

Public Comments and Responses

The following 36 Comments were received from the Public and CalPERS responses were provided. The initial 45-day written comment period for the proposed regulatory action began on May 30, 2014, and closed on July 14, 2014. Comments #1 and #2 were received prior to the Public Comment period. Comments #35 and #36 were received after the Public Comment period.

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1. Dennis Holland

Pension Calculations

Dennis Holland

Sent: Monday, May 5, 2014 at 6:40 PM

To: PEPRA Regulations

CALPERS Board:

I write to express my strong opposition to your vote to include "temporary upgrade pay" in pension calculations. This action is a clear attempt to evade the 2012 law to outlaw pension "spiking". SHAME!

Dennis E. Holland
4980 Old Cliffs Road
San Diego, CA 92120

This email is free from viruses and malware because avast! Antivirus protection is active.
<http://www.avast.com>



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www.calpers.ca.gov

July 25, 2014

Dennis Holland
4980 Old Cliffs Road
San Diego, CA 92120

Dear Mr. Holland:

The California Public Employees' Retirement System (CalPERS) received your e-mail dated May 5, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

2. Dave/Linda Quinby

From: Dave/Linda Quinby [<mailto:quinby2@att.net>] **Sent:** Tuesday, May 06, 2014 4:30 PM
To: Nutley, Christina
Cc: Nutley, Christina
Subject: Temporary Upgrade Pay Regulation

Ms Nutley,

Thank you for providing your email address since the pepra_regulations@ca.calpers.gov address failed. I googled your name and found your email address with the underscore (instead of the dot) after Christina so I've copied you with that address as well.

A recent article in our local newspaper indicated that CalPERS is considering allowing “temporary upgrade pay” to be included in calculating pensions. My wife and I are most strongly against this.

Although including “temporary upgrade pay” in the pension calculation may appear reasonable on the surface, it must be considered in light of the previous misguided increases to retirement benefits. These have created an unsustainable pension system; no private employer could continue in business under a similarly generous system. The impact of the 50% retroactive retirement increase granted in 1999 far outweighs any need or obligation to make any additional changes that increase pensions. Allowing “temporary upgrade pay” to be included will result in more gaming of the system. Favored employees who plan to retire will be gifted with temporary upgrades as simply another way to spike their retirement pay. It was sensible when in 2012 you limited pensionable compensation, blocking the use of overtime and/or unused vacation and sick leave to spike late-career compensation and thus pensions. Please don't negate the benefit of those changes.

I previously worked for the Federal government in Personnel (now

HR). I was regularly asking supervisors if, when they were approving some special benefit for any employee, they would still be approving it if even a small portion of that benefit were being taken out of their own salary. Just because the too-often-invisible taxpayer is the one on the hook for these pensions doesn't mean you don't have to consider where the money comes from. Government agencies should be just as responsible in assigning benefits as a for-profit company.

David & Linda Quinby
2551 Ingleton Ave, Carlsbad, CA 92009
(760) 931-9789



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July 25, 2014

David & Linda Quinby
2551 Ingleton Ave.
Carlsbad, CA 92009

Dear Mr. and Mrs. Quinby:

The California Public Employees' Retirement System (CalPERS) received your e-mail dated May 6, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

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Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

3. Chris Orman, North County Fire District

From: Chris Orman [<mailto:c5200@ncfpd.org>]
Sent: Monday, June 09, 2014 8:35 AM
To: PEPRA Regulations
Subject: Written Comment on Proposed Regulatory Action

Anthony Martin, Regulation Coordinator
California Public Employee's Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

RE: Proposed Regulatory Action on Section 571.1

Dear Mr. Martin,

The list of Special Assignment Pays includes "Paramedic Coordinator Premium" but does not include a general EMS Coordinator Premium. In the past few years local EMS Agencies have taken a more regulatory role and have required agencies to manage their EMS training, documentation, background checks, inoculations, medical clearances, etc. Almost every agency has somebody in the position of EMS coordinator to act as liaison between the agency and the EMS Agency. This position is responsible to meet all the requirements of the EMS Agency as well as local and state laws. The position of EMS Coordinator should be added to the premium pay list.

On a related note, our agency does not pay premiums. We use overtime as the incentive for work above and beyond the regular shift. Overtime used in this sense should be counted.

Thank you for your consideration in this matter.

Sincerely,

Chris W. Orman, Fire Chief
North County Fire District
11200 Speegle Street
Castroville, CA 95012



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July 25, 2014

Chris Orman
North County Fire District
11200 Speegle Street
Castroville, CA 95012

Dear Mr. Orman:

The California Public Employees' Retirement System (CalPERS) received your e-mail dated June 9, 2014, regarding the proposed Pensionable Compensation regulation in which you requested the addition of EMS Coordinator Premium. EMS Coordinator Premium may fall under the Paramedic Coordinator Premium in most cases. The Compensation Review Unit will be reaching out to you to validate.

Your letter also indicated that your agency uses overtime as incentive for work done above and beyond a member's regular shift. Pensionable compensation is for work performed during normal working hours, which would prohibit use of overtime in this manner by definition. This method of compensation would also not be reportable for members hired prior to January 1, 2013 as well.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

4. Ron Cottingham/Amy Brown (Submitted through GOVA)

From: Ron Cottingham <roncottingham@cox.net>

Date: June 10, 2014 at 8:27:49 AM PDT

To: Amy Brown <abrown@lawpolicy.com>

Subject: Re: Happy Early Alert Day

Hi Amy,

I was looking specifically for some input into the proposed regulations being promulgated by CalPERS to codify pensionable compensation (premium pay/special assignment pay). I have reviewed the regulations and believe both fire and LE did pretty well. I was hoping you had reviewed the regs so I could get your input. I have some questions:

Extradition Officer Premium reads that it applies to an officer that returns a person to another jurisdiction, but does not state it will cover an officer that is sent to retrieve a person to bring back to their own jurisdiction. The Fugitive Officer Premium could be considered to cover this; however, in some departments the fugitive officer detail is more focused on pursuing parolees at large or high value warrant subjects. they don't exactly do extraditions.

Aircraft/Helicopter Premium covers the pilot, but not the assigned observer. They have a category for Flight Time Premium; however, it can be interpreted that you only get this pay while actually flying.

Fire Investigator is covered. A Bomb Arson Tech/Detective could be covered under the Hazard Premium; I am not positive. OR some of these categories could be covered under the ubiquitous "Detective Division Premium"

Those are some of my concerns, but I would value your analysis.

Thank you,
Ron

RON COTTINGHAM
roncottingham@cox.net
442.888.2035 - Mobile

"The ends you serve that are selfish will take you no further than yourself; however, the ends you serve that are for all, in common, will take you into eternity." -Marcus Garvey



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July 25, 2014

Ron Cottingham
Amy Brown
PORAC
4010 Truxel Road
Sacramento, CA 95834-3725

Dear Mr. Cottingham and Ms. Brown:

The California Public Employees' Retirement System (CalPERS) received your e-mail dated June 10, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns regarding certain items of compensation.

Extradition Officer Premium, states:

"Compensation to local police officers and county peace officers who are routinely and consistently assigned to return a person to the custody of another jurisdiction."

Fugitive Officer Premium, states:

"Compensation to local police officers and county peace officers who are routinely and consistently assigned to pursue persons who have or are fleeing from justice."

As you have indicated, the Extradition Officer Premium specifies for the return of person(s) to the custody of another jurisdiction. Retrieving individuals could qualify as Fugitive Officer Premium. If a person of interest fled and was subsequently detained in another jurisdiction, the local police officers that are routinely assigned to retrieve them could have this item reported for purposes of calculating a retirement benefit.

Aircraft/Helicopter Premium states:

"Compensation to safety employees who are routinely and consistently assigned as aircraft/helicopter pilots."

Ron Cottingham
Amy Brown
July 25, 2014
Page 2 of 2

Flight Time Premium states:

“Compensation to safety employees for time spent as co-pilot or crew on work related air missions.”

Your comments raised concerns about the observer not being entitled to the Aircraft/Helicopter Premium. You are correct in your analysis. The Aircraft/Helicopter Premium is limited to pilots; however, the Flight Time Premium does specify the crew, which includes the observer. This pay would be reportable for the co-pilot and crew on any work related missions.

Lastly, the Bomb Arson Tech/Detective classification as it is written would be covered under the Hazard Premium. Bomb and SWAT are typically reportable under Hazard Premium. CalPERS will work with contracting agencies to add the “hazardous activities” language to any Memorandums of Understanding in order to achieve transparency and compliance with CalPERS governing laws.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,



TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

5. Patrick Whalen, CASE General Counsel



June 11, 2014

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

Dear Mr. Martin:

I am writing on behalf of California Attorneys, Administrative Law Judges and Hearing Officers in State Employment ("CASE"), the exclusive representative for State Bargaining Unit 2, to comment on the proposed regulation regarding pensionable compensation.

The proposed regulation (Title 2 CCR § 571.1) sets forth, in subdivision (a), a definition of "pensionable compensation." Then, in subdivision (b), the regulation sets forth a lengthy list of all of the various types of incentives, premiums and other types of compensation that are "pensionable." Subdivision (c) sets forth categories of payments that are not pensionable.

Nowhere in the list in subdivision (b) is there any mention of the 5% pay differential received by Unit 2 Administrative Law Judges ("ALJs") upon completion of National Judicial College Training, even though it would appear to meet all the criteria of subdivision (a). By way of reference, our MOU provides, in Section 5.11.A, as follows:

5.11 National Judicial College Differential

A. Employees in classes enumerated in Section E (below) who complete an equivalent judicial education curriculum shall receive a monthly differential of five percent (5%) of their salary. The differential shall be considered compensation for purposes of retirement.

(Emphasis added.) This differential has been on the books for at least a decade and the MOU provision has been unchanged in various successor MOUs. It is my understanding that virtually every ALJ attends the National Judicial College within a few months of being hired, and thus virtually every ALJ regularly receives the differential.

