

CalPERS Ethics Helpline

SUMMARY OF CLOSED SUBSTANTIATED REPORTS
5/16/2013 through 8/15/2013

**Issue Type: Other-Member Criminal Activity
2013-238**

Allegation: An identified reporting party questioned whether or not CalPERS would take action against an identified City Council member's retirement benefits after the Council member pled guilty to bribery.

Finding: CalPERS confirmed the City Council member's July 12, 2012 conviction for bribery arose out of the performance of the Council member's official duties. CalPERS sent a preliminary determination letter notifying the member that 4.783 years' service credit would be forfeited pursuant to Government Code Section 7522.70. CalPERS allowed the member until August 5, 2013 to submit documentation contesting the determination. The member failed to submit the documentation by the deadline; therefore, CalPERS determination became final. Because of the forfeiture, the member no longer meets the minimum 5 year service credit requirement needed to receive a monthly retirement benefit.

Action Taken: Forfeiture of Benefits

**Issue Type: Retirement Benefits Fraud or Abuse-Retired Annuitant
2013-297**

Allegation: An identified reporting party alleged that an identified CalPERS retired annuitant violated the government code by working in an interim permanent vacant position longer than the 12-month maximum.

Finding: CalPERS determined that the identified retiree began working in an interim position on July 8, 2009 while continuing to receive a monthly service retirement allowance. Government Code (GC) 21221(h) permits the governing body of a contracting agency to appoint a retiree to serve as an interim in a permanent, vacant position while the governing body recruits for a permanent replacement. On July 8, 2009 through July 27, 2012, this GC section permitted an interim to be employed for a maximum period of 12 months; therefore, the retiree's employment should have ended on July 8, 2009.

CalPERS advised the retiree to either terminate employment with the agency no later than July 31, 2013, or reinstate from service retirement effective July 8, 2009, the date the employment began. If reinstated, the retiree would be required to reimburse CalPERS for the retirement benefits received since that date. CalPERS received confirmation that the retiree terminated employment on July 31, 2013.

Action Taken: Counseled (verbal/written) Warning

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Issue Type: Retirement Benefits Fraud or Abuse-Retired Annuitant
2013-299

Allegation: This is an anonymous complaint alleging that an identified CalPERS covered employer hired an identified retiree as an independent contractor to circumvent the government code section limiting a retired annuitant's employment to 960 hours in a fiscal year.

Finding: CalPERS determined that the identified retiree's employment was not in compliance with Government Code 21221(h) because the consultant agreement indicated the retiree was serving as the Interim Chief Business and Financial Officer. CalPERS advised the retiree to terminate employment with the agency no later than 6/28/2013 or reinstate retroactive to 10/17/2012, the date the employment began. CalPERS received confirmation that the retiree terminated employment on June 19, 2013.

Action Taken: Counseled (verbal/written) Warning

Retirement Benefits Fraud or Abuse-Pension Spiking
2013-315

Allegation: This is an anonymous complaint alleging that an identified school district is spiking the pay of classified management and confidential employees by reporting compensation to CalPERS that is non-reportable.

Finding: CalPERS determined that the school district was reporting non-reportable special compensation and instructed the District to reverse the non-reportable special compensation for the affected employees. CalPERS is working with the District to identify the service periods in need of correction and will monitor the payroll reporting until the process is complete.

Action Taken: CalPERS Member Benefits Adjusted

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**SUMMARY OF CLOSED SUBSTANTIATED REPORTS
5/16/2013 through 8/15/2013**

**Issue Type: Retirement Benefits Fraud or Abuse-Pension Spiking
2013-316**

Allegation: An anonymous complaint alleging that an identified City Manager improperly raised the pay of several city executives in excess of 10 percent. Many of the executives who received the alleged pay increase will retire in the next four years.

Finding: CalPERS reviewed the compensation reported on behalf of the identified employees. The pay schedules provided by the city listed the payrate for the City Manager, City Attorney and City Treasurer as "Flat Rate" which does not meet the definition of "compensation earnable" as provided in government code. CalPERS instructed the city to make a pay schedule available to the public identifying every CalPERS covered position and corresponding payrates. Additionally, the pay schedule would need to be approved and adopted in an open session by the city's governing body.

CalPERS will follow-up with the city to ensure compliance and monitor the compensation reported on behalf of the affected members to ensure it complies with the Public Employee's Retirement Law (PERL).

Action Taken: Counseled (verbal/written) Warning