Ehnes 
Chief Executive Officer

SUBJECT: Employer Directive 2016-01
Grandfathering Misreported Service

PURPOSE

This directive notifies Defined Benefit Program employers of changes to the Teachers' Retirement Law made by Chapter 782, Statutes of 2015 (Assembly Bill 963), affecting employers and members that became effective January 1, 2016.

SCOPE

This directive contains information for county superintendents of schools, school districts, charter schools, community college districts and any agency that employs persons to perform creditable service under the CalSTRS Defined Benefit (DB) and Defined Benefit Supplement (DBS) programs.

DISCUSSION & ACTION

Chapter 782, Statutes of 2015 clarifies the definition of service that can be reported to CalSTRS and remedies membership issues for individuals who had service erroneously reported to CalSTRS.

The amendments that Chapter 782, Statutes of 2015 made to the definition of creditable service set forth in Education Code section 22119.5, will be specifically addressed in an upcoming Employer Directive.

Grandfathering Service Which Has Been Erroneously Reported to CalSTRS

Chapter 782, Statutes of 2015, added Section 22119.6 to the Education Code, which creates an additional definition of "creditable service." Education Code section 22119.6(a) deems activities that do not otherwise meet the definition of creditable service, as defined in Education Code section 22119.5, to be creditable service, only if the activities were:

- Performed for an employer on or before December 31, 2015; and
- Reported as creditable service to CalSTRS.

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Furthermore, Education Code section 22119.6(b) provides that if a member who is performing service deemed creditable pursuant to subdivision (a) becomes employed in another position with the same or different employer, on or after January 1, 2016, the activities performed in that position must meet the definition of creditable service as specified in Education Code section 22119.5 in order to be creditable to CalSTRS. If the service does not meet Education Code section 22119.5, it cannot be reported to CalSTRS.

Action

If a CalSTRS member has been performing activities that meet the definition of creditable service in Education Code section 22119.6(a), continue reporting that service to CalSTRS until that member becomes employed by the same or different employer in a different position on or after January 1, 2016.

Any member starting a position, with the same or with a different employer, on or after January 1, 2016, must perform service that meets the definition of creditable service in Education Code section 22119.5 in order for the service to be creditable to CalSTRS.

Right to Elect to Have Service Covered by Another Public Retirement System

While Chapter 782, Statutes of 2015, added a new definition of creditable service to the Education Code, it also added Education Code section 22508.7, which outlines a person's right to elect to have the service that was deemed creditable pursuant to Education Code section 22119.6 covered by another public retirement system.

Education Code section 22508.7(b) allows CalSTRS members who have performed service deemed creditable pursuant to Education Code section 22119.6 to elect to have that service excluded from CalSTRS coverage, and instead reported to another public retirement system generally, the public retirement system the service should have been reported to originally, as long as they are not excluded from coverage by that system.

Additionally, Education Code section 22508.7(c) allows for individuals who have performed service deemed creditable pursuant to Education Code section 22119.6 and who had that service removed from CalSTRS coverage and reported to a different public retirement system, as directed by CalSTRS, to elect to have all that service and subsequent service in that same position excluded from coverage by the other public retirement system and instead reported to CalSTRS.

No election is needed if an individual is performing or has performed service deemed creditable pursuant to Education Code section 22119.6(a), and wishes to continue to have that service covered by the retirement system it is currently being covered by.

Who Is Eligible to Make Election

The individuals who are eligible to make the election pursuant to subdivisions (b) and (c) of Education Code section 22508.7 are:

- CalSTRS members who have performed service deemed creditable service pursuant to Education Code section 22119.6; or
- CalSTRS members who performed service deemed creditable service pursuant to Education Code section 22119.6, who have retired on or before December 31, 2015; or
- Persons who performed service deemed creditable service pursuant to Education Code section 22119.6 who had that service removed from CalSTRS coverage and reported to a different public retirement system, as directed by CalSTRS; or
- Persons who performed service deemed creditable service pursuant to Education Code section 22119.6 who had that service removed from CalSTRS coverage and reported to a different public retirement system, as directed by CalSTRS, and who are receiving a benefit from that other public retirement system on or before December 31, 2015.

The Education Code does not require CalSTRS or employers to identify, locate or notify persons who have performed service deemed creditable service pursuant to Education Code section 22119.6. However, employers who are aware of employees who have performed service deemed creditable service pursuant to Education Code section 22119.6 should inform those employees of their right to elect to have that service covered by another public retirement system.