I have been communicating with CalPERS staff on this issue, and they have indicated that they believe that the National Judicial College differential is included within the "Educational Incentive" category which appears in subdivision (b)(2) of the proposed regulation. However, the definition of that broad category is broad and does not clearly state that it applies to the one-week training program that our judges attend. Specifically, the proposed language states, in pertinent part:

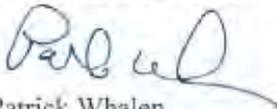
Educational Incentive - Compensation to employees for completing educational courses, certificates and degrees which enhance their ability to do their job. A program or system must be in place to evaluate and approve acceptable courses.

It is unclear whether the National Judicial College differential qualifies under this definition because it is uncertain whether an acceptable program or system is in place to evaluate the course. Indeed, the regulation fails utterly to define what constitutes an acceptable program or system of evaluation. Accordingly, there is ambiguity as to whether the National Judicial College differential is pensionable.

And while CalPERS staff has offered assurances that it is pensionable, because pension benefits are critical to our members, it is imperative that there be absolutely no ambiguity as to whether the National Judicial College differential is, or is not, pensionable. The problem is that subdivision (b) states that the list "exclusively identifies and defines the types of pay" that is pensionable, and thus the argument exists that if a particular type of compensation is not on the list, it is not pensionable. Given the length and specificity of the list, the doctrine of "expressio unius est exclusio alterius" may be particularly persuasive here. In other words, if dozens of other differentials and incentives are listed, but the National Judicial College differential is not, one might conclude that the National Judicial College differential was intentionally omitted.

Accordingly, I am respectfully requesting that the National Judicial College differential be specifically listed among the pensionable types of compensation. Alternatively, I am requesting that the "Educational Incentive" category be clarified so that it clearly includes the National Judicial College differential. Indeed, because CalPERS staff has already indicated their intent that the National Judicial College differential be included in pensionable compensation, it would seem a simple matter to make that intent express.

Thank you for your consideration in this matter.



Patrick Whalen
CASE General Counsel



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July 25, 2014

Patrick Whalen
CASE General Counsel
1231 I Street, Suite 300
Sacramento, CA 95814

Dear Mr. Whalen:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 11, 2014, regarding the proposed Pensionable Compensation regulation in which you requested the addition of National Judicial College Differential to subsection (b) or the clarification of Education Incentive to include the differential by name.

The intent of the Public Employees' Pension Reform Act was to limit items of compensation allowed to be included in an employee's retirement calculation. As such, it would go against the spirit of this statute to add an item of pay that is not specifically provided for members hired before January 1, 2013. In addition, although it is an exclusive list, the pay items listed in subsection (b) may encompass more than just one type of pay with different titles. With over 2,000 agencies in CalPERS it is impossible and inefficient to list out each individual training program for every agency.

In your specific case, the National Judicial College Differential would fall under subsection (b)(2) as Education Incentive as indicated in your letter. CalPERS worked with the California Department of Human Resources and both agencies have agreed the National Judicial College Differential would qualify as Education Incentive as the regulation is currently written provided it also meets all other criteria.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

Patrick Whalen
July 25, 2014
Page 2 of 2

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,



TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

6. Jai Sookprasert, Assistant Director of Governmental Relations, California School Employees Association



California
School
Employees
Association

Michael Billbrey
Association President

Dave Low
Executive Director

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Jai Sookprasert
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Dolores Duran-Flores
Legislative Advocate

Steve Henderson
Legislative Advocate

Tristan Brown
Legislative Advocate

Member of the AFL-CIO

*The nation's largest
independent classified
employee association*



June 19, 2014

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, California 94229-2702

Dear Mr. Martin:

The California School Employees Association (CSEA), AFL-CIO, supports the proposed regulations under Section 571.1 to further clarify Pensionable Compensation, to conform to AB 340, the Public Employees' Pension Reform Act (PREPRA) of 2013.

Specifically CSEA supports the concept that temporary pay should be pensionable. This is not an unearned increase in benefit because the member paid into CalPERS while working out of class. This is a routine situation that occurs often when employees get sick or injured and are on long term leave. The employee is entitled to their job when they return. This is not a spiking situation. Moreover, they typically do not retire based on this period, so it benefits the fund, not the member.

For this reason, we urge the CalPERS Board of Administration to support and adopt the staff recommended regulations for pensionable compensation.

If you have any questions regarding this matter please contact me at (916) 329-3623.

Sincerely,

Jai Sookprasert
Assistant Director of Governmental Relations

cc: Members, CalPERS Board of Administration
Anne Stausboll, Chief Executive Officer, CalPERS
Dave Low, Executive Director, California School Employees Association

JS:et

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Our mission: To improve the lives of our members, students and community.



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July 25, 2014

Jai Sookprasert
Assistant Director of Governmental Relations
California School Employees Association
1127 11th Street, Suite 346
Sacramento, CA 95814

Dear Mr. Sookprasert:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 19, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the inclusion of Temporary Upgrade Pay.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

7. John Gross, City of Long Beach

City of Long Beach, Final, 6/25/13

Comment on Proposed Regulations

Proposed Adoption of Article 4, Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations

The April 16, 2014 regulations (Article 4) seem generally consistent with the intent of PEPRA and pre-existing regulations. However, Long Beach respectfully requests the Board consider the following modifications:

1. Explicitly add a definition of “Normal Monthly Rate of Pay” and define the term as equal to “Base Pay”

If these terms are not explicitly defined to be identical, we have a concern that at some future point, these two terms will have different definitions creating a new opportunity for increased systems complexity (to further add to CalPERS already highly burdensome administrative requirements) and to potentially allow higher pensions through yet more earnings being considered pensionable and subverting PEPRA. While CalPERS staff has informally tells us these two terms are synonymous, this issue can be eliminated by the Board defining the terms as equal. The current draft regulation leaves it uncertain.

2. Remove temporary upgrade pay as pensionable for PEPRA employees.

While there are arguments for both sides as to whether upgrade pay should be pensionable, the preponderance of evidence indicates that the legislative intent was likely to exclude it, AND, if it remain included as pensionable, it will likely give the CalPERS Board the appearance of purposefully trying to get around pension reform and support the spiking of pensions. Temporary upgrade pay is better excluded from PEPRA pensionable earnings because:

- a. PEPRA specifically excludes “any one-time or ad hoc payments made to a member.” It is therefore clear that if a payment is done once or ad hoc, it is not pensionable. A temporary upgrade clearly meets this definition:
 - i. Because by both definition and the name itself, “temporary upgrade pay” is of limited duration, it qualifies as “one-time”. This type of pay is not typically repeating as are some of the special or skill pays.
 - ii. Since, by its nature, the temporary upgrade is for a specific position in a specific situation, it is also ad hoc – it solves a particular, singular issue of limited duration.
- b. Temporary upgrade is clearly a way in which pensions can be made higher than they otherwise should be. In addition, because of the temporary nature, there is no real opportunity to fund the resulting pension increase from employer and employee contributions of that salary component. To not address this clearly gives the appearance, at the least, of attempting to bypass PEPRA and re-institutionalize some of the very things PEPRA tried to fix.
- c. Employees in a temporary higher position do not necessarily and probably don’t fulfill all the normal requirements of a position. They may just be the best available under the ad hoc and one-time circumstances. The likely fact that they are not performing the full job does not mean that there is a formal split of the job to multiple people that a

City of Long Beach_Final 6/25/13

CalPERS audit can detect. Most likely, it just means that some aspects of the position may not get done or are quietly done by others, e.g., supervisors. There is no way for CalPERS to audit or detect this.

- d. It is probably a fact that the temporary upgrade can be and sometimes is abused – that is, on occasion, people are kept in a temporary position too long when they should be made permanent. But there is no evidence of significant misuse. In any event, possible isolated issues of this nature, are not a sufficient reason to perpetuate one of the perceived significant abuses of pension plans, particularly in light of PEPRAs which is intended to reduce problems, not perpetuate them.

Submitted as comments on the above proposed regulation, via email on 6/25/14 to PEPRA_Regulations@CalPERS.CA.GOV by the City of Long Beach Finance Director, John Gross



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July 25, 2014

John Gross, Director of Financial Management
City of Long Beach
333 West Ocean Blvd.
Long Beach, CA 90802

Dear Mr. Gross:

The California Public Employees' Retirement System (CalPERS) received your e-mail dated June 25, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

8. Christopher McKenzie/Alicia Lewis, League of California Cities



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

June 27, 2014

Anne Stausboll
Chief Executive
CalPERS
400 Q Street
Sacramento, CA 9581

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: League Comments on “Pensionable Compensation” Regulations

Dear Ms. Stausboll and Mr. Martin:

The League of California Cities, on behalf of its over 470 member cities, has reviewed the proposed regulatory action regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR), and respectfully urges the Board of Administration to **REJECT AND MODIFY** the proposals in the aforementioned regulations to rely on the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking we formally request a public hearing on these matters.

Our starting point in our analysis of this proposal is the recently adopted Pension Beliefs of CalPERS, which begins with this statement: “*A retirement system must meet the needs of members and employers to be successful.*” We believe the above proposals are not responsive to the needs of the 450 city employers that participate in CalPERS that face major pension rate increases in the next 5 years in order to address investment losses, changing actuarial assumptions about longevity, and changes in risk pooling. We urge the Board to resist these and any other recommendations that could increase these already burdening costs unless supported by strict actuarial analysis and standards.

Moreover, the proposed changes are inconsistent with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs by providing more sustainable pension plans for new employees and preventing the abuses of pension spiking that had become the focus of intense public and media criticism. In light of the legislative history and purpose of PEPRA, we respectfully urge the Board to narrowly define the definition of pensionable compensation so as to avoid, both in appearance and in actual impact, inappropriately opening the door to enlarging a member’s future pension benefit. In so doing, you also will contribute to the ability of local public agencies to afford their pension commitments without crippling cuts to staffing and public services in the future.

