

Office of Audit Services



CalPERS

Public Agency Review

Napa Sanitation District

**Employer Code: 0316
CalPERS ID: 4522019637
Job Number: P12-014**

August 2013



California Public Employees' Retirement System
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August 16, 2013

Employer Code: 0316
CalPERS: 4522019637
Job Number: P12-014

Napa Sanitation District
Timothy Healy, General Manager
P.O. Box 2480
Napa CA 94558

Dear Mr. Healy:

Enclosed is our final report on the results of the public agency review completed for the Napa Sanitation District. Your written response, included as an appendix to the report, indicates disagreement with the issues noted in the report for Findings 1, 3 and 5. We reviewed the information contained in your agency's response and added clarifying language to our report. Our recommendations remain as stated in the report.

In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate divisions at CalPERS. Please work with these divisions to address the recommendations specified in our report. It was our pleasure to work with your District and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original Signed By Margaret Junker
MARGARET JUNKER, Chief
Office of Audit Services

Enclosure

cc: Jeffery Tucker, Director of Administrative Services, Napa Sanitation District
Cheryl Schuh, HR Officer/Clerk of the Board, Napa Sanitation District
Risk and Audit Committee Members, CalPERS
Peter Mixon, General Counsel, CalPERS
Karen DeFrank, Chief, CASD, CalPERS
Anthony Suine, Chief, BNSD, CalPERS

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RESULTS IN BRIEF

The California Public Employees' Retirement System (CalPERS) Office of Audit Services (OAS) reviewed the Napa Sanitation District's (District) enrolled individuals, member compensation, retirement information and other documentation for individuals included in test samples. A detail of the findings is noted in the Results section beginning on page three of this report. Specifically, the following findings were noted during the review:

- Pay schedules did not meet the requirements of a publicly available pay schedule.
- Holiday pay was under-reported.
- Value of uniform allowance was not reported and provision for payment was not contained in the labor agreements.
- Confined Space Entry Team (CSET) pay was over-reported.
- Retroactive salary adjustment was reported with an incorrect payrate.

DISTRICT BACKGROUND

The District provides wastewater collection, treatment and disposal services and is governed by a five-member Board of Directors. Memoranda of Understanding (MOU) and employment agreements outline District employees' salaries and benefits and state the terms of employment agreed upon between the District and its employees. The District contracted with CalPERS effective January 1, 1952 to provide retirement benefits for miscellaneous employees.

All contracting public agencies, including the District, are responsible for the following:

- Determining CalPERS membership eligibility for its employees.
- Enrolling employees into CalPERS upon meeting membership eligibility criteria.
- Enrolling employees in the appropriate membership category.
- Establishing the payrates for its employees.
- Approving and adopting all compensation through its governing body in accordance with requirements of applicable public meeting laws.
- Publishing all employees' payrates in a publicly available pay schedule.
- Identifying and reporting compensation during the period it was earned.
- Ensuring special compensation is properly identified and reported.
- Reporting payroll accurately.
- Notifying CalPERS when employees meet Internal Revenue Code annual compensation limits.

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- Ensuring the employment of a retired annuitant is lawful and reinstating retired annuitants that work more than 960 hours in a fiscal year.

SCOPE

As part of the Board approved plan for fiscal year 2012/2013, the OAS reviewed the District's payroll reporting and member enrollment processes as these processes relate to the District's retirement contract with CalPERS. The review period was limited to the examination of sampled records and processes from July 1, 2009 through June 30, 2012. The on-site fieldwork for this review was conducted on February 5, 2013 through February 8, 2013. The review objectives and a summary of the procedures performed are listed in Appendix B.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

Finding 1: Pay schedules did not meet the requirements of a publicly available pay schedule.

Recommendations:

The District should ensure that all pay schedules are approved by its Board of Directors in a public meeting and indicate the time base.

The District should work with CalPERS Customer Accounts Services Division (CASD) to ensure that the District's pay schedules meet the requirements of the California Code of Regulations Section 570.5.