Eligible individuals can make this election for each position he or she performed service deemed creditable service pursuant to Education Code section 22119.6 by completing and submitting *Retirement System Election for Misreported Service* form by June 30, 2016.

The *Retirement System Election for Misreported Service* form is available for download at CalSTRS.com/Forms.

An election pursuant to Education Code section 22508.7 is irrevocable.

If an individual is performing or has performed service deemed creditable pursuant to Education Code section 22119.6(a) and wishes to continue to have that service covered by the retirement system it is currently being covered by, the individual does not need complete the *Retirement System Election for Misreported Service* form, as no action is needed, and no form is required.

What Happens When the Election is Made

If a CalSTRS member who has performed service deemed creditable pursuant to Education Code section 22119.6 makes an election to have that service reported to another public retirement system pursuant to Education Code section 22508.7, CalSTRS will validate the member's eligibility to make the election. If the member's eligibility is valid, then:

- CalSTRS will inform the employer to reverse the service reported to CalSTRS.
- CalSTRS will return all member contributions plus credited interest, as determined by CalSTRS, and employer contributions to the employer.

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If that CalSTRS member retired on or before December 31, 2015, the following will also occur:

- CalSTRS will cancel the member's retirement benefit and establish a receivable for the benefits paid to date and will apply any member contributions, credited interest and employer contributions towards the established receivable.
- CalSTRS will collect directly from the individual any amounts that were paid to him or her and not recovered from the member contributions, credited interest and employer contributions applied.

If a person who performed service deemed creditable service pursuant to Education Code section 22119.6 and who had that service removed from CalSTRS coverage and reported to a different public retirement system, as directed by CalSTRS, makes the election to have that service removed from the other public retirement system, and instead reported to CalSTRS, CalSTRS will validate his or her eligibility to make the election. If the individual's eligibility is valid, then:

- The employer must report that service and remit all associated member and employer contributions to CalSTRS in accordance with CalSTRS established reporting laws.
- Penalties and Interest will be assessed according to Title 5, Article 15.5 of the California Code of Regulations.

This employer directive does not take precedence over the law. To view Chapter 782, Statutes of 2015 in its entirety, please go to <http://leginfo.legislature.ca.gov>.

If you have any questions regarding this employer directive, please contact the CalSTRS Member Account Services Training and Teachers' Retirement Law team by emailing MASTrainingandTRL@calstrs.com or calling toll free 844-679-7833.

Retirement System Election for Misreported Service Form - Instructions

Assembly Bill 963 was enacted to allow individuals who were misreported, on or before December 31, 2015, to CalSTRS the ability to remain with CalSTRS. **If you would like to remain with CalSTRS for that position there is no action needed.**

- If you do not wish to remain with CalSTRS this form applies to you. You may elect out of CalSTRS by completing this election form.
- If you were misreported to CalSTRS and that service was removed at the direction of CalSTRS, and you wish to have that service reported to CalSTRS, complete this election form.

INSTRUCTIONS

Please read before you complete this form.

This form must be received by CalSTRS on or before June 30, 2016. Please submit only one form.

SECTION 1: MEMBER INFORMATION

Complete all entries of Section 1.

SECTION 2: ELECTION

You may select either option A or option B.

Option A – Electing another Retirement System

If you performed creditable service pursuant to Education Code section 22119.6 on or before December 31, 2015, and elect to have the service for that position reported to a different public retirement system, check the box under the *Election to have Service Currently Covered by CalSTRS Covered by Another Public Retirement System* section.

This election allows you to have all of your service excluded from CalSTRS Defined Benefit Program and reported to another public retirement system for that position. Indicate which retirement system you elect to have the service reported to. Keep in mind; however, you must meet membership eligibility criteria for the other public retirement system.

If you make this election the member contributions, credited interest and employer contributions will be returned to the employer, and it's the employer's responsibility to report the service and contributions to the other public retirement system. If you retired on or

before December 31, 2015, and you make this election, the member contributions and credited interest as well as the employer contributions will be returned to the employer. CalSTRS will deduct any amounts that were previously paid to you as a benefit from the amount that is returned to the employer. It is the employer's responsibility to report the service and contributions to the other public retirement system.

Option B – Returning to CalSTRS coverage

If you performed service pursuant to Education Code section 22119.6 that was reported to CalSTRS and that service was removed at CalSTRS direction, and you wish to elect CalSTRS Defined Benefit Program, check the box under the *Election to have Service Currently Covered by Another Public Retirement System Covered by CalSTRS* section.

Indicate the name of the other public retirement system you are electing your service be removed from. It is the employer's responsibility to remit the member and employer contributions for that service and any subsequent service in the same position to CalSTRS.