Regarding the “normal monthly rate of pay vs. base pay” question, any reliance on the language in SB 13 that allows the state to exclude certain special pay items to infer legislative intent to include items other than base pay in pensionable compensation is misplaced. Further, if

reliance on this inference is correct, it can only be said to be correct for the pensionable compensation of state, and not local, employees. We strongly urge you to not include items other than base pay. If the two terms actually have the same meaning to CalPERS, we recommend that this be clarified.

Furthermore, we recommend that you not treat “temporary upgrade pay” as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension. Merriam Webster Dictionary defines “*ad hoc*” to mean “formed or used for a special purpose” and “*temporary*” as “intended to be used for a limited amount of time.” It seems plain in light of these definitions that the proposed inclusion of temporary pay is inconsistent with the intent and plain meaning of PEPRA. In response to those who have suggested this is necessary in order to give local employees incentive to accept out-of-class pay for temporary assignments, we submit that any temporary pay increase and the commitment of city employees more than achieve this purpose.

In closing, we urge the Board to reject or modify these two proposals concerning pensionable compensation. Doing so will be consistent with the Board’s Pension Beliefs as well as the intent and purposes of PEPRA. Moreover, it will enhance the ability of our members to better manage their ever rising pension costs during this time of continued financial uncertainty for cities. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

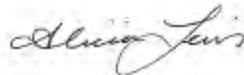
Finally, we wish to express our appreciation to the CalPERS staff for engaging the League and cities in a discussion of these issues over the past year.

Thank you for your consideration. If you have any questions regarding the League’s position on this issue, please do not hesitate to contact us.

Sincerely,



Christopher McKenzie
Executive Director
(916) 658-8275
mckenzie@cacities.org



Alicia Lewis
Legislative Representative
(916) 658-8254
alewis@cacities.org



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Christopher McKenzie, Executive Director
Alicia Lewis, Legislative Representative
League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Dear Mr. McKenzie & Ms. Lewis:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 27, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

9. Chris Jeffers, City of Glendora



CITY OF GLENDORA CITY HALL

(626) 914-8200

116 East Foothill Blvd., Glendora, California 91741
www.ci.glendora.ca.us

June 27, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on “Pensionable Compensation” Regulations

Dear Mr. Martin:

The City of Glendora respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board’s recently adopted Pension Beliefs include this statement of belief: *“A retirement system must meet the needs of members and employers to be successful.”* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

PRIDE OF THE FOOTHILLS

Anthony Martin, CalPERS
June 27, 2014

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

CITY OF GLENDORA

A handwritten signature in black ink, appearing to read 'CJ' followed by a stylized name, likely Chris Jeffers.

Chris Jeffers
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Chris Jeffers, City Manager
City of Glendora
116 East Foothill Blvd.
Glendora, CA 91741

Dear Mr. Jeffers:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 27, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

10. Susan A. Stanton, City of Greenfield



City of Greenfield

PO Box 127 / 599 El Camino Real
Greenfield, CA 93927
☎ 831-674-5591 📠 831-674-3149
www.ci.greenfield.ca.us

June 30, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on “Pensionable Compensation” Regulations

Dear Mr. Martin:

The City of Greenfield, respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board’s recently adopted Pension Beliefs include this statement of belief: *“A retirement system must meet the needs of members and employers to be successful.”* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Susan A. Stanton". The signature is fluid and cursive, with a long horizontal stroke at the end.

Susan A. Stanton, ICMA-CM
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Susan A. Stanton, ICMA-CM, City Manager
City of Greenfield
P. O. Box 127
599 El Camino Real
Greenfield, CA 93927

Dear Ms. Stanton:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 30, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

11. Kenneth C. Farfsing, City of Signal Hill



CITY OF SIGNAL HILL

2175 Cherry Avenue • Signal Hill, California 90755-3799

June 30, 2014

Mr. Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on “Pensionable Compensation” Regulations

Dear Mr. Martin:

The City of Signal Hill respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: “A retirement system must meet the needs of members and employers to be successful.” We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

Comments on "Pensionable Compensation" Regulations
June 30, 2014
Page 2

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,



Kenneth C. Farfsing
City Manager
(562) 989-7302



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Kenneth C. Farfsing, City Manager
City of Signal Hill
2175 Cherry Avenue
Signal Hill, CA 90755-3799

Dear Mr. Farfsing:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 30, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

12. Dave Kiff, City of Newport Beach



CITY OF NEWPORT BEACH

Office of the City Manager

June 30, 2014

Mr. Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

Via E-mail to: PEPRA_Regulations@CalPERS.ca.gov

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Newport Beach respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: "A retirement system must meet the needs of members and employers to be successful." We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

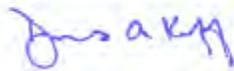
We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

*Letter to Anthony Martin
June 30, 2014
Page 2*

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPR, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,



Dave Kiff
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Dave Kiff, City Manager
City of Newport Beach
Newport Beach Civic Center
100 Civic Center Dr., P. O. Box 1768
Newport Beach, CA 92658-8915

Dear Mr. Kiff:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 30, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

13. Richard Crabtree/Sandra Ryan, City of Red Bluff



CITY OF RED BLUFF

555 Washington Street Red Bluff, California 96080 (530) 527-2605 Fax (530) 529-6878 www.ci.red-bluff.ca.us

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

June 30, 2014

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Red Bluff respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: "*A retirement system must meet the needs of members and employers to be successful.*" We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

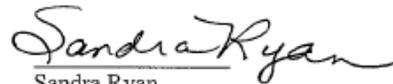
We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,


Richard Crabtree
City Manager/Attorney


Sandra Ryan
Finance Director



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Richard Crabtree, City Manager/Attorney
Sandra Ryan, Finance Director
City of Red Bluff
555 Washington Street
Red Bluff, CA 96080

Dear Mr. Crabtree and Ms. Ryan:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 30, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

14. Gina Will, Town of Paradise



TOWN OF PARADISE

July 2, 2014

5555 SKYWAY • PARADISE, CALIFORNIA 95969-4931

TELEPHONE (530) 872-6291 FAX (530) 877-5059

www.townofparadise.com

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on “Pensionable Compensation” Regulations

Dear Mr. Martin:

The Town of Paradise respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board’s recently adopted Pension Beliefs include this statement of belief: *“A retirement system must meet the needs of members and employers to be successful.”* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board’s Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

A handwritten signature in dark ink, appearing to read "Gina S. Will", written in a cursive style.

Gina S. Will
Finance Director/Town Treasurer

cc: Lauren Gill, Town Manager
Crystal Peters, Human Resources & Risk Management Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Gina S. Will, Finance Director/Town Treasurer
Town of Paradise
5555 Skyway
Paradise, CA 95969-4931

Dear Ms. Will:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 2, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

15. Jeffrey Kolin, Beverly Hills



Jeffrey Kolin, City Manager

June 30, 2014

Mr. Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

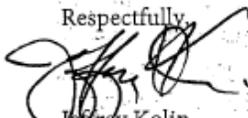
Dear Mr. Martin:

The City of Beverly Hills respectfully submits comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge CalPERS to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our increasing pension costs.

Respectfully,


Jeffrey Kolin
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Jeffrey Kolin, City Manager
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Dear Mr. Kolin:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 30, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

16. Bruce E. Channing, City of Laguna Hills



CITY OF LAGUNA HILLS

City Manager

July 1, 2014

Mr. Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

SUBJECT: COMMENTS ON "PENSIONABLE COMPENSATION" REGULATIONS

Dear Mr. Martin:

The City of Laguna Hills respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: "*A retirement system must meet the needs of members and employers to be successful.*" We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to

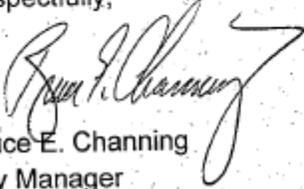
Mr. Anthony Martin
CalPERS
July 1, 2014
Page 2

reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension – something starkly inconsistent with the intent and purpose of PEPR. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPR, and it will enhance the ability of our City to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,


Bruce E. Channing
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Bruce E. Channing, City Manager
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Dear Mr. Channing:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 1, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

17. Michael Bennett, City of Goleta



July 1, 2014

CITY COUNCIL

Michael T. Bennett
Mayor

Paula Perotte
Mayor Pro Tempore

Roger S. Aceves
Councilmember

Jim Farr
Councilmember

Tony Vallejo
Councilmember

**INTERIM
CITY MANAGER**
Michelle Greene

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Goleta respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: "A retirement system must meet the needs of members and employers to be successful." We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

2 of 2

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPR, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael T. Bennett". The signature is written in a cursive style with a long horizontal line extending to the right.