The District should work with CASD to make any necessary adjustments, if any, to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The District's pay schedule did not meet the requirements of a publicly available pay schedule pursuant to California Code of Regulations Section 570.5.

OAS reviewed the current pay schedule, effective June 23, 2012. The pay schedule was not approved by the District's Board of Directors in accordance with requirements of applicable public meeting laws. In addition, pay schedules did not indicate the time base, including, but not limited to, whether the time base is hourly, daily, bi-weekly, monthly, bi-monthly, or annually.

In the District's response, it states that the annual budget account for salaries is approved by the Board.

Pursuant to California Code of Regulations Section 570.5 (a)(1) for purposes of determining compensation earnable pursuant to Government Code Sections 20630, 20636 and 20636.1, payrates shall be limited to the amounts listed on a pay schedule that has been duly approved and adopted by the employers governing body in accordance with requirements of applicable meeting laws. Approval of an annual budget account for salaries does not meet this requirement.

Criteria:

Government Code: § 20160, § 20636(b)(1), § 20363(d)

California Code of Regulations: § 570.5

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Finding 2: Holiday pay was under-reported.

Recommendation:

The District should report additional compensation earned for working on a holiday as special compensation for employees who work in positions that require scheduled staffing without regard to holidays.

The District should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The District under-reported holiday pay for a sampled employee (Operator III) who was required to work on holidays. The Local 315 Rank and File labor agreement, effective July 1, 2009 through June 30, 2014 stated, "Hours worked on a holiday will be paid at 1-1/2 times the employee's rate of pay in addition to holiday pay." Therefore, in addition to the regular eight hours of pay, all employees who worked on an approved holiday were entitled to eight hours of holiday pay (straight time rate) and four hours of holiday pay (classified as overtime pay but paid at the straight time rate).

During the 09/09-4 service period, the District paid the sampled employee \$287.68 for eight hours of holiday pay (paid at the straight time rate). For the additional four hours of holiday pay, the District erroneously paid the employee at the time and one-half rate in the amount of \$215.76 instead of the straight time rate in the amount of \$143.84. However, the District only reported \$287.68 for the eight hours of holiday pay as special compensation. The District should have also reported \$143.84 for the additional four hours of holiday pay as special compensation.

Criteria:

Government Code: § 20160, § 20636(c)(6)

California Code of Regulations: § 571(a)(5)

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Finding 3: Value of uniform allowance was not reported and the provision for payment was not contained in a labor agreement.

Recommendation:

The District should report the monetary value for the purchase of uniforms and the maintenance of uniforms to CalPERS. In addition, the District should ensure provisions for payment of the uniform allowance are included in a written labor policy or agreement.

The District should work with CASD to determine the impact of this non-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

The District should work with CASD to ensure language for its uniform provisions is included in its written labor policy or agreement.

Condition:

The District did not report the monetary value of uniforms and the maintenance of uniforms for employees required to wear District provided uniforms. In addition, the Local 315 Rank and File and Local 315 Supervisory Unit labor agreements did not include provisions for payment pursuant to California Code of Regulations Section 571(b)(1)(B).

The District provided uniforms to certain job classifications listed in the Local 315 Rank and File and Local 315 Supervisory Unit labor agreements. OAS obtained a description of the uniform items provided and also verified which items were safety or non-safety.

OAS' prior report dated November 2000 found that the uniforms provided during the review period were for safety purposes and not reportable. However, after reviewing the invoices of uniform items provided during the current review period, OAS determined the District did not report the value of non-safety uniform items as special compensation. California Code of Regulations Section 570.5 excludes only items that are solely for personal health and safety such as protective vests, pistols, bullets and safety shoes.

Criteria:

Government Code: § 20160, § 20636(C)(6), § 20636(d)

California Code of Regulations: § 571(a)(5), § 571(b)

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Finding 4: Confined Space Entry Team pay was over-reported.

Recommendations:

The District should report CSET pay pursuant to its labor agreement.

