

**ATTACHMENT C**

**WRITTEN COMMENTS**

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July 10, 2019

CalPERS Legal Office  
 Attn: John Shipley, Senior Attorney  
 P.O. Box 942707  
 Sacramento, CA 95811

Re: Request for Public Comment re Designation of Board Decision in the Mark L. Wheeler, Thomas R. Valdez, John M. Lope, Larry D. Blackwell, Garry G. Cohoe Matter ("Wheeler et al. Matter") as Precedential

Dear Mr. Shipley,

The Marin County Employees' Retirement Association (MCERA) is in receipt of the above-referenced memorandum from CalPERS dated June 25, 2019. MCERA supports the designation of the CalPERS Board Decision in the Wheeler et al. Matter (Wheeler Decision) as precedential.

The topic of how reciprocal members' final compensation determinations are to be made, either under different statutory and regulatory constructs such as CalPERS and MCERA, or when boards of retirement governed by the County Employees Retirement Law of 1937 (CERL) adopt policies that differ from one another regarding compensation earnable, is important to the proper functioning of such plans. The MCERA Board adopted a Policy Regarding Reciprocal Members' Final Compensation Determinations in December 14, 2011 (MCERA Reciprocal Final Compensation policy) to implement the *Stillman* principles that the Wheeler Decision upholds. For reference, the MCERA Reciprocal Final Compensation policy is at [https://www.mcera.org/-/media/files/sites/retirement/governance/reciprocal\\_comp.pdf?la=en](https://www.mcera.org/-/media/files/sites/retirement/governance/reciprocal_comp.pdf?la=en).

The Wheeler Decision includes a clear and complete analysis of the issues in sufficient detail so that MCERA can understand why the findings of fact were made and the law was applied as set forth therein. If deemed precedential, MCERA would be able to use the Wheeler Decision by analogy in a defense of its Reciprocal Final Compensation policy, should it be challenged in the future.

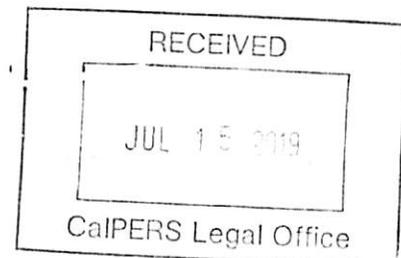
Thank you for your consideration of MCERA's comments on this topic. Please feel free to contact me at 415-473-3733 if you have any questions.

Sincerely,



Jeff Wickman  
 Retirement Administrator

Cc: Maya Gladstern, Board Chair  
 Ashley Dunning, Counsel



GCA