ATTACHMENT C

RESPONDENT'S ARGUMENT

August 26, 2014

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Received
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CalPERS Board Unit

Cheree Swedensky, Assistant to the Board
CalPERS Executive Office
P.O. Box 94201
Sacramento, CA 94229-2701

Dear Ms. Swedensky:

Enclosed please find my argument In the Matter the Denial of Longevity Pay as Final Compensation of OFELIA PETTENGILL, Respondent, and SAN BERNARDINO COUNTY SUPERINTENDENT OF SCHOOLS, Respondent – Ref No. 2013-0037.

Thank you for the opportunity to submit this document.

Sincerely,

Ofelia Pettengill

RESPONDENT'S ARGUMENT
Ofelia Pettengill

I have read the decision by the administrative hearing judge and certainly understand the points that he made. I believe, however, that the law can be interpreted differently between parties involved. Unfortunately, in this case, CalPERS' interpretation trumps my interpretation. My argument is that many references were made that I was a member of the San Bernardino Public Employees Association (SBPEA). As I tried to explain to CalPERS, I was not a member as I was a confidential employee and not governed under the SBPEA bargaining unit. That information may or may not have a bearing on the final decision. It is my belief that CalPERS did not look any further than the wording in the SBPEA bargaining agreement. My appeal still may not have met the criteria of the law but the decision should not have been based on the wording of the bargaining agreement. The issue is a vicious circle with no end. Unfortunately, with my classification not having an agreement in place, Human Resources, in the absence of a written procedure or agreement for confidential employees, would follow the SBPEA classified bargaining agreement, which leaves me right back to square one. My second argument is that the reason CalPERS is giving me for denial, was not put into play with the other retirees who were governed under the bargaining agreement.

My issue is not whether or not I am entitled to the longevity being used in my final compensation, based on the bargaining agreement, but why is the law not being put into place in a fair manner for *all other* retirees that were governed by the bargaining agreement.

In conclusion, I believe that the outcome of this issue will not change. Therefore, since the longevity will not be used for the final compensation, I am requesting that the contributions that were taken from my longevity pay, from October 2010 through June 2012 be reimbursed to me tax free, since it has already been taxed. I calculate that I am owed $900.63; however, I am willing to go over the figures with a representative from CalPERS.

Thank you.

Ofelia Pettengill