

# **Office of Audit Services**



## **Public Agency Review**

### **Santa Clara County Central Fire Protection District**

**CalPERS ID: 5486958840  
Job Number: BI14-001**

**August 2016**



California Public Employees' Retirement System  
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August 25, 2016

CalPERS ID: 5486958840  
Job Number: BI14-001

Fred Schulenburg, CPA, Director of Business Services  
Santa Clara County Central Fire Protection District  
14700 Winchester Blvd.  
Los Gatos, CA 95032-1818

Dear Mr. Schulenburg:

Enclosed is our final report on the results of the public agency review completed for the Santa Clara County Central Fire Protection District (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 3B, 3C, and 4B. We appreciate the additional information that you provided in your response. After consideration of this information, we added clarifying language to Finding 3B. However, our recommendations remain the same 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 Agency. We appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Beliz Chappuie

BELIZ CHAPPUIE, Chief  
Office of Audit Services

Enclosure

cc: Board of Directors, Santa Clara County Central Fire Protection District  
Risk and Audit Committee Members, CalPERS  
Matthew G. Jacobs, General Counsel, CalPERS  
Anthony Suine, Chief, BNSD, CalPERS  
Renee Ostrander, Chief, EAMD, CalPERS  
Carene Carolan, Chief, MAMD, CalPERS

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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## RESULTS IN BRIEF

The objective of our review was to determine whether the Santa Clara County Central Fire Protection District (Agency) complied with applicable sections of the California Government Code (Government Code), California Public Employees' Pension Reform Act of 2013 (PEPRA), California Code of Regulations (CCR), and its contract with the California Public Employees' Retirement System (CalPERS).

The Office of Audit Services (OAS) noted the following finding during the review. Details are noted in the Results section beginning on page three of this report.

- Payroll information was incorrectly reported.
- The Agency did not have a pay schedule that met all of the requirements of the Government Code and CCR.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Non-reportable compensation was reported in base payrate, earnings, and special compensation.

OAS recommends the Agency comply with applicable sections of the Government Code, PEPRA, CCR and its contract with CalPERS. We also recommend the Agency work with the appropriate CalPERS divisions to resolve issues identified in this report.

## SCOPE

The Agency contracted with CalPERS effective July 1, 1953 to provide retirement benefits for local miscellaneous and fire safety employees. By way of the Agency's contract with CalPERS, the Agency agreed to be bound by the terms of the contract and the Public Employees' Retirement Law (PERL). The Agency also agreed to make its employees members of CalPERS subject to all provisions of the PERL.

As part of the CalPERS Board of Administration (Board) approved plan, OAS reviewed the Agency's compliance with the PERL and its contract related to compensation and payroll reporting. The review was limited to the examination of the sampled fire safety employees, records, and pay periods from January 1, 2012 through December 31, 2014. OAS did not review the Agency's compliance with membership enrollment or employment after retirement. The review objectives and methodology are listed in Appendix A.

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency incorrectly reported payroll information.

***Condition:***

The Agency incorrectly reported the number of scheduled full-time work hours for seven fire safety employees. Incorrectly reporting the number of scheduled full-time work hours can impact a member's retirement allowance. In one instance, OAS found that misreporting the number of work hours for a Fire Captain, resulted in a retirement allowance that was overstated by approximately \$3,962.15 per month.

OAS reviewed the Fire Captain's payroll information for the period July 1, 2013 through April 27, 2014. The Agency reported the Fire Captain on an hourly basis and identified the normal work schedule as 56 hours per week. However, the Fire Captain's normal full-time work schedule going back to January 10, 2011 was 40 hours per week. The Fire Captain retired on May 1, 2014 with 24.945 years of service. CalPERS records show that the Fire Captain's hourly payrate reported to CalPERS during the one year final compensation period was \$64.50 per hour. To determine the Fire Captain's one year final compensation, the hourly payrate was multiplied by 56 hours per week to reach a monthly equivalent pay rate of \$15,870.40. This amount was used along with the member's special compensation, years of service, and retirement formula to calculate the Fire Captains retirement allowance, \$12,446.01 per month. However, the Fire Captain worked 40 hours per week, not 56. Using a work schedule of 40 hours and performing the same calculation, the Fire Captain's estimated monthly equivalent pay rate was \$11,336. This was the amount that should have been used to calculate the Fire Captains retirement allowance, \$8,483.86 per month. As a result, the Fire Captain's retirement allowance was overstated by approximately \$3,962.15 per month since May 2014.