The District should work with CASD to determine the impact of this over-reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Conditions:

The District over-reported \$125 in CSET pay for a sampled employee in the months of September 2011 and March 2012 for fiscal year 2011/2012. During fiscal year 2011/2012, the District incorrectly reported CSET pay in the amount of \$375 (\$125 x three bi-weekly pay periods) in September 2011 and March 2012.

The Local 315 Rank and File labor agreement effective July 1, 2009 through June 30, 2014 stated, "Any Employee who serves on CSET and is appointed to it after July 1, 2009 will receive a differential of two hundred and fifty dollars per month (\$250)."

In the District's response it states this issue was corrected by deducting the overpayment from two subsequent paychecks; however, all amounts reported incorrectly to CalPERS as special compensation for all active and retired member accounts must also be corrected for CalPERS payroll records to determine accurate pensionable compensation at retirement.

Criteria:

Government Code: § 20160, § 20636 (c)(2)

California Code of Regulations: § 571(a)

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Finding 5: Retroactive salary adjustment was reported with an incorrect payrate.

Recommendation:

The District should ensure the correct payrate is used when reporting retroactive salary increases to CalPERS.

The District should work with CASD to determine the impact of this incorrect reporting and make the necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

Condition:

The District reported a retroactive salary adjustment using an incorrect hourly payrate of \$62.85 for one sampled employee during the 4/10-4 earned period.

Specifically, the District authorized a step increase resulting in an hourly payrate of \$61.38 retroactive to April 3, 2010. The District correctly reported an additional \$1,420.80 in earnings for the April 3, 2010 through June 25, 2010 earned period; however, the reported payrate was incorrect.

In the District's response it states that due to software restrictions the salary rate on the retroactive salary adjustment (\$62.85) is the salary including COLA effective July 2010. However, the correct payrate of \$61.38 was used when calculating the retroactive salary adjustment.

The District states that the total retroactive adjustment amount was calculated correctly, and as stated above, OAS concurs. However, the hourly payrate must also be reported correctly. Reporting correct payrates for active members is essential in calculating pensionable compensation at retirement. Service credit and final compensation are directly related to the payrate and earnings reported for the member; furthermore, service credit is derived from the payrate and earnings reported.

Criteria:

Government Code: § 20160, § 20636(b)(1)

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CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix B. OAS limited the test of transactions to employee samples selected from the District's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code except as noted.

The findings and conclusions outlined in this report are based on information made available or otherwise obtained at the time this report was prepared. This report does not constitute a final determination in regard to the findings noted within the report. The appropriate CalPERS divisions will notify the District of the final determinations on the report findings and provide appeal rights, if applicable, at that time. All appeals must be made to the appropriate CalPERS division by filing a written appeal with CalPERS, in Sacramento, within 30 days of the date of the mailing of the determination letter, in accordance with Government Code Section 20134 and Sections 555-555.4, Title 2, California Code of Regulations.

Respectfully submitted,

Original Signed By Margaret Junker
MARGARET JUNKER, CPA, CIA, CIDA
Chief, Office of Audit Services

Date: August 2013
Staff: Cheryl Dietz, CPA, Assistant Division Chief
Michael Dutil, CIA, CRMA
Diana Thomas, CIA, CIDA, Manager
Alan Feblowitz, CFE, Manager
Terry Heffelfinger
Nuntawan Camyre
Monica Bynum

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APPENDIX A

BACKGROUND

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BACKGROUND

California Public Employees' Retirement System

CalPERS provides a variety of programs serving members employed by more than 2,500 local public agencies as well as state agencies and state universities. The agencies contract with CalPERS for retirement benefits, with CalPERS providing actuarial services necessary for the agencies to fund their benefit structure. In addition, CalPERS provides services which facilitate the retirement process.