Michael T. Bennett
Mayor

cc: David Mullinax, Regional Public Affairs Manager, dmullinax@cacities.org
Roger S. Aceves, Councilmember
Jim Farr, Councilmember
Paula Perotte, Mayor Pro Tempore
Tony Vallejo, Councilmember
Michelle Greene, Interim City Manager
Tim Giles, City Attorney



California Public Employees' Retirement System
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Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Michael T. Bennett, Mayor
City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

Dear Mr. Bennett:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 1, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

18. Anthony Ybarra, City of South El Monte



CITY OF SOUTH EL MONTE

1415 N. SANTA ANITA AVENUE
SOUTH EL MONTE, CALIFORNIA 91733
(626) 579-6540 • FAX (626) 579-2107



June 30, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of South El Monte respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: "*A retirement system must meet the needs of members and employers to be successful.*" We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

Anthony R. Ybarra
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Anthony R. Ybarra, City Manager
City of South El Monte
1415 N. Santa Anita Avenue
South El Monte, CA 91733

Dear Mr. Ybarra:

The California Public Employees' Retirement System (CalPERS) received your letter dated June 30, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

19. Linda Benedetti-Leal, City of Paramount



DIANE J. MARTINEZ
Mayor
TOM HANSEN
Vice Mayor
GENE DANIELS
Councilmember
DARYL HOFMEYER
Councilmember
PEGGY LEMONS
Councilmember

July 3, 2014

Mr. Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Paramount respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

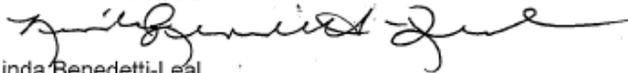
The Board's recently adopted Pension Beliefs include this statement of belief: "A retirement system must meet the needs of members and employers to be successful." We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

CITY OF PARAMOUNT


Linda Benedetti-Leal
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Linda Benedetti-Leal, City Manager
City of Paramount
16400 Colorado Avenue
Paramount, CA 90723-5012

Dear Ms. Benedetti-Leal:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 3, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

20. Richard Currie, Union Sanitary District



Directors
Manny Fernandez
Tom Handley
Pat Kite
Anjali Lathi
Jannifer Toy

Officers
Richard Currie
*General Manager/
District Engineer*

David M. O'Hara
Attorney

July 7, 2014

Mr. Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 94702
Sacramento, CA 94229

PEPRA_Regulations@CalPERS.ca.gov

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The Union Sanitary District respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning (a)(2)(A) and (B) which, as written in the draft document, would negatively impact our agency's long-standing, successful Pay-for-Performance program for professional and management staff.

Under this program, employees are rated as superior, exceeds expectations, meets expectations, or fails to meet expectations. Salary increases are determined by the rating received in the above-named categories. In some cases, no increase is given because of poor performance. While a range is established for each rating category, there are no steps within the range. Compensation is determined by performance. There are no COLA or step increases under this program, only merit increases tied to each rating category that are determined each year by the District's Executive Team.

The language in (a)(2)(A) would appear to put all of the District's professional and management employees in a single group or possibly in clusters; for example, all engineers might be considered to comprise a group. If this assumption is correct, then the language in (B) would effectively destroy our Pay-for-Performance program because the pensionable compensation of a retiring employee (whose salary is below the PERS established "cap") would be limited in the final three years preceding retirement "to the average [emphasis added] increase in pensionable compensation during the same

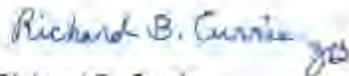
period reported by the employer for all employees who are in the closest related group or class." This would mean that employees who received a salary increase determined entirely by their performance would actually have their final compensation based on an average of the entire group's increase, not on the increase which they received based on their performance. For example, an employee whose performance is rated as "superior" might receive a 5% pay increase, whereas an employee rated as "meets expectations" might receive an increase of 2%. Once the percentages received by all employees in the group are averaged, this employee might receive an increase of only 3 or 3.5%, versus what the employee should have earned based on his/her performance.

This regulation would be a disincentive to those employees whose performance is evaluated as "superior" and whose pensionable compensation should have reflected their higher salary increase but for the requirements in Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR).

In closing, we urge the Board to modify the language in (a)(2)(A) and (B) which would eliminate a progressive compensation program in line with the goals of pension reform efforts by linking compensation to performance rather than to longevity or a grade-and-step program in which salary increases are virtually guaranteed.

Thank you for your consideration.

Respectfully,



Richard B. Currie
General Manager/District Engineer
Union Sanitary District



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 29, 2014

Richard B. Currie, General Manager/District Engineer
Union Sanitary District
5072 Benson Road
Union City, CA 94587-2508

Dear Mr. Currie:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 7, 2014, regarding the proposed Pensionable Compensation regulation in which you requested a modification to the language in subsection (a)(2)(A) and (B), which you believe negatively impacts the Union Sanitary District's (District's) Pay-for-Performance Program (Program).

Based on your description of the District's Program, we do not believe that it conflicts with the proposed regulation. In application, the proposed language provides the opportunity for an employer to identify and determine various work-related groupings based on an employer's specific needs and circumstances. The Compensation Review Unit is available to review your Pay-for-Performance program to ensure all necessary language is included in your agency's labor agreements to provide transparency and compliance with the proposed regulation.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tomi Jimenez", written over a light blue horizontal line.

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

21. Frank Scotto, City of Torrance



FRANK SCOTTO
MAYOR

CITY OF TORRANCE

July 3, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Torrance respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: *"A retirement system must meet the needs of members and employers to be successful."* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Should you have any questions, please contact Eric Tsao, Finance Director, at (310) 618-5855.

Thank you for your consideration.

Respectfully,

Frank Scotto
Mayor

/maw

Cc: Torrance City Council Members
LeRoy Jackson, City Manager
Eric Tsao, Finance Director



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Frank Scotto, Mayor
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

Dear Mr. Scotto:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 3, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

22. L. Dennis Michael, City of Rancho Cucamonga



Mayor L. DENNIS MICHAEL • Mayor Pro Tem SAM SPAGNOLO
Council Members WILLIAM J. ALEXANDER, MARC STEINORTH, DIANE WILLIAMS
City Manager JOHN R. GILLISON

THE CITY OF RANCHO CUCAMONGA

July 10, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Rancho Cucamonga respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board's recently adopted Pension Beliefs include this statement of belief: "*A retirement system must meet the needs of members and employers to be successful.*" We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

L. Dennis Michael
Mayor

cc: Members of the City Council
John Gillison, City Manager
Laura Morales, League of California Cities
Gonsalves and Sons



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

L. Dennis Michael, Mayor
City of Rancho Cucamonga
10500 Civic Center Dr.
P.O. Box 807
Rancho Cucamonga, CA 91729-0807

Dear Mr. Michael:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 10, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

23. W. David Holsberry, Davis, Cowell & Bowe, LLP

DAVIS, COWELL & BOWE, LLP

Counselors and Attorneys at Law

July 10, 2014

San Francisco

595 Market Street, Suite 1400
San Francisco, California 94105
415.597.7200
Fax 415.597.7201

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

Barry S. Johnson (CA)
Steven L. Stemberman (CA, NY)
Richard G. McCracken (CA, NY)
W. David Holsberry (CA, NY)
Isabell Ann Lawrence (CA, NY, AZ)
Andrew J. Kahn (CA, NY, AZ)
John J. Davis, Jr. (CA)
Florence E. Eulip (CA, NY)
Kevin L. Martin (CA, NY, MI)
Eric B. Myers (CA, NY)
Paul L. More (CA, NY, MA)
Sarah Varela (CA, AZ, NY)
Janah Grossman-Svenson (CA, NY)
Elizabeth Q. Hirsch (CA)
Yuzo Miller (CA)
Kirsten Skogstad (CA, AZ)
David L. Barber (CA)
Robert P. Gould (1931-1980)
of counsel:
Philip Paul Bowe (CA)

Re: *Written Comments on Proposed Adoption of Article 4,
Section 571.1 of Chapter 2 of Division 1 of Title 2 of
the California Code of Regulations*

Dear Mr. Martin:

My office represents firefighters and other public employees in Contra Costa, Alameda, San Francisco and other locations who participate in PERS. Throughout the years, I have been involved in litigation relating to the definition of pensionable compensation, including *Rose v. City of Hayward* (1981) 126 Cal.App.3d 1240, *In re Retirement Cases* (2003) 110 Cal.App.4th 426 and *Figuera v. PERS* (1989) San Francisco Superior Court No. 790213.

My clients and I firmly believe that the premium pay identified in the proposed regulation as "temporary upgrade pay" is properly included in the definition of pensionable compensation. My experience is that this type of pay for assuming the full responsibilities of a higher position meets all of the criteria for inclusion: it is compensation for required duties, it is consistent with payments for the job classifications, it should be reported as earned, it is paid to all members performing the same duties, it is paid for services rendered during normal working hours, and the pay is in accordance with the published pay scales.

On the other hand, failing to include temporary upgrade pay in the definition of pensionable compensation provides a dangerous incentive for employers. My experience is that few public employers are obligated by law or regulation to fill vacancies promptly when they arise. Thus, particularly in public sector where agreed upon staffing requirements are in effect, vacancies in promoted positions are necessarily filled by "temporarily" upgrading employees to perform all of the duties of the promoted positions. These upgrades will become anything but temporary if the employer is given an incentive not to promote because pension costs for a permanent promotion are higher than for a temporary upgrade. Moreover, in public safety, failure to promote or hire can lead to increased overtime costs. Including temporary pay in pensionable compensation removes the disincentive not to promote or hire for vacant positions. Additionally, it is a fair result because it insures that employees who are upgraded to perform the functions of a higher classification are treated, at least for pension purposes, the same as those permanent employees who are performing the same work in the same classification.

McCracken, Stemberman & Holsberry

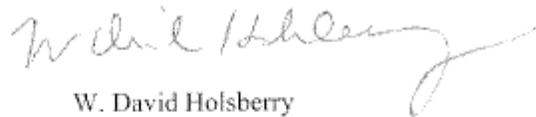
630 S. Commerce Street, Suite A-1
Las Vegas, Nevada 89102
702.386.5107
Fax 702.386.9848



DAVIS, COWELL & BOWE, LLP
Anthony Martin, Regulation Coordinator
Page 2
July 10, 2014

Thank you for your attention. Please include this letter with the written comments for this proposed regulatory action.

Very truly yours,

A handwritten signature in cursive script, appearing to read "W. David Holsberry".

W. David Holsberry

WDH:ja



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

W. David Holsberry
Davis, Cowell & Bowe, LLP
595 Market Street, Suite 1400
San Francisco, CA 94105

Dear Mr. Holsberry:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 10, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the inclusion of Temporary Upgrade Pay.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

24. Michael Durant, PORAC



Peace Officers Research Association of California

July 10, 2014

Mr. Anthony Martin
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA, 94229

Dear Mr. Martin:

The Peace Officers Research Association of California (PORAC) is a professional federation of local, state and federal public safety associations. With more than 900 member organizations, representing over 67,000 officers, PORAC is the largest public safety organization in California and the largest statewide public safety association in the nation.

