



California Public Employees' Retirement System
P.O. Box 942715 | Sacramento, CA 94229-2715
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442
www.calpers.ca.gov

Membership

Circular Letter

October 7, 2022

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Distribution: XII, XVI

To: All CalPERS Contracted School Employers
Subject: Changes to the Retirement System Election Eligibility Criteria

Purpose

The purpose of this Circular Letter is to inform you of the changes made to the eligibility criteria for substitute teachers who are providing emergency teaching services pursuant to Executive Order N-3-22. This impacts the requirements of the Retirement System Election (ES 372) when a member elects to retain coverage by the California Public Employees' Retirement System (CalPERS) for a position subject to coverage by the California State Teachers' Retirement System (CalSTRS) pursuant to [Executive Order No. N-3-22 \(PDF\)](#).

Background

Executive Order No. N-3-22 became effective on January 11, 2022 and provides temporary flexibility regarding the hiring of substitute teachers in response to staffing shortages caused by the rise in COVID-19 cases. Government Code section 20309 of the Public Employees' Retirement Law (PERL) was subsequently amended to provide that a member providing emergency teaching services pursuant to Executive Order No. N-3-22 is eligible to elect to retain coverage by CalPERS for that position. The member must sign and submit the election to the employer on or before January 1, 2024.

Impacts

Your agency is required to provide the Retirement System Election (ES 372) form for every new eligible position, including members who are providing emergency teaching services pursuant to Executive Order No. N-3-22. Your agency must also:

- Determine if a member is providing emergency teaching services pursuant to Executive Order No. N-3-22.
- Provide the opportunity for any member who is providing emergency teaching services pursuant to Executive Order No. N-3-22 and who meets the eligibility criteria outlined below to make an election. Pursuant to the amended law, we will not require a member to submit the election to your agency within 60 days after the member's date of hire. The member must sign and submit the election form to your agency on or before January 1, 2024.
 - Members in these positions who want to elect CalPERS membership must still meet the requirement of having qualified employment reported to CalPERS under a school employer, the Board of Governors of the Community Colleges, or the State Department of Education within 120 days of the member's date of hire in the position **or** have at least five years of service in CalPERS.
 - If the position was reported to CalSTRS and the member elects to be reported to CalPERS, the employer must discuss the impacts of corrections with the member. If they still choose to elect CalPERS, your agency must reverse the enrollment from CalSTRS and report it to CalPERS.
- Indicate on the Retirement System Election (ES 372) form that the position is “pursuant to Executive Order No. N-3-22” once a member who is providing emergency teaching services elects to retain coverage in CalPERS.
- Upon receipt of the completed election form, submit it to CalPERS by:
 - Selecting “yes” to the question “Is a Retirement System Election (ES 372) needed for this enrollment to elect CalPERS or CalSTRS?” under the **Membership Information** section of the appointment in myCalPERS
 - Uploading the form
 - Completing the employer certification
- Retain a copy of the member's signed election form.

CalPERS will complete the determination based upon the member's eligibility and send your agency and the member our determination in the mail. You may also view the determination in myCalPERS.

This amendment does not change the eligibility requirements for members who are in a position performing creditable service and not providing emergency teaching services pursuant to Executive Order No. N-3-22. These eligibility requirements are outlined in our Public Agency & Schools Reference Guide.

Resources

View the [Public Agency & Schools Reference Guide \(PDF, 3.12 MB\)](#) for information about membership determinations and Retirement System Election eligibility requirements.

Questions

If you have questions, visit our [website](#), or contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

Renee Ostrander, Chief
Employer Account Management Division