CASD manages contract coverage for public agencies and receives, processes, and posts payroll information. In addition, CASD provides eligibility and enrollment services to the members and employers that participate in the CalPERS Health Benefits Program, including state agencies, public agencies, and school districts. CalPERS Benefit Services Division (BNSD) sets up retirees' accounts, processes applications, calculates retirement allowances, prepares monthly retirement benefit payment rolls, and makes adjustments to retirement benefits.

Retirement allowances are computed using three factors: years of service, age at retirement and final compensation. Final compensation is defined as the highest average annual compensation earnable by a member during the last one or three consecutive years of employment, unless the member elects a different period with a higher average. State and school members use the one-year period. Local public agency members' final compensation period is three years unless the agency contracts with CalPERS for a one-year period.

The employer's knowledge of the laws relating to membership and payroll reporting facilitates the employer in providing CalPERS with appropriate employee information. Appropriately enrolling eligible employees and correctly reporting payroll information is necessary to accurately compute a member's retirement allowance.

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APPENDIX B

OBJECTIVES

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OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the District complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the California Code of Regulations.
- Whether prescribed reporting and enrollment procedures as they relate to the District's retirement contract with CalPERS were followed.

This review covers the period of July 1, 2009 through June 30, 2012.

SUMMARY

To accomplish the review objectives, OAS interviewed key staff members to obtain an understanding of the District's personnel and payroll procedures, reviewed documents, and performed the following procedures.

- ✓ Reviewed:
 - Provisions of the Contract and contract amendments between the District and CalPERS
 - Correspondence files maintained at CalPERS
 - District Board minutes and District Board resolutions
 - District written labor policies and agreements
 - District salary, wage and benefit agreements including applicable resolutions
 - District personnel records and employee hours worked records
 - District payroll information including Contribution Details reports
 - Other documents used to specify payrate, special compensation, and benefits for all employees
 - Various other documents as necessary
- ✓ Reviewed District payroll records and compared the records to data reported to CalPERS to determine whether the District correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to District public salary records to determine whether base payrates reported were accurate, pursuant to publicly available pay schedules that identify the position title, payrate and time base for each position, and duly approved by the District's governing body in accordance with requirements of applicable public meeting laws.
- ✓ Reviewed CalPERS Contribution Details reports to determine whether the payroll reporting elements were reported correctly.

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- ✓ Reviewed the District's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the District's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the District's affiliated entities to determine if the District shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the District or by the affiliated entity.
- ✓ Reviewed the District's calculation and reporting of unused sick leave balances, if contracted to provide for additional service credits for unused sick leave.

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APPENDIX C

DISTRICT'S WRITTEN RESPONSE

NOTE: The District provided additional informational attachments to the response which have been intentionally omitted from this appendix. The names of the individuals mentioned in the District's response were intentionally redacted from the response.

July 26, 2013

Ms. Margaret Junker
California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701

Re: Napa Sanitation District #4522019637
Employer Code: 0316
Job Number: P12-014

Dear Ms. Junker:

Napa Sanitation District Staff's Comments on 2013 CalPERS Audit Findings:

The undersigned is the General Counsel of the Napa Sanitation District (hereinafter "District"). Your letter of June 14, 2013, addressed to Mr. Healy, the General Manager of the District, and the draft Public Agency Review dated June 2013 transmitted by that letter, were referred to me for reply.

The Napa Sanitation District has reviewed the observations, statements, conclusions, and recommendations contained in the above-referenced draft Public Agency Review (hereinafter "Review"). Thank you for allowing the District to investigate these matters and to provide our comments.

The District understands that the Review covered the period from July 1, 2009 through June 30, 2012. In this response I will follow the same sequence of risks, mitigation, observations, recommendations and findings as set forth in the CalPERS Review.

Finding No. 1: Pay Schedules did not meet the requirements of a publicly available pay schedule.

