



California Public Employees' Retirement System  
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## Special Compensation Circular Letter

May 22, 2020

Circular Letter: 200-023-20

Distribution: Special

**To: All Reciprocal Retirement Systems**  
**Subject: Reciprocal Compensation Review Process and Required Information**

### Purpose

The purpose of this Circular Letter is to outline the obligations of a reciprocal retirement system with CalPERS when providing a reciprocal member's final average compensation to calculate the member's concurrent retirement allowance under both systems. Refer to [A Guide to CalPERS When You Change Retirement Systems \(PDF\)](#) for specific information.

### Reciprocal Compensation Review Process

When CalPERS receives a retirement application for a member in a reciprocal retirement system, their compensation must comply with Chapter 7 of the Public Employees' Retirement Law (PERL) pursuant to Government Code (Gov. Code) section 20221 and the California Public Employees' Pension Reform Act (PEPRA) of 2013.

To ensure the compensation complies with the PERL (Gov. Code section 20221), the reciprocal retirement system is required to provide the following information to CalPERS:

- A completed *Retirement Compensation Request* form (if the member was last employed with the reciprocal retirement system)
- A complete and detailed breakdown of all compensation components
- Clearly identified earned periods associated to lump sum payments
- A compliant, publicly available pay schedule substantiating the member's position title with corresponding pay rate

- A compliant, written labor policy or agreement (such as a memorandum of understanding to substantiate special compensation, if applicable)

## **Required Reciprocal Information – Terms and Definitions**

Below is a list of required reciprocal information terms and definitions to provide guidance to reciprocal retirement systems and ensure accuracy in completing the reciprocal compensation review process.

- **Effective Retirement Date:** the date of retirement from your system
- **Date of Membership:** the date of membership in your retirement system
- **Type(s) of Service:**
  - Miscellaneous – when all or part of the actual service is general or miscellaneous
  - Safety – when all or part of the actual service is safety
- **Total Years of Service:** the service years that qualify the member to retire – only include service that can be used for vesting (i.e., excludes additional retirement credit)
  - Note: Service split due to community property is added to vested service and not reflected in actual service
- **Type(s) of Disability:**
  - Service-connected (industrial) disability
  - Non-service-connected disability
- **Breakdown of Compensation Components:** all earnings codes or pay types that make up a member's final average compensation
- **"From" and "To" Dates:** the 12- or 36-month period for which salary rates apply for final average monthly compensation determination

## **Failure to Provide Required Information**

All reciprocal retirement systems are obligated to provide CalPERS with the information and data necessary to make appropriate determinations in accordance with the PERL statutes and regulations.

Failure to provide any information required to verify and determine a member's compensation **may** negatively impact the member's retirement calculation and result in retirement benefits being incomplete, inaccurate, and/or delayed. Without proper substantiation of compensation, CalPERS will place a member on retirement roll with compensation we can validate is in compliance with the PERL.

## Legal Authority

### CalPERS' Board of Administration (Board) Authority

The board has repeatedly affirmed that CalPERS is correctly calculating the retirement benefits reciprocal members receive by only including payments that qualify as compensation earnable under the PERL.

On February 20, 2019, the board conducted a full hearing in CalPERS v. Los Angeles County Employees' Retirement Association (LACERA) and San Bernardino County Employees' Retirement Association (SBCERA). LACERA's "filed by Respondents," Mark L. Wheeler, Thomas R. Valdez, John M. Lopez, Larry D. Blackwell, and Garry G. Cohoe contended CalPERS must utilize the final compensation amount reported by the reciprocal system, regardless of whether the payments qualify as compensation earnable under the PERL. The board rejected this argument and upheld that CalPERS must take the amounts reported by the reciprocal system but apply the definitions of "compensation" and "compensation earnable" contained in sections 20630 and 20636 of the PERL when determining the reciprocal members' benefits paid by CalPERS. In September 2019, the board further resolved the matter by designating its final decision as a precedential decision wherein it reaffirmed that CalPERS properly excluded compensation paid to the Respondents by their employers that did not qualify as compensation and compensation earnable under the PERL.

Further authority was upheld in the Stillman v. Board of Retirement of Fresno County Employees' Retirement Association (FCERA) wherein FCERA correctly calculated the retirement benefits for reciprocal members by disallowing compensation that was deemed non-compliant with the County Employees Retirement Law (CERL).

### The Laws

The following information provides additional CalPERS legal authority to accurately determine a member's retirement benefits:

- Gov. Code sections:
  - 20630 – Definition of "Compensation"
  - 20636 & 20636.1 – Definition of "Compensation Earnable"
  - 7522.34 – Definition of "Pensionable Compensation"
- California Code of Regulations sections:
  - 570 – Definition of "Final Settlement Pay"
  - 570.5 – Requirements of Publicly Available Pay Schedule
  - 571 – Definition of "Special Compensation" for Classic Members
  - 571.1 – Definition of "Special Compensation" for PEPRAs Members

## Commonly Denied Reciprocal Compensation Items

The following special compensation items are the most commonly reported by reciprocal retirement systems; however, they are denied by CalPERS since these items do not comply with the PERL and are excluded when calculating a reciprocal member's CalPERS retirement benefits:

- Vacation cash/pay outs
- Sick leave cash/pay outs
- Cafeteria plan/flex payments
- Medical opt-out payments
- Callback pay
- Standby pay
- Retirement excess cash
- Auto/technology/business allowance
- Commuter allowance
- Any other payments or cash conversion of employee benefits in excess of "compensation earnable" or "pensionable compensation" as defined in the PERL

## Questions

The contracting employer is responsible for ensuring compliance with all terms and conditions set forth in the contract with CalPERS and all data and reportable information complies with the PERL. For additional information, view the [PERL](#), with the full statutes and regulations, available on our website.

If you have any questions, contact the CalPERS Customer Contact Center at **888 CalPERS** (or **888-225-7377**).

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Employer Account Management Division