SECTION 3: SIGNATURE

Sign, date and return this form to CalSTRS on or before June 30, 2016. By signing this form you understand this election is irrevocable.

SUBMITTING YOUR FORM

You can fax or mail this form to:

CalSTRS
P.O. Box 15275, MS 17
Sacramento Ca 95851-0275

Fax Number: 916-414-5474

IMPORTANT CONSIDERATIONS

If you chose to make a change from one retirement system to another, please note the following considerations:

- As a CalSTRS member you have not paid into Social Security. Other retirement systems may offer Social Security and you may be liable for paying into it.

Retirement System Election for Misreported Service Form - Instructions

IMPORTANT CONSIDERATIONS continued

- You will retain your retirement formula if you choose to elect a different retirement system. If you were subject to the California Public Employees' Pension Reform Act of 2013 with CalSTRS you will be subject to the California Public Employees' Pension Reform Act of 2013 in the other public retirement system. As well as if you were not subject to the California Public Employees' Pension Reform Act of 2013, you will not be subject with the other public retirement system.

Additionally be aware that contribution rates will vary depending on the public retirement system you are choosing to have your service reported too

If you perform service in a new position after December 31, 2015, that position has to meet the criteria in section 22119.5 of the Education Code to be considered a creditable service position.

Retirement System Election for Misreported Service

ES 0198 (New 1/16)



California State Teachers' Retirement System
P.O. Box 15275, MS 17
Sacramento, CA 95851-0275
800-228-5453
CalSTRS.com

PLEASE TYPE OR PRINT LEGIBLY IN DARK INK

Chapter 782, Statutes of 2015 (Assembly Bill 963) added Section 22119.6 to the Education Code allowing activities that do not meet the definition of creditable service under Section 22119.5, but were performed for an employer and reported to CalSTRS on or before December 31, 2015 to be creditable to CalSTRS.

Assembly Bill 963 also allows persons who have performed service deemed creditable pursuant to Education Code section 22119.6 to elect to have all of that service that is subject to coverage by the Defined Benefit Program be subject to coverage by the other public retirement system, provided that the member is not excluded from membership in the other public retirement system.

Additionally it allows a person whose service was removed from CalSTRS and reported to another public retirement system as directed by CalSTRS, to elect to have that service subject to coverage of the Defined Benefit Program if they were performing creditable service according to Education Code section 22119.6.

This election must be received by CalSTRS on or before June 30, 2016.

SECTION 1: MEMBER INFORMATION

NAME (LAST, FIRST, INITIAL)

CLIENT ID OR SOCIAL SECURITY NUMBER

MAILING ADDRESS

CITY, STATE and ZIP CODE

TELEPHONE NUMBER

E-MAIL ADDRESS

SECTION 2: ELECTION (Please select A or B)

A. Election to have Service Currently Covered by CalSTRS Covered by Another Public Retirement System

I have performed creditable service that has been reported to CalSTRS prior to December 31, 2015, as defined in Education Code section 22119.6. I am eligible to elect to have all of that service subject to coverage by a different public retirement system and excluded from coverage by CalSTRS Defined Benefit Program, pursuant to Education Code section 22508.7(b).

- I elect to have this service reported to the public retirement system listed below as my service is subject to coverage to that public retirement system. I understand this is an irrevocable election.

(Print Name of Other Public Retirement System)

B. Election to have Service Currently Covered by Another Public Retirement System Covered by CalSTRS

I have performed creditable service as defined in Education Code section 22119.6, which was removed from CalSTRS and reported to the public retirement system listed below. I am eligible to elect to have all of that service and subsequent service in the same position subject to coverage by CalSTRS Defined Benefit Program and excluded from coverage by the other public retirement system, pursuant to Education Code section 22508.7(c).

- I elect to have this service that was removed from CalSTRS and reported to the public retirement system listed below covered by CalSTRS Defined Benefit Program. I understand this is an irrevocable election.

(Print Name of Other Public Retirement System)



ES0198

SECTION 3: SIGNATURE

I fully understand and acknowledge this election is irrevocable. I understand it is a crime to fail to disclose a material fact or to make any knowingly false material statements for the purpose of altering a benefit administered by CalSTRS and it may result in up to one year in jail and a fine of up to \$5,000. (Education Code section 22010).

MEMBER SIGNATURE

DATE

SECTION 4. CALSTRS USE (to be completed by CalSTRS)

APPROVED

DENIED

NAME

TITLE

SIGNATURE

DATE