California Code of Regulations, title 2, section 570.5 contains criteria for ensuring that a public agency's pay schedule is publicly available and does not permit reference to another document. While the District disagrees with the Review's conclusion that the requirements

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of a publicly available pay schedule have not been satisfied, the District will voluntarily take additional steps to meet the stated concern.¹

The Review also states that the pay schedules were not approved by the Agency's governing body "...in accordance with requirements of applicable public meeting laws." The Review mentions no basis on which to conclude that the Ralph M. Brown Act (Govt. Code § 54950 et seq., which is the applicable "public meeting law") has ever been violated. This portion of the Finding is unsupported by any evidence and is incorrect as a matter of law. All meetings were noticed and held in accordance with the Brown Act.

The District's salary schedule was approved by the Board of Directors in a public meeting when it approved the Memoranda of Understanding and employment agreements with its employees. That schedule was adjusted annually (COLA) in accordance with the formula identified and described in the agreements. At no time was an employee compensated at a rate that was not approved by the Board of Directors.

The District's practice has been to have COLA salary adjustments included in the annual budget account for salaries. The budget is approved by the Board prior to the COLA increases being added to salaries each year. The salary schedule is posted in July each year on the District's website and in the office. The salary schedule is posted on the bulletin board where other required Federal postings are posted. This is accessible to any member of the public who asks to see it after the COLA adjustments have been added by Napa County payroll department.

The current salary schedule does not include a column indicating the pay is "hourly," although the dollar amounts shown are such that there is no other logical interpretation than that the rate is hourly (for example, the Office Assistant classification shows "20.20" for Step 1. An assumption other than "hourly" would mean the employee earns significantly less than the federal and state minimum wage).

Corrective Action: Although the District does not agree with Finding No. 1, the District will ensure that all pay schedules are publicly available, approved by its governing body and properly documented consistent with applicable statutes.

While the District believes that it has complied with California Code of Regulations, title 2, section 570.5, and the pay schedule was both approved by the Board of Directors and was publicly available, the District agrees to take the following actions in response to the audit finding:

¹ It would be helpful to contracting agencies if the Audit Reports would reference any CalPERS Circular Letters or other documents relevant to the audit findings. The above steps by CalPERS would greatly assist public agencies in providing comprehensive and accurate responses, as well as save time and expense in preparing said responses.

- Add a notation indicating “hourly” pay to the salary schedule.
- Approve annually the salary schedule at a NSD Board of Directors meeting and post the schedule on the website after its effective date in July of each year. If at any time during the year an increase is approved to any job classification, the salary adjustment will be approved by the Board and a new salary schedule will be posted.
- The District will take any further steps necessary to comply with California Code of Regulations, title 2, section 570.5, specifically section (a) 1-8.
- As recommended in the Review, the District will confirm with the CalPERS Customer Accounts Services Division (“CASD”) that all District pay schedules meet the requirements of section 570.5.

Finding No. 2: Holiday Pay was under-reported.

The District agrees with this finding; however, the District would like to note that it believed it was following proper PERS direction since this practice was reviewed in 1998 by PERS and determined at that time to be an appropriate practice.

Those weekend shift employees who work a holiday (typically only one operator and one lab employee) are paid 1-1/2 times the employee’s rate of pay plus holiday pay (2-1/2 times hourly rate, or 20 hours of time for an 8 hour shift) for working a holiday, pursuant to the Memorandum of Understanding with Teamsters Local 315. The hours are coded so that 16 hours is reportable compensation to PERS and 4 hours is not reportable compensation. This has been District practice since before the last PERS audit in 1998. This holiday pay procedure was not a finding in the 1998 PERS audit and consequently was not known to be incorrect.

Corrective Action: The District will henceforth report additional compensation earned for working on a holiday as special compensation for employees who work in positions that require scheduled staffing without regard to holidays.

Finding No. 3: Value of uniform allowance was not reported and the provision for payment was not contained in a labor agreement.

The Audit concludes that “[t]he District should report the monetary value for the purchase of uniforms and the maintenance of uniforms to CalPERS. In addition, the District should ensure provisions for payment of the uniform allowance are included in a written labor policy or agreement.”

