Member Services Division
P.O. Box 942704
Sacramento, CA 94229-2704
Telecommunications Device for the Deaf - (916) 326-3240
888 CalPERS (or 888-225-7377), FAX (916) 795-1224

Reply to Unit 841

June 30, 2009

Mr. Fred Guido

Dear Mr. Guido:

I received your letter dated June 16, 2009 which details your inquiry regarding reciprocity with LACERA and in regard to your concurrent retirement from two public employment agencies. I apologize for any confusion and would like to take this opportunity to address your inquiry.

The California Public Employees' Retirement System (CalPERS) is unable to establish reciprocity between CalPERS and the Los Angeles County Employees' Retirement Association due to your lapse in service. Our records indicate that you separated from our system on April 20, 1982 and became a member of the Los Angeles County Employees' Retirement Association on January 1, 1997. In order for reciprocity to apply, you must enter the reciprocal retirement system within six months after your separation from our system (Government Code section 20355.) Section 20356 extends the 6 month period to one year for some local elected officials under certain circumstances.

*Government Code Section(s) 20351, 20353, and 20355 state that reciprocity can be established only when "...***termination and entry into employment resulting in a change in membership** from one retirement system to another... occurs within six months." Since you did not enter a position covered by the Los Angeles County Employees' Retirement Association within six months (or one year as provided for in section 20356, if it were to apply) of terminating your position covered by CalPERS, reciprocity cannot be established.

We understand you were previously told that reciprocity had been established between CalPERS and LACERA and CalPERS would use the highest compensation earned under either system. However, CalPERS is unable to disregard the applicable Public Employees' Retirement Law outlined in this letter and therefore cannot extend reciprocity under the circumstances of your service, as the statutes do not permit it.

Additionally, LACERA has reviewed membership information provided by us and determined reciprocity will not apply for the membership period of April 1, 1973 through November 25, 1977 due to concurrent service. A copy of LACERA's denial letter is enclosed for your reference.

As both CalPERS and LACERA have determined that reciprocity does not apply in your case, CalPERS is unable to grant your request that we use the final compensation amounts earned while a member of LACERA for the purposes of determining your CalPERS retirement allowance.

In accordance with Section 555.1 of the California Code of Regulations you have the right to file a written appeal with the California Public Employees' Retirement System (CalPERS) here in Sacramento, CA, within ***thirty days of the mailing of this letter.*** An appeal, if filed, should set forth the factual basis and legal authorities for such appeal. A copy of the applicable Code of Regulations sections is included for your reference. If you file an appeal, the Legal Office will contact you and handle all requests for information. The Appeal should be sent to:

CalPERS
Attn: Member Services Division
Darryl Watson, Division Chief
PO Box 942704
Sacramento, CA 94229

CalPERS strives to provide our members with excellent customer service and accurate information. We sincerely apologize for the confusion. If you have any questions, please contact me directly, at (916) 795-7623.

Sincerely,

Heather Hurff,
Manager, RSVP Unit
Member Services Division

Enclosures

cc: Los Angeles County Employees' Retirement Association

Member Services Division
P.O. Box 942704
Sacramento, CA 94229-2704

COPY OF CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTIONS 555-555.4

555. *Action of Executive Officer* – The Executive Officer is hereby authorized to act: on any application for refund of contributions, crediting of service, correction of records, retirement for disability or service, and death benefits and allowances; and to fix and authorize the payment of any refund, allowance or benefit to which such applicant may be found to be entitled to upon his determination that a disability does not exist. The Executive Officer may refer the question of an applicant's entitlement to any refund, allowance of benefit or of his reinstatement from retirement to a hearing officer for a hearing.

The Executive Officer is hereby authorized and empowered to delegate to his subordinates authority to take any such action on his behalf.

555.1 *Right of Appeal* – Any applicant dissatisfied with the action of the Executive Officer on his application, other than his referral of the matter for hearing, may appeal such action to the Board by filling a written notice of such appeal at the offices of the Board within thirty days of the date of the mailing to him by the Executive Officer, at his most recent address of record, of the notice of the action and right of appeal. Upon a satisfactory showing of good cause, the Executive Officer may grant additional time not to exceed 30 days, within to file the proceedings for its review or hearing.

555.2 *Statement of Issues* – Any applicant filing an appeal shall be entitled to a hearing, and upon the filing of an appeal in accordance with these rules, or upon the Executive Officer's referral of any question for hearing, the Executive Officer shall execute a statement of issues. Such action of the Executive Officer shall not preclude the Board form recalling the proceedings for its review or hearing.

555.3 *Accusation* – Any member whose retirement for disability has been requested by his employer shall be entitled to a hearing. The Executive Officer, upon determination that a member shall be retired for disability on such application, shall file a accusation and serve a copy thereof on the member and his employer.

555.4 *Hearings* - All hearings shall be conducted in accordance with the provisions of Chapter 5, Part 1, Division 3, Title 2 of the Government Code. Each case shall be heard by the hearing officer alone. All proposed decisions of hearing officers shall be referred to the Board. The Executive Officer is hereby authorized and empowered to take, in the name and on behalf of the Board, any action which the Board is authorized or directed by law to take with respect to procedural and jurisdictional matters in connection with any case in which a statement of issues or accusation has been filed.