



RELEVANT FACTS RE: ADMINISTRATIVE LAW DECISION
BEFORE CALPERS BOARD ON SEPTEMBER 16, 2009

Background:

- The position of County Superintendent was established in the California State Constitution of 1879 and County Offices of Education are public agencies under state law. Each County Superintendent and the County Board of Education are commonly known as the County Office of Education. Fifty-three of the 58 County Superintendents are locally elected officials. The California County Superintendents Educational Services Association (CCSESA) is the operational organization that the county superintendents jointly formed to assist in the implementation of their constitutional and statutory functions.
- County Offices of Education serve as the intermediate education service agency between the California Department of Education and local school districts. County Superintendents of Schools have historically been given broad and recently increasing statutory authority by the Legislature and Governor to implement and monitor programs and services on behalf of the 1000+ school districts in California, as well as to operate regional and statewide collaborations that promote efficient and cost effective service delivery. The 58 County Superintendents, both directly and regionally, also provide direct educational services to students on behalf of school districts. Examples include special education, alternative education, and regional occupational programs (ROPs).
- Under the Public Employees' Retirement Law (Government Code § 20610), County Superintendents of Schools are **mandated** to report all of their employees to the California Public Employees Retirement System (CalPERS), if they are not otherwise reported to the California State Teachers Retirement System (CalSTRS). County Superintendents have consistently followed this legal mandate for all staff employed to perform their statutory duties for local, regional, and statewide programs, including staff employed to operate the statewide operational organization, CCSESA.

Adverse Staff Determination by CalPERS:

- In March, 2007 CalPERS staff notified the California County Superintendents Educational Services Association (CCSESA), the statewide network comprised exclusively of County Superintendents, that CCSESA employees were not eligible for state pensions although **all employer and employee contributions have been fully paid for all employees under current law requirements**. CalPERS also informed the County Superintendents that, retroactive to 1998, all previously earned and continuing service credit was void. This is a significant dispute because it goes to the heart of county superintendents' underlying constitutional and statutory authority to administer programs on a county, regional, and statewide basis, a role which the Legislature has consistently recognized and mandated for decades.

Proposed Administrative Law Decision Overturns CalPERS Staff Determination – Request CalPERS Board to Approve as Precedential Decision:

- The County Superintendents exercised their right to appeal this staff-level determination to the Office of Administrative Hearings. Following a lengthy hearing, Presiding Administrative Law Judge Jonathan Lew issued a proposed decision (OAH 20080205) on July 7, 2009 ordering CalPERS to restore all applicable service credit to the employees affected. The matter now goes to the CalPERS Board of Administration for action on September 16, 2009. The County Superintendents will ask the CalPERS Board to adopt the decision and also deem it precedential because it reaffirms their constitutional and statutory authority to employ individuals to perform county, regional, and/or statewide duties to meet legal and professional obligations for delivery and monitoring of educational programs throughout California.