In addition, the Agency reported a 56-hour scheduled work week for a retired Assistant Fire Chief when the employee was actually scheduled for a 40-hour work week. However, when the Assistant Fire Chief retired on December 28, 2014, the member's reported compensation was reviewed by CalPERS Employer Account Management Division (EAMD). EAMD identified the incorrect reporting of the schedule work week hours and the Assistant Fire Chief's monthly retirement allowance was adjusted to reflect the correct retirement allowance based on the 40 hour work week schedule.

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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Furthermore, Agency incorrectly reported a 56-hour scheduled work week for certain pay periods for four active employees. The Fire Chief, Chief Fire Inspector, Deputy Chief of Support Services, and Senior Hazardous Materials Specialist were scheduled to work a 40-hour work week.

Lastly, for one active Firefighter, the Agency incorrectly reported a 40-hour scheduled work week for the pay period January 6, 2014 through January 19, 2014 when the Firefighter was scheduled to work a 56-hour work week.

CalPERS needs timely and accurate payroll information in order to correctly calculate an employee's service credit and final compensation for retirement benefits. Reporting an incorrect number of scheduled full-time work hours can cause the following:

- Delays in member retirement processing
- Inaccurate retirement estimates
- Miscalculation of employer contributions
- Incorrect payments of benefits
- Hardship to retired members from a reduction in benefits

***Recommendation:***

The Agency should report the scheduled full-time hours per week that reflects the actual normal full-time work schedule of employees.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20120, § 20121, § 20160, § 20636

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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**2:** The Agency did not have a pay schedule that met all of the Government Code and CCR requirements.

***Condition:***

The Agency's pay schedule for management, confidential, and civilian administrative employees did not include the time base, such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually, for each position as required by the Government Code and CCR Section 570.5. Additionally, the pay schedule did not identify the position title for every employee position in a single document. Instead the Agency uses three documents that outline the pay for the employee positions.

Only compensation earnable as defined under Government Code Section 20636 and corresponding regulations can be reported to CalPERS and considered in calculating retirement benefits. For purposes of determining the amount of compensation earnable, a member's payrate is limited to the amount identified on a publicly available pay schedule. Per CCR Section 570.5, a pay schedule, among other things, must:

- Be duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
- Identify the position title for every employee position;
- Show the payrate as a single amount or multiple amounts within a range for each identified position;
- Indicate the time base such as hourly, daily, bi-weekly, monthly, bi-monthly, or annually;
- Be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer's internet website;
- Indicate an effective date and date of any revisions;
- Be retained by the employer and available for public inspection for not less than five years; and
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the payrate definition and pay schedule requirements cannot be used to calculate retirement benefits because the amounts do not meet the definition of payrate under Government Code Section 20636(b)(1). When an employer does not meet the requirements for a publicly available pay schedule, CalPERS, in its

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

***Recommendation:***

The Agency should ensure it has a pay schedule that meets all of the Government Code and CCR requirements.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20636  
CCR: § 570.5

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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**3:** The Agency did not report special compensation in accordance with the Government Code and CCR.