PORAC supports the newly proposed regulations presented by the Board of Administration of CalPERS. Article 4, Section 571.1 will assist in better defining Pensionable Compensation and will better serve the Board of Administration to implement and administer AB 340, the Public Employees' Pension Reform Act (PREPRA) of 2013. PORAC supports this necessary regulation to provide consistency and clarity of proper compensation for Temporary Upgrade Pay. This regulation will also help to provide more proficiency in implementing new statutes, along with compliance to standing laws.

PORAC has long been a leader in fighting for legislation to protect the health and safety of both the citizens of California and public safety officers and their families. We look forward to your concurrence and working with you on future issues.

Should you have any questions, please do not hesitate to contact me personally. Please call the PORAC Headquarters at (916) 928-3777, or contact our legislative advocates Aaron Read & Associates at (916) 448-3444.

Sincerely,

Michael Durant
President
PORAC

cc: PORAC Board of Directors
Aaron Read and Associates
CalPERS Board of Administration
Anne Stausboll, Chief Executive Officer, CalPERS
4010 Truxel Road • Sacramento, CA 95834-3725 • (916) 928-3777 • FAX (916) 928-3760 • (800) 937-6722



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www.calpers.ca.gov

July 25, 2014

Michael Durant, President
PORAC
4010 Truxel Road
Sacramento, CA 95834-3725

Dear Mr. Durant:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 10, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the inclusion of Temporary Upgrade Pay.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

25. Gary Messing - Carrol, Burdick, McDonough LLP



980 9th Street
Suite 380
Sacramento, CA
95814-2723

916-448-5297
916-448-5047 Fax
www.cbmlaw.com

July 11, 2014

Gary M. Messing
gmessing@cbmlaw.com

VIA E-MAIL (PEPRA_REGULATIONS@CALPERS.CA.GOV) AND U.S. MAIL

Anthony Martin
Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

**Re: Proposed PEPRA Regulations
CCR: Chapter 2, Division 1, Title 2, Section 571.1**

Dear Mr. Martin:

The undersigned represent CAL FIRE Local 2881 (State Bargaining Unit 8), The California Statewide Law Enforcement Association (State Bargaining Unit 7), the California Correctional Peace Officers' Association (State Bargaining Unit 6), the Santa Clara Deputy Sheriffs' Association, the Sunnyvale Public Safety Officers' Association and numerous other public sector labor organizations, both state and local, with members within the CalPERS system. We write in response to the Notice of Proposed Regulatory Action regarding the proposed Section 571.1 defining Pensionable Compensation under Article 6, "2013 Public Employees' Pension Reform Implementation," Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR), Section 571.1.

The stated goal of the proposed regulation is to "implement, administer, interpret, and make certain the provisions contained within Assembly Bill (AB) 340 (Stats. 2012, Ch. 296) known as the California Public Employees' Pension Reform Act ("PEPRA") of 2013, Senate Bill (SB) 13 (Stats. 2013, Ch. 528) and the related pension reform changes to the Public Employees' Retirement Law (PERL).

We provide these comments, however, due to significant questions and concerns triggered by the proposed regulations. Our overriding concern is that the proposed regulations (specifically, the list found in proposed Section 571.1(b)) are

Anthony Martin, Regulation Coordinator
CalPERS
July 11, 2014
Page 2

described as all inclusive. Thus, anything not considered or left out for whatever reason is specifically excluded. While that is our overriding concern, it is not our only concern. Please understand that this list is *not* exhaustive, but rather, represents the types of questions and concerns raised by the proposed regulations. While the comments below are *not* exhaustive, we have attempted to put them in "order" based on the order of the proposed regulations, in order to facilitate your review.

First, under proposed section 571.1 (a)(1)(B), the requirement is that the pay must be "historically consistent with prior payments for the job classification." How will PERS apply this to newly-negotiated, but standard, recognized pay differentials or premiums?

Second, proposed section 571.1 (a)(1)(C) states: "Compensation must be reported periodically as earned." We are aware of certain bonuses (e.g., paramedic pay), which may be paid annually. Will annual payments be considered periodic?

Third, proposed section 571.1 (a)(2)(A) provides that "one employee may not be considered a group or a class." How will PERS apply this to agencies that may have a bargaining unit with one assistant fire chief or police chief (either in his or her own bargaining unit or in a management unit), who receives special compensation above the rank and file? How does this impact situations where there may be one employee who has a specialized job assignment, like a fire prevention officer, which requires different skills, abilities, training, and receives a special premium or incentive?

Fourth, according to proposed section 571.1 (a)(2)(B), increases in pensionable compensation granted to employees are limited during their final compensation period and the two years immediately preceding the final compensation period, to the average increase in pensionable compensation for all employees, who are in the closest related group or class, over that same period. How will PERS apply this in a situation in which an employee promotes to a class where all the other employees may already be in the top step, and the newly promoted employee receives an increase in pay or a promotion, as well as one or more step increases?

Fifth, we are concerned about the limitations on the types of pay the Board has determined meets the criteria for "pensionable compensation" in that its list purports to "exclusively" identify covered items. Much of our concern in this regard would be minimized if the list were deemed to be "illustrative", as opposed to "exclusive". The following paragraphs will specifically refer to examples of our concerns from our review of the "exclusive" list of the types of pay that PERS has determined meet the criteria of "pensionable compensation" according to the proposed regulations.

Even within the list set forth in the proposed regulations, PERS has missed types of pay that are substantially similar in either name or in type. For example,

Anthony Martin, Regulation Coordinator
CalPERS
July 11, 2014
Page 3

under educational pay, the regulations include Peace Officer Standard Training (POST) certificate pay, and defines that as compensation to "local police officers, county peace officers, school police or security officers, and state members who obtain Peace Officer Standard Training (POST) certification." We are aware that there is a category of "CPOST" that applies to state and local correctional officers. While we are not familiar with any current correctional officers who are receiving an incentive for obtaining the CPOST certificate, that certainly doesn't preclude this as a potential item of compensation. Yet, this compensation would be newly excluded since it is not listed.

According to the proposed regulations, it does not appear that recruitment and/or retention pay, for any position where there is a need by a public employer, is recognized in the regulations.

Another example of pay that would be excluded from pensionable compensation because it does not appear on the list is canine pay for a firefighter who has canine responsibilities (which could be investigative or part of a search and rescue assignment). In Civil Code section 54.25, protecting canine handlers from discrimination when away from their home jurisdiction, the Legislature specifically assumes that a firefighter may be a canine handler as follows:

"(b)(3) Peace officer's or firefighter's dog" means a dog owned by a public law enforcement agency or fire department under the control of the peace officer or firefighter assigned to a canine unit that has been trained in matters, including, but not limited to, discovering controlled substances, explosives, cadavers, victims in collapsed structures, and peace officer on-command searches for suspects and victims of crime scenes.

The following paragraph of that statute, (b)(4), recognizes that a search and rescue dog may be affiliated with, or sponsored by, a governmental agency and trained and approved as a search and rescue dog, or is currently registered and approved for search and rescue work with a search and rescue team affiliated with the California Emergency Management Agency.

While educational pay is recognized for "government agency required licenses," pay also should be recognized for any license which is not required by the government agency, but is deemed to be beneficial and desirable to possess. For example, peace officers, firefighters or unsworn employees may receive pay differentials for holding commercial driver's licenses even when not required by the employer. Similarly, many employees receive incentive pay for possessing various types of degrees and licenses that those employees who possess them are asked to use in the performance of their duties, but which are not requirements of the job.

Anthony Martin, Regulation Coordinator
CalPERS
July 11, 2014
Page 4

Also not cited, and therefore arguably not covered as pensionable income for heavy fire equipment operators is "passenger endorsement pay," which permits the driver to have in excess of 12 passengers.

As previously indicated, the foregoing were simply examples, and we are concerned that there may be various other legitimate differentials or incentive payments that have been overlooked in the regulations. We believe that, instead of trying to establish a completely exhaustive list, the list should be deemed as examples for which other comparable incentives or differentials can be compared and included.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gary M. Messing
Gregg M. Adam
Jason H. Jasmine



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Customer Account Services Division
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July 29, 2014

Gary Messing
Carroll, Burdick & McDonough LLP
980 9th Street, Suite 380
Sacramento, CA 95814-2723

Dear Mr. Messing:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 1, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns regarding the proposed regulation.

You are correct in your analysis that, "anything not considered or left out for whatever reason is specifically excluded". The proposed regulation is very similar to the current California Code of Regulation section 571, which specifically and "exclusively identifies and defines special compensation items" that are reportable for purposes of calculating a retirement benefit. Likewise, the proposed regulation "exclusively identifies and defines the types of pay the Board has determined meet the criteria of 'pensionable compensation.'" If an item of compensation is not listed or does not meet the definition of any of the items listed, it will not be reportable for purposes of calculating a retirement benefit for members hired on or after January 1, 2013. We will address your specific concerns in turn below.

First, in regards to the application of subsection (a)(1)(B), CalPERS will apply this portion of the proposed regulation in the same manner in which we currently apply "historically consistent" as defined in section 571. The Public Employees' Pension Reform Act (PEPRA) specifically eliminates ad hoc payments. Through the normal course of business, CalPERS will request documentation such as, but not limited to, a written labor policy or agreement, Memorandum of Understanding (MOU), or contract in order to determine the reportability of any such item. If an item of compensation is newly contracted for, this information will be taken into consideration when applying the new regulation subsection (a)(1)(B) and would begin from the inception of the agreement.