District does not agree with the finding that the value of the uniform allowance should be reported. District’s opinion is that the uniforms and the cleaning of them are safety items, similarly situated to Personal Protective Equipment (PPE), and are provided for the

protection of the health and safety of the employees. However, the District agrees to the one aspect of the finding that the value of the uniform allowance for the Construction Inspectors should be reported, as these uniforms are not provided for the employee's health and safety.

In the District's view the monetary value of uniforms worn by District employees should not be reported to PERS. It is District management's and legal counsel's opinion that the uniforms are for personal health and safety of the employees. This position was previously supported by PERS in a prior audit.² District employees who wear uniforms are frequently exposed to raw sewage materials which contaminate the uniforms with blood borne pathogens, toxic chemicals, and other similarly hazardous substances. Accordingly, as is reflected in the attached Bloodborne Pathogens Control Plan and provisions in the Employee Handbook, the District provides uniforms through a laundering service for the shirts, pants and jackets. The shirts, pants and some jackets are property of the laundering service and not the District or District employees.

Corrective Action: The District acknowledges that the provisions for payment of the uniform laundering were not included in the current Memorandum of Understanding. The provisions were in the previous Memorandum of Understanding that expired on June 30, 2009. It is unknown to current management why the provisions were removed from the current MOU, but the District maintained the existing practices as if the provisions were included in the MOU. The current MOU expires on June 30, 2014. District management will propose to the union during negotiations that the provisions be included in the next MOU.

The District agrees that the provision for payment was not contained in the labor agreement and will take appropriate action to meet this requirement.

Finding No. 4: CSET Pay was Over Reported.

Napa County Payroll Department processes the District's payroll. The CSET pay for [redacted] was paid to [redacted] in error on the two occasions in FY 11/12 where there were two months that included three payroll pay dates. The CSET pay is \$250 per month, divided into \$125 each pay period. Twice in the fiscal year 2011/12 the County payroll department overpaid [redacted] by \$125. They corrected the error by deducting the overpayment from two subsequent paychecks (\$125 on two payrolls). Even though the error was corrected by Napa County Payroll, PERS still found that the pay was calculated incorrectly for FY 11/12.

² For your convenience we have attached the District's February 2, 2001 audit response on this subject as well as Rebecca Bolin's April 16, 2001 letter confirming that under these facts the uniforms were non-reportable.

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The District agrees that _____ was overpaid; however, the error was corrected by Napa County Payroll Department in subsequent pay periods in FY 12/13. The audit finding should have noted this correction.

Corrective Action: None required.


Finding No. 5: Retroactive salary adjustment was incorrectly reported.

In the District's view the retroactive salary adjustment for the sampled employee was calculated correctly by Napa County Payroll Department. The retroactive salary increase occurred on the same payroll period as when the annual COLA adjustment was added to hourly rates. Due to payroll software restrictions, the salary rate that shows on the retroactive salary adjustment (\$62.85) is the salary including the COLA effective July, 2010. However, when viewing the calculation of the retroactive earnings (\$1,420.80), the amount is calculated and was paid correctly (at \$61.38 per hour).

Corrective Action: In light of the above, the District disagrees with the PERS Audit finding that the retroactive salary adjustment was incorrectly reported. The amount paid to the employee was correct, and the amount of compensation was accurately reported to PERS.

Thank you for your conscientious consideration of this Response to the draft Public Agency Review of the Napa Sanitation District. As set forth above, the District has identified corrective actions it has or intends to implement to address the issues identified in the June 14, 2013 Review.

Very truly yours,



John Bakker
General Counsel, Napa Sanitation District

JB:vfd

Enclosures: February 2, 2001 Roemer to Bolin Letter
April 16, 2001 Bolin to Roemer Letter
Excerpt from District's Bloodborne Exposure Control Plan re Handling
Contaminated Laundry
Excerpt from District's Employee Handbook re Dress Code and Uniforms

c: Tim Healy, General Manager
Jeff Tucker, Director of Administrative Services/Chief Financial Officer
Cheryl Schuh, Human Resources Officer/Clerk of the Board

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