***Condition:***

- A. The Agency did not report compensation for the purchase and maintenance of uniforms for a suppression Firefighter. Specifically, the Agency did not report \$8.65 as Uniform Allowance for the pay period ended January 19, 2014. Government Code Section 20636 and CCR Section 571 require that Uniform Allowance be reported as special compensation.
- B. The Agency's written labor agreement that covered the Chief Fire Investigator position did not meet all the requirements of CCR Section 571(b). Specifically, the written labor agreement for Non-Represented Management, Confidential, and Civilian Administrative employees did not contain a uniform provision or the conditions for payment. The agreement indicated that employees would receive many of the same benefits, including uniforms, as the employees covered under the International Association of Firefighters, Local 1165. However, Government Code Section 20636 and CCR Section 571(b) require Uniform Allowance be listed in a written labor policy or agreement and identify the conditions for payment of, including, but not limited to, eligibility for, and amount of, the special compensation. In addition, the CCR states that the written labor policy cannot reference another document in lieu of disclosing an item of special compensation.
- C. The Agency's written labor agreement for fire safety employees did not meet all the requirements of CCR Section 571(b)(1)(B). Specifically, the written labor agreement did not include the conditions for payment of FLSA Premium Pay. CCR Section 571 requires the written labor policy or agreement contain the conditions for payment, including, but not limited to, eligibility for, and amount of, the special compensation.

***Recommendation:***

The Agency should ensure the compensation paid for the purchase, rental and/or maintenance of required clothing is reported as special compensation for all classic employees.

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## SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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The Agency should ensure its written labor agreements include provisions for Uniform Allowance and indicate the conditions for the payment of Uniform Allowance and FLSA Premium Pay as required by the Government Code and CCR.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20630, § 20636  
CCR: § 571

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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**4:** The Agency incorrectly included non-reportable compensation in base pay, earnings, and special compensation.

***Condition:***

- A. The Agency incorrectly reported non-reportable compensation in base payrate and earnings for a Deputy Chief. Specifically, the Agency's pay schedule lists two positions for the Deputy Chief position, one with call duty pay and one without. The Deputy Chief received additional compensation in his base payrate and earnings for on-call duties. The additional compensation is considered overtime and is not reportable per Government Code Section 20635.
- B. The Agency incorrectly reported bi-weekly pay for canine food and veterinary expenses as special compensation for a Chief Fire Investigator. This pay is not reportable per Government Code Section 20636 and CCR Section 571 which states that compensation shall not include veterinarian fees, feed or other reimbursable expenses for upkeep of the animal. Additionally, the Agency incorrectly reported bi-weekly Canine pay. Per CCR Section 571, the definition of Canine Officer/Animal Premium pay is "compensation to local police officers, county peace officers and school police or security officers...." The Agency believes the Canine pay meets this definition since the Chief Fire Investigator performs peace officer and investigative type duties. However, the employee is classified as a Fire safety employee, and therefore, the additional compensation did not meet the definition of compensation earnable under Government Code Section 20636 and special compensation as defined in CCR Section 571.
- C. The Agency incorrectly reported compensation for overtime. Specifically, the Agency reported Working Out-of-Class (WOC) compensation as special compensation for a Fire Captain; however, a portion of the WOC related to duties performed outside the regular work shift (overtime). WOC pay is defined in the Agency's written labor policies and is exclusively listed as special compensation in CCR Section 571. However, Government Code Section 20635 states that compensation paid for overtime is not reportable to CalPERS.

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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***Recommendation:***

The Agency should ensure it reports compensation that meets the definition of compensation earnable pursuant to Government Code Section 20636 and CCR Section 571.

The Agency should work with EAMD to identify and make adjustments, if necessary, to any impacted active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20635, § 20636  
CCR: § 571

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives outlined in Appendix A. The procedures performed provide reasonable, but not absolute, assurance that the Agency complied with the specific provisions of the PERL and CalPERS contract 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 Agency 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, of California Code of Regulations.

Respectfully submitted,

Original signed by Beliz Chappuie

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BELIZ CHAPPUIE, CPA, MBA  
Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Alan Feblowitz, CFE, Senior Manager  
Alicia Watts, Manager  
Michelle O'Connor, CPA, Auditor

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**SANTA CLARA COUNTY CENTRAL FIRE  
PROTECTION DISTRICT**

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# APPENDIX A

## OBJECTIVES

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# SANTA CLARA COUNTY CENTRAL FIRE PROTECTION DISTRICT

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## OBJECTIVES

The objectives of this review were to determine whether member information was accurate and the Agency complied with:

- Applicable sections of the Government Code (Sections 20000 et seq.), PEPRA, and Title 2 of the CCR.
- Reporting procedures prescribed in the Agency's retirement contract with CalPERS.