Next, subsection (a)(1)(C) of the proposed regulations states that "compensation must be reported periodically as earned". If payments are made on an annual basis, our reporting system will prorate that amount over the period in which it

Gary Messing
July 29, 2014
Page 2 of 3

was earned. Annual payments are acceptable, as long as the earned period is identified.

Next, in subsection (a)(2)(A), you identified concerns regarding "group or class". Typically, even if there is only one position, such as the Assistant Fire Chief or the Police Chief, they are still a part of a closely related group.

Government Code (GC) 20636(e)(1) states in pertinent part:

"'group or class of employment' means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work related grouping..."

Although, much like in your example, there may only be one classification per agency, these types of positions are normally part of a management group, or another group of similarly situated members.

Next, subsection (a)(2)(B) proposes a limit to increases in pensionable compensation granted to employees during their final compensation period and two years immediately preceding. If an employee promotes into a new position, and earns merit increases, this would be reportable to CalPERS for purposes of calculating a retirement benefit. The merits are available to a group or class, therefore it would be considered pensionable compensation.

With respect to your general concern that the list of items is "exclusive" and not "illustrative" we note that it is an exclusive list of "the types of pay" and as described below might include items that are consistent with the definition of "pensionable compensation". The intent of this regulation is not to add or create new items of reportable compensation. The list includes all of the pay items previously approved by the Board except for those explicitly excluded by PEPRA. Moreover, the items listed in the proposed regulation will be interpreted the same as in the current list for Classic members. Although it is an exclusive list, the pay items listed in subsection (b) may encompass more than just one type of pay with different titles. For example, items such as CPOST may fall under the already included POST language as they may be included under the "security officer" category.

You also propose that the Canine Pay provision be changed to include "fire fighters or peace officers". Currently, the proposed regulation of Canine Pay is limited to "compensation to local police officers, county peace officers and school police or security officers who are routinely and consistently assigned to handle, train and board a canine or horse." Although firefighters are not typically viewed as security officers, such positions may qualify depending on how their MOU

Gary Messing
July 29, 2014
Page 3 of 3

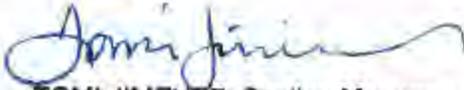
language is written. CalPERS will work with employers to ensure that the MOU language is in compliance.

Lastly, you inquired about adding certain items of compensation such as recruitment/retention, non-required licenses, and passenger endorsement pay that do not appear in the exclusive list in the proposed regulation. With over 2,000 agencies in CalPERS it is impossible and inefficient to list out each individual recruitment and retention pay. Recruitment and retention pay itself is not a reportable item, but if the pay is for years of service and meets all additional requirements it may be considered Longevity, which is included in the exclusive list.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,



TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

26. Willie L. Pelote, Sr., AFSCME



AFSCME Council 36

AFSCME Council 57

AFSCME/MWD Local 1902
Metropolitan Water District

AFSCME/MARA Local 1001
Metropolitan Water District

AFSCME/UMPD Local 206
Union Of American
Physicians And Dentists

AFSCME/UC Local 3299
University of California

AFSCME/UNAC NUHHC
United Nurses Associations
Of California
Union of Health Care
Professionals

July 10, 2014

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

Dear Mr. Martin:

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, would like to inform you of our support for the proposed regulations under Section 571.1 to further clarify pensionable compensation to conform to AB 340, the Public Employees' Pension Reform Act (PEPRA) of 2013.

AFSCME supports the proposed regulations that would make temporary pay pensionable. This is not an unearned benefit, because the member paid into CalPERS while working out of class, and it is not a spiking situation. In fact, this situation often occurs when an employee is on long-term leave due to sickness or injury. The employee is entitled to their job when they return from leave, and, because they do not typically retire based on this period, the proposal would benefit the fund, not the member.

For this reason, we urge the CalPERS Board of Administration to support and adopt the staff recommended regulations for pensionable compensation.

Should you have any questions regarding our position in this matter, you may call me at your earliest convenience.

Sincerely,

Willie L. Pelote, Sr.
Political and Legislative Director, California

WLP:gh



American Federation of State, County and Municipal Employees, AFL-CIO

TEL (916) 441-1570 FAX (916) 441-3426 WEB www.calafscme.org 1121 L Street, Suite 904 • Sacramento, California 95814-3926



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www.calpers.ca.gov

July 25, 2014

Willie L. Pelote, Sr.
Political and Legislative Director, California
AFSCME
1121 L Street, Suite 904
Sacramento, CA 95814-3926

Dear Mr. Pelote, Sr.:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 10, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the inclusion of Temporary Upgrade Pay and the adoption of the proposed regulation as written.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

27. Coby Pizzotti, CAPT



California Association of Psychiatric Technicians

July 10, 2014

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, California 94229-2702

RE: CAPT SUPPORT FOR PROPOSED REGULATIONS ON PENSIONABLE COMPENSATION

Dear Mr. Martin:

The California Association of Psychiatric Technicians supports the proposed regulations under Section 571.1 to further clarify Pensionable Compensation and to conform to AB 340, the Public Employees' Pension Reform Act of 2013.

We represent more than 6,000 Licensed Psychiatric Technicians working in State of California facilities, such as state hospitals, developmental centers and prisons – all of whom are CalPERS members. Our organization has always maintained that temporary pay should be pensionable. This is not an unearned increase in benefit because the member paid into CalPERS while working out of class; instead, this is a routine situation that occurs often when employees get sick or injured and are on long-term leave. The employee is entitled to his or her job upon return. Nor is this a spiking situation, and our members typically do not retire based on this period, so it benefits the fund, not the member.

For this reason, we urge the CalPERS Board of Administration to support and adopt the staff-recommended regulations for pensionable compensation.

If you have any questions regarding this matter, please contact me at (916) 329-9140.

Sincerely,

Coby Pizzotti
Consultant
California Association of Psychiatric Technicians



California Public Employees' Retirement System
Customer Account Services Division
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Sacramento, CA 94229-2709
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www.calpers.ca.gov

July 25, 2014

Coby Pizzotti, Consultant
California Association of Psychiatric Technicians
1220 S Street, Suite 100
Sacramento, CA 95811-7138

Dear Mr. Pizzotti:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 10, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the inclusion of Temporary Upgrade Pay and the adoption of the proposed regulation as written.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

28. Blaine Michaelis, City of San Dimas

<p>City Council CURTIS W. MORRIS, Mayor JOHN EBINER, Mayor Pro Tem DENNIS BERTONE EMMETT BADAR JEFF TEMPLEMAN</p> <p>City Manager BLAINE M. MICHAELIS</p> <p>Assistant City Manager Treasurer/City Clerk KENNETH J. DURAN</p>	 <p>CITY OF San Dimas CALIFORNIA</p>	<p>Assistant City Manager of Community Development LAWRENCE STEVENS</p> <p>Director of Public Works KRISHNA PATEL</p> <p>Director of Parks and Recreation THERESA BRUNS</p>
<p>July 11, 2014</p>		
<p>Anthony Martin Regulation Coordinator CalPERS P.O. Box 942702 Sacramento, CA 94229</p>		
<p>RE: Comments on “Pensionable Compensation” Regulations</p>		
<p>Dear Mr. Martin:</p>		
<p>The City of San Dimas respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.</p>		
<p>The Board’s recently adopted Pension Beliefs include this statement of belief: “A retirement system must meet the needs of members and employers to be successful.” We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.</p>		
<p>We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.</p>		
<p>245 EAST BONITA AVENUE • SAN DIMAS • CALIFORNIA 91773-3002 • (909) 394-6200 • FAX (909) 394-6209</p>		

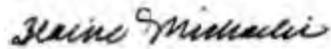
Pensionable Compensation Regulations
July 11, 2014

Page 2

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

A handwritten signature in cursive script that reads "Blaine Michaelis".

Blaine Michaelis
City Manager



California Public Employees' Retirement System
Customer Account Services Division
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July 25, 2014

Blaine Michaelis, City Manager
City of San Dimas
245 East Bonita Avenue
San Dimas, CA 91773-3002

Dear Mr. Michaelis:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 11, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

29. Willie Pelote, AFSCME #2



July 11, 2014

AFSCME Council 36

AFSCME Council 57

AFSCME/MWD Local 1902
Metropolitan Water District

AFSCME/MWA Local 1001
Metropolitan Water District

AFSCME/AAPO Local 206
Union Of American
Physicians And Dentists

AFSCME/UC Local 3299
University of California

AFSCME/UNAC NURNICE
United Nurses Association
Of California
Union of Health Care
Professionals

Anthony Martin, Regulation Coordinator
California Public Employees' Retirement System
P.O. Box 942702
Sacramento, California 94229-2702

Dear Mr. Martin:

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, supports the pensionable compensation regulations proposed by CALPERS on Section 571.1, which aims to create regulations to implement the changes made under the Public Employees' Pension Reform Act (PEPRA).

Specifically, AFSCME supports the many concepts laid out in the proposal, such as including the following items as 'pensionable compensation':

1. Incentive Pay: Longevity pay.
2. Educational Pay: Compensation for paramedic pay, emergency medical technician pay and other forms of compensation that are designed to recognize professional certifications that employees offer and employers value are normal forms of compensation, and regularly recognized with additional compensation by many participating employers.
3. Premium Pay: Temporarily working out of classification.
4. Special Assignment Pay: This category of regular compensation recognizes the value that certain employees offer in the job for various skills and efforts, such as the bilingual premium and canine officer premium, along with the other instances mentioned in the proposal.
5. Additional Items: Holiday pay, where holidays are required work without regard to holidays.

The above list is not intended to be all inclusive, but examples of the forms of regular compensation that is routinely provided during the course of employment. Thus, we agree that the instances listed in the proposal represent regular income and should be included in 'pensionable compensation' since they are not intended to spike pensionable pay to the detriment of the CALPERS system.

For this reason, we urge the adoption of the staff recommended regulations for pensionable compensation.

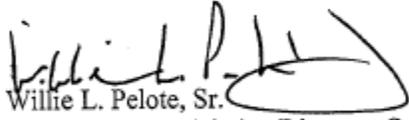
If you have any questions regarding this matter please contact me at (916) 441-1570.



American Federation of State, County and Municipal Employees, AFL-CIO

TEL (916) 441-1570 FAX (916) 441-3426 WEB www.calafscme.org 1121 L Street, Suite 904 • Sacramento, California 95814-3926

Sincerely,

A handwritten signature in black ink, appearing to read "Willie L. Pelote, Sr.", with a large, stylized flourish at the end.

Willie L. Pelote, Sr.
Political and Legislative Director, California



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Willie L. Pelote, Sr.
Political and Legislative Director, California
AFSCME
1121 L Street, Suite 904
Sacramento, CA 95814-3926

Dear Mr. Pelote, Sr.:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 11, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the adoption of the proposed regulation as written.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

30. Liz Reilly, City of Duarte



City of Duarte

Sixteen Hundred Huntington Drive, Duarte, California 91010-2592
Tel 626-357-7931 FAX 626-358-0018 www.accessduarte.com

July 8, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Duarte respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

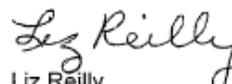
The Board's recently adopted Pension Beliefs include this statement of belief: "A retirement system must meet the needs of members and employers to be successful." We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,


Liz Reilly
Mayor

cc: Alicia Lewis, Jennifer Quan

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— Board of the original Andres Duarte Rancho

Mayor
Liz Reilly
Mayor Pro Tem
Tzeitel Panas-Caracci
Councilmembers
John Fasano
Margaret E. Finlay
Samuel Kang
City Manager
Darrell George



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www.calpers.ca.gov

July 25, 2014

Liz Reilly, Mayor
City of Duarte
1600 Huntington Drive
Duarte, CA 91010-2592

Dear Ms. Reilly:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 8, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

31. Ken Nordhoff, City of Walnut Creek



July 1, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on “Pensionable Compensation” Regulations

Dear Mr. Martin:

The City of Walnut Creek respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board’s recently adopted Pension Beliefs include this statement of belief: *“A retirement system must meet the needs of members and employers to be successful.”* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,


Ken Nardhoff
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
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www.calpers.ca.gov

July 25, 2014

Ken Nordhoff, City Manager
City of Walnut Creek
1666 North Main Street
Walnut Creek, CA 94596

Dear Mr. Nordhoff:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 1, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

32. Laura Gill, City of Elk Grove

Phone: 916.683.7111
Fax: 916.627.4200

Web: www.elkgrovecity.org

8401 Laguna Palms Way
Elk Grove, California 95758



July 8, 2014

Anthony Martin
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Elk Grove respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

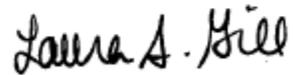
The Board's recently adopted Pension Beliefs include this statement of belief: *"A retirement system must meet the needs of members and employers to be successful."* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of "base pay" rather than the broader "normal monthly rate of pay" concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that "temporary upgrade pay" be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee's final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board's Pension Beliefs as well as the intent and purposes of PEPRRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink that reads "Laura S. Gill". The signature is written in a cursive, flowing style.

Laura S. Gill
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Laura S. Gill, City Manager
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758

Dear Ms. Gill:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 8, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

33. John Dunn, City of Seaside



July 14, 2014

CITY MANAGER

440 Harcourt Avenue
Seaside, CA 93955

Telephone (831) 899-6700
FAX (831) 899-6227

Anthony Martin, Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

RE: Comments on "Pensionable Compensation" Regulations

Dear Mr. Martin:

The City of Seaside respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the "normal monthly rate of pay" rather than "base pay" and the treatment of "temporary upgrade pay" as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

In plain language this proposal, to include temporary upgrade pay in pensionable compensation, is a potential form of "spiking." The Pension Reform Act of 2012 was enacted in part to eliminate this form of abuse, which has added great cost to California municipalities and taxpayers.

Please do what you can to nix this ill-advised "loop-hole" in the law.

Thank you for your consideration.

Respectfully,

John Dunn
City Manager

C: Mayor and City Council
Deputy City Manager – Administrative Services
Human Resources Manager



California Public Employees' Retirement System
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Sacramento, CA 94229-2709
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www.calpers.ca.gov

July 25, 2014

John Dunn, City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

Dear Mr. Dunn:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 14, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

34. Steven Preston, City of San Gabriel



City of
San Gabriel

◆ City With A Mission ◆ Founded 1771 ◆
Steven A. Preston, City Manager ◆ 626-308-2805

July 9, 2014

ANTHONY MARTIN
Regulation Coordinator
CalPERS
P.O. Box 942702
Sacramento, CA 94229

SUBJECT: COMMENTS ON “PENSIONABLE COMPENSATION” REGULATIONS

Dear Mr. Martin:

The City of San Gabriel respectfully submits these comments on the proposed regulatory action of CalPERS regarding Section 571.1 of Chapter 2 of Division 1 of Title 2 of the California Code of Regulations (CCR). We specifically urge the Board of Administration to require changes in the proposals concerning the “normal monthly rate of pay” rather than “base pay” and the treatment of “temporary upgrade pay” as pensionable compensation. Furthermore, in accordance with your notice of proposed rulemaking, we formally request a public hearing on these matters.

The Board’s recently adopted Pension Beliefs include this statement of belief: *“A retirement system must meet the needs of members and employers to be successful.”* We believe this core pension belief, combined with the clear purpose and intent of the Public Employment Pension Reform Act (PEPRA) to reign in public defined benefit pension costs, support our recommendation that you rethink these provisions in the proposed regulations.

We specifically recommend that you establish a definition of pensionable compensation that is consistent with the concept of “base pay” rather than the broader “normal monthly rate of pay” concept in the proposed regulations. Moreover, we urge you to reject the proposal in the regulations that “temporary upgrade pay” be treated as pensionable as it could lead to undesirable pay practices in order to expand an employee’s final pension—something starkly inconsistent with the intent and purpose of PEPRA. Finally, any suggestion that the proposal is necessary to provide an incentive to employees to accept out-of-class pay for temporary assignments is simply incorrect; the added compensation and dedication of our employees provide adequate incentive.

In closing, we urge the Board to modify these two proposals concerning pensionable compensation as described above. Doing so will be consistent with the Board’s Pension Beliefs as well as the intent and purposes of PEPRA, and it will enhance the ability of our city to better manage our rapidly increasing pension costs during this time of much slower revenue growth and continued financial uncertainty.

Thank you for your consideration.

Sincerely,

STEVEN A. PRESTON
City Manager



California Public Employees' Retirement System
Customer Account Services Division
P.O. Box 942709
Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
www.calpers.ca.gov

July 25, 2014

Steven A. Preston, City Manager
City of San Gabriel
P.O. Box 130
San Gabriel, CA 91778-0130

Dear Mr. Preston:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 9, 2014, regarding the proposed Pensionable Compensation regulation in which you expressed concerns about the inclusion of Temporary Upgrade Pay.

You also suggested the exclusion of all other items other than base pay and the clarification if CalPERS considers the term "normal monthly rate of pay" to be synonymous with "base pay".

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

35. Mark Renner – Wylie, McBride, Platten & Renner

WYLIE, MCBRIDE,
PLATTEN & RENNER

A Law Corporation

2125 CANOAS GARDEN AVENUE, SUITE 120
SAN JOSE, CALIFORNIA 95125

TELEPHONE: 408.979.2920
FACSIMILE: 408.979.2934

JOHN MCBRIDE
CHRISTOPHER E. PLATTEN
MARK S. RENNER

RICHARD J. WYLIE, *Retired*

CAROL L. KOENIG
AMY L. SEKANY

DIANE SIDD-CHAMPION, *of Counsel*

605 MARKET STREET, SUITE 1200
SAN FRANCISCO, CALIFORNIA 94105

TELEPHONE: 415.977.0904
FACSIMILE: 415.536.0906

July 23, 2014

Anthony Martin, Regulation Coordinator
CA Public Employee's Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

Re: Proposed PEPRA Regulation, 2 CCR §571.1

Dear Mr. Martin:

This law firm has been asked by California Professional Firefighters (CPF) to submit comments on its behalf regarding CalPERS' proposed regulation regarding "pensionable compensation" as defined under the Public Employees Pension Reform Act ("PEPRA").

CPF is a state council of the nationwide International Association of Firefighters. CPF represents over 30,000 career firefighting and emergency medical service personnel in the State of California. Nearly two thirds of those personnel are CalPERS members.

The purpose of these comments is to strongly urge that CalPERS retain in final version of the regulation Subsection 571.1(b)(3). That subsection provides that one of the types of pay the Board has determined meets the criteria of "pensionable compensation" as described in Government Code §7522.34 shall include:

Temporary Upgrade Pay – compensation to employees who are required by their employer or governing board or body to work in an upgraded position/classification of limited duration.

As we understand it, some quarters are urging that this subsection of the proposed regulation not be included in its final enactment, for reasons that we are unable to specifically identify. We believe it should be retained in the final regulation because it is consistent with the remaining sections of the proposed regulation, with Government Code §7522.34, and with the overall purposes of PEPRA.

For those covered by pre-PEPRA rules, under Government Code §20636, the concept of "pensionable compensation" is more or less divided into two categories: that earned by the "pay

Anthony Martin, Regulation Coordinator
July 23, 2014
Page 2

rate” of the member, as that term is defined, and “special compensation” provided to the member. For “new members” under PEPRA, “pensionable compensation” is no longer specifically referred to by those two categories. Instead, pensionable compensation is now defined as “the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules, subject to the limitations of subdivision (c)”, with subdivision (c) then defining what is excluded from pensionable compensation. The effect of this altered definition for new members is to eliminate the categories of “pay rate” and “special compensation” and instead define pay rate more generally as that paid to the same group or class, and then expressly exclude various other forms of compensation.