## METHODOLOGY

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

- ✓ Reviewed:
  - Provisions of the contract and contract amendments between the Agency and CalPERS
  - Correspondence files maintained at CalPERS
  - Agency written labor policies and agreements
  - Agency salary, wage, and benefit agreements including applicable resolutions
  - Agency personnel records and employee time records
  - Agency payroll information including Contribution Detail Transaction History reports
  - CalPERS payroll reports
  - Documents related to employee payrate, special compensation, and benefits
  - Various other relevant documents
- ✓ Reviewed Agency payroll records and compared the records to data reported to CalPERS to determine whether the Agency correctly reported compensation.
- ✓ Reviewed payrates reported to CalPERS and reconciled the payrates to Agency 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 Agency's governing body in accordance with requirements of applicable public meetings laws.
- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.

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**SANTA CLARA COUNTY CENTRAL FIRE  
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# **APPENDIX B**

## **AGENCY'S WRITTEN RESPONSE**



## FIRE DEPARTMENT SANTA CLARA COUNTY



14700 Winchester Blvd., Los Gatos, CA 95032-1818  
(408) 378-4010 • (408) 378-9342 (fax) • www.sccfd.org

July 13, 2016

Beliz Chappuie, Chief  
Office of Audit Services  
California Public Employees' Retirement System  
P.O. Box 942701  
Sacramento, CA 94229-2701

Ref: CalPERS ID: 5486958840  
Job Number: BI14-001

Dear Ms. Chappuie,

The Santa Clara County Central Fire Protection District is in receipt of the draft CalPERS audit report for our agency and our response to the findings identified in the draft report are as follows:

- 1. The Agency incorrectly reported payroll information** – The Fire District is in agreement with this finding. Payroll processing and CalPERS reporting for the Fire District is handled by the County of Santa Clara. The Fire District will work with the County to insure that all payroll information is correctly reported to CalPERS.
- 2. The Agency did not have a pay schedule that met all of the Government Code and CCR requirements** - The Fire District is in agreement with this finding and will work with CalPERS to correct the deficiency.
- 3. The Agency did not report special compensation in accordance with the Government Code and CCR.**
  - a. Condition A** – The Fire District is in agreement with this finding. This appears to be a one-time occurrence, but we will work with the County's payroll unit to eliminate this type of error in the future.
  - b. Condition B** – The Fire District disagrees with this finding. While the position in question is not specifically identified in the MOA as being entitled to a uniform allowance, the MOA does include language that a

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Organized as the Santa Clara County Central Fire Protection District

*Serving Santa Clara County and the communities of Campbell, Cupertino, Los Altos,  
Los Altos Hills, Los Gatos, Monte Sereno, and Saratoga*

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uniform allowance may be given to any other position approved by the Fire Chief. In the promotional letter issued to the Chief Fire Investigator, he was informed that he would be entitled to a uniform allowance.

- c. **Condition C** – The Fire District disagrees with this finding. The Fire District feels that payment of FLSA overtime for hours worked in excess of the 24 day FLSA cycle limit is a legal requirement that should not have to be included in the MOA. While the Fire District is in disagreement with the finding, it is willing to add clarifying language in its successor MOA.

**4. The Agency incorrectly included non-reportable compensation in base pay, earnings, and special compensation.**

- a. **Condition A** – The Fire District is in agreement with this finding and will work with CalPERS to correct the deficiency.
- b. **Condition B** – The Fire District agrees with the finding that canine maintenance pay is not PERSable, but disagrees with the finding that the Chief Fire Investigator is not entitled to Canine Premium pay. The Chief Fire Investigator is a peace officer with the same authority as a city police officer or county sheriff. He is entitled to POBER rights extended to peace officers in other jurisdictions. This item is not currently an issue, since the canine in question retired a couple of years ago and the Fire District does not currently plan on acquiring a new canine.
- c. **Condition C** – The Fire District is in agreement with this finding. This issue was corrected when it was first identified in 2014.

The Fire District will work with CalPERS to cure the deficiencies identified in the audit report in a timely manner.

Sincerely,



Original signed by Fred Schulenburg

Fred Schulenburg, Director of Business Services