In our view, Government Code Section 7522.34’s new definition of pensionable compensation on its face necessarily must include the pay rate earned by members temporarily in an “upgraded position” because members in that status are in fact earning the normal rate of pay for “members of the same group or class of employment”. See Govt. Code Section 7522.34(a). But without the protection of subsection (b)(3) of the proposed regulation, members will be vulnerable to employer attempts to fail to report their pay in that fashion. Temporarily upgraded pay may unjustly be reported as non-pensionable by designating the member’s un-upgraded pay rate as their “base pay”, and treating the additional pay as if it were some type of “premium pay”. Even though an employer would never attempt to do that for a member working in the upgraded classification on a permanent basis, many employers, unless otherwise deterred, may divide the compensation rates into two categories to make it appear that the “extra pay” for the higher-classified work is some type of special premium which should not be pensionable. And although we believe such a practice would run contrary to Government Code Section 7522.34(a), without the clarifying effect of Section (b)(3), especially if the regulatory history were to establish a *deletion* of fit, employers would be invited to manipulate their reporting to make it appear that the compensation is not pensionable under Government Code §522.34(a). Whether a rate of pay is received on a temporary basis or on a permanent basis, the chief determining factor as to whether it is pensionable is if the member receives a certain rate of pay which is the same as members of the same group or class of employment, not whether it is characterized by the employer as some sort of premium pay merely because the rate is anticipated to be paid for a period of limited duration.

Retention of this subsection is not only warranted by the current requirements of Government Code §522.34, it is also consistent with the remaining text of the proposed regulation. According to the proposed regulation, pensionable compensation “means the normal monthly rate of pay or base pay . . . for normally required duties” where the pay is “historically consistent with prior payments for the job classification” and is “reported periodically as earned”. See proposed regulation section 571.1(a)(1), (A), (B) and (C). Moreover, such compensation must be paid to “the same group or class of employment”, i.e. “employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping”. See proposed regulation Section 571.1(a)(2)(A). In addition, pensionable pay must be “for services rendered on a fulltime basis during normal working hours”. Proposed regulation Section 571.1(a)(3). Lastly, it must be paid “pursuant to a publicly available pay schedule” which meets all of the requirements of

Anthony Martin, Regulation Coordinator
July 23, 2014
Page 3

subsections (a)(4)(A) through (H). Treating a temporary upgrade in pay as pensionable, where such upgrade is remunerated at the increased rate solely because of an upgrade in classification, is entirely consistent with and meets all of the requirements of each of these subsections.

Because Government Code §7522.34 defends pensionable compensation almost more by exclusion than by inclusion, the most important characteristic of a temporary upgrade in pay is that none of the exclusions of section 7522.34 – which are mirrored in the proposed regulation – would bar treating this type of pay as pensionable. Although none of the statutory and regulatory exclusions on their face would seem to apply at all, we understand that some quarters have claimed that the exclusions contained Section 571.1(c)(3) and (c)(10) should bar treating temporary upgrade pay as pensionable.

Section (c)(3) excludes “any one-time or ad hoc payments made to a member”. There is no colorable argument that a temporary upgrade in pay commensurate with a temporary upgrade in classification is tantamount to a “one-time” or “ad hoc” payment. Instead, in consonance with the statute, such rate of pay is remitted to the member on the basis of the member rendering services the same as similarly situated members of the same group or class of employment – for whatever time period such services are performed in that classification. Indeed, paying a member a rate that is required for that classification, whether on a temporary basis or not, cannot possibly be equated with a one time or ad hoc payment.

Government Code Section 7522.34(c) excludes “any bonus”. Just as with ad hoc or one-time payments, a temporary upgrade in pay, awarded solely due to a temporary upgrade in classification, could not conceivably fit any common sense meaning of the term “bonus”. A bonus is a non-periodic payment, usually associated either with the employee’s job performance, or with the largesse of the employer. Those factors have nothing to do at all with paying a member a rate commensurate with the classification in which the work is performed. Moreover, payment of a “bonus” by an employer to the member is precisely the type of compensation that PEPR meant to exclude because such a payment seems inherently unusual and questionable, suggesting manipulation for pension purposes. In contrast, paying a member precisely what the member is to receive for performance of work at a certain classification is a systematic, above-board practice which, whether by legal right or not, is what the member justly deserves in taxable compensation. To be denied CalPERS credits based on that compensation level would be no more just than to deny the member the appropriately-increased compensation in the first place.

Another negative impact that we would anticipate from deletion of this subsection is that, to the extent that employers could successfully argue that temporary upgrades in pay are not pensionable, employers would have a strong incentive to place employees in temporarily upgraded positions for indefinite periods of time to attempt to unjustly manipulate pension costs. As an example, an employer may choose to promote a Fire Engineer to an “Acting Captain” and leave the member in that position for months at a time if the employer has an incentive to claim that the increased pay rate is non-pensionable. The vast majority of collectively-bargained employment positions represented by CPF do not have any contractual protection against such a practice, for the very logical reason that there generally has not been any need for it. However, non-inclusion of this subsection of the regulation would strongly incentivize employers to

Anthony Martin, Regulation Coordinator
July 23, 2014
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engage in increased creation of temporary upgrades, and to steadfastly refuse to agree to contractually limit such practices in light of the anticipated pension savings as their reward.

California Professional Firefighters strongly urges the Board to retain the subsection at issue as a means of warding off employer mischief with reporting practices. More importantly, because CPF believes that a temporary pay upgrade is pensionable under Govt. Code Section 7522.34 with or without a clarifying regulation, this section should be retained in order to avoid a proliferation of litigation over the meaning of the statute with respect to this issue.

Very truly yours,

MARK S. RENNER

MSR/lg



California Public Employees' Retirement System
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Sacramento, CA 94229-2709
TTY: (877) 249-7442
888 CalPERS (or 888-225-7377) phone • (916) 795-4166 fax
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July 25, 2014

Mark S. Renner
Wylie, McBride, Platten & Renner
2125 Canoas Garden Avenue, Suite 120
San Jose, CA 95125

Dear Mr. Renner:

The California Public Employees' Retirement System (CalPERS) received your letter dated July 15, 2014, on behalf of The California Professional Firefighters, regarding the proposed Pensionable Compensation regulation in which you expressed your support for the inclusion of Temporary Upgrade Pay.

We appreciate and value your input. The Board of Administration of CalPERS will hold a public hearing to openly discuss these and all other comments submitted regarding the proposed regulation. The public hearing for this matter is scheduled for 9:30 a.m. on August 19, 2014. A copy of the public hearing notice has been included for your reference.

After formal approval, the final regulations will be publicly noticed and a copy sent to you. If you have any questions please do not hesitate to contact Anthony Martin, CalPERS Regulation Coordinator at (916) 795-3038.

Sincerely,

A handwritten signature in blue ink that reads "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure

36. Mark Renner – Wylie, McBride, Platten & Renner #2

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July 23, 2014

Anthony Martin, Regulation Coordinator
CA Public Employee's Retirement System
P.O. Box 942702
Sacramento, CA 94229-2702

Re: Proposed PEPRA Regulation, 2 CCR §571.1

Dear Mr. Martin:

This law firm has been asked by International Federation of Professional and Technical Engineers Local 21 to submit comments on its behalf regarding the above-referenced regulation defining "pensionable compensation" under PEPRA.

Local 21 represents over 8,000 public employees in the state, approximately 2,000 of which are CalPERS members.

Local 21 strongly urges CalPERS to retain its definition of "temporary upgrade pay" in Section 571.1(b)(3) of the proposed regulation. We believe that elimination of this section could cause great uncertainty, employer misreporting, and perhaps court challenges.

"Temporary upgrade pay" clearly is part of "pensionable compensation" as PEPRA defines that term in Government Code §7522.34. That section of PEPRA generally defines pensionable compensation as "the normal monthly rate of pay or base of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full time basis during normal working hours . . ." Government Code §7522.34. It then further defines pensionable compensation by listing that which is expressly excluded from that concept.

A member working in an upgraded position, whether doing so on a temporary or permanent basis, is compensated at the level for the upgrade. The amount of compensation that is "pensionable" while working in that temporary capacity is exactly the same as those working in that capacity on a permanent basis. The temporarily upgraded member has as part of his or her normal pay rate an amount that is paid commensurate with "similarly situated members of the same group or class of employment". Therefore, the statute itself defines temporary upgrade pay as pensionable.

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If this proposed subsection (b)(3) does not remain in the final version of this regulation, that would invite employer mischief. Participating employers may attempt to classify upgraded pay by dividing it into two categories: the “base pay” that was earned before the temporary upgrade, and then labeling a second category of pay as “premium pay” merely because the member is receiving the increased rate only on a temporary basis. We believe that although this would be misreporting, the deletion of this subsection of the regulation would invite that practice.

Moreover, if this subsection of the regulation is not retained, employers will be strongly incentivized to keep employees in temporary positions for long periods of time, while arguing that their “normal rate of pay” is that which they earned *before* the upgrade and the increase in pay is merely temporary and therefore some type of premium that is non-pensionable. CalPERS’ regulations should not be drafted so that employers are provided an incentive to change their actual employment practices merely to make it appear that members are receiving non-pensionable pay.

IFPTE Local 21 strongly believes that subsection (b)(3) should be retained in the final version of the regulations, and urges the Board to retain this clarifying provision.

Very truly yours,

MARK S. RENNER

MSR/lg



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July 25, 2014

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Sincerely,

A handwritten signature in blue ink, appearing to read "Tomi Jimenez".

TOMI JIMENEZ, Section Manager
Compensation Review and Payroll Services
Customer Account Services Division

Enclosure