

**ATTACHMENT C**

**RESPONDENT'S ARGUMENT**

1 Deborah Geske  
2 2255 First Ave  
3 Napa, Ca 94558  
4 (707) 483-7509

5 Deborah Geske, Respondent

6  
7 **BOARD OF ADMINISTRATION**  
8 **CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
9

10 In the Matter of the Appeal of Membership ) AGENCY CASE NO.: 2023-0146  
11 Determination of )  
12 DEBORAH A. GESKE. ) OAH NO.: 2023090295  
13 Respondent, ) **WRITTEN ARGUMENT AGAINST THE**  
14 vs. ) **PROPOSED DECISION**  
15 COUNTY OF NAPA, ) **RESPONDENT ARGUMENT**  
16 Respondent ) **DATE: June 12, 2024**  
17 )  
18 )

19 **RESPONDENT ARGUMENT**

20 This is in opposition to the decision in the matter of the appeal of membership determination of  
21 Deborah A Geske and a formal request to the Board of Administration of the California Public  
22 Employees' retirement system to decline the adoption of ALJ Wim van Rooyen said decision and to  
adopt it in the boards' favor of its own decision and allow respondent the ability to purchase the  
service credit in question from January 1991 until July 1991.

23 Through the equal protection clause of the California Constitution article 1 section 7 and the  
24 fourteenth amendment affords rights to citizens which consists of due process and equal justice  
25 under the law. I have not been afforded due process and equal justice under the law as I have been  
discriminated by both the County of Napa and CalPERS.

26 Employees of Napa County since the amendment of the contract in 2003, which removed the hourly  
27 exclusion, have been entitled to purchase back their extra hire service credit and this includes  
28 employees employed prior to 2003.

1 Napa County classifies these employees as extra help that work under a thousand hours per fiscal  
2 year. It has been the past practice of Napa County to allow the employee to purchase prior service  
3 credit as an extra hire employee and over the years countless employees have purchased this service  
credit through CalPERS.

4 After the December 21 1995 letter that overturned the August 15 1995 memorandum that stated that  
5 the removal of the exclusion of hourly employees was too broad. CalPERS sent the County of Napa  
6 a letter dated January 26.1999 to find out their intent and to develop clear objective guidelines for  
7 the administration of the hourly exclusion. CalPERS asked several questions regarding the  
8 appointment length/tenure; job title or classification that would be excluded among other questions.  
9 The County of Napa responded on March 23, 1999, they stated that the exclusion was based on an  
employee working in a temporary or extra-hire capacity for not more than 1000 hours in a fiscal  
year. They also stated that Napa County does not include or exclude employees on their job title or  
classification. The exclusion was based in an employee working in an extra-help capacity not to  
exceed 1000 hours in a fiscal year (Exhibit 2).

10 It was undisputed during the hearing that I worked over a thousand hours during the fiscal year  
11 beginning August 1990 and through July 5, 1991.

12 Through testimony and evidentiary documents, I should have been afforded CalPERS membership  
13 beginning in January 1991. Yet, I have been denied. As the County of Napa and CalPERS have  
14 continued to allow other similarly situated employees to purchase their extra hire service credit. The  
15 most recent extra hire correctional officer hired as an extra hire correctional officer in the 90's and  
was afforded the right to purchase his extra hire service credit in October 2022, which was after I  
had been denied.

16 During the hearing, I was not allowed to discuss Napa County employees that were allowed to  
17 purchase their extra hire service credit. I should be afforded the same opportunity as both past and  
18 present employees and be able to purchase the extra hire service credit. The notification of Arrears  
19 Determination that I received dated April 27, 2021 from CalPERS stating that I qualified for the  
period of January 19,1991 through July 5, 1991 as the member completed 1000 hours of work  
within the fiscal year (July 1 to June 30) (exhibit 4).

20 The CalPERS procedure manual from 1990 that was entered into evidence describes how an  
21 employee that works 1000 hours or 125 days if paid on a per diem bases within a fiscal year that  
22 membership is effective no later than the first month following the month in which the thousand  
hours or 125 days are completed (exhibit 1).

23 Testimony of Napa County Assistant Director of HR Faye Newton who has seventeen and a half  
24 years with Napa County and two and a half in that position. She stated during her testimony that the  
25 hourly rate is defined in the FLSA so a lot of Napa County employees are based on the hourly rate  
and in 2024 if an extra hire employee reached a thousand hours, they would become CalPERS  
members.

26 Finally, government code 20305 section 3 in the opinion of the board, on a seasonal, limited term,  
27 on call, emergency, intermittent, substitute or other irregular basis, and is compensated and meets  
28 one the following conditions: (a) the appointment or employment contract does not fix a term of  
full-time, continuous employment in excess of six months, but full-time employment continues for

1 longer than six months, in which case membership shall be effective not later than the first day of  
2 the first pay period of the seventh month of employment. (b) The person completes 125 days, if  
3 employed on a per diem basis or, if employed on other than a per diem basis, completes 1000 hours  
4 within the fiscal year, in which case, membership shall be effective not later than the first day of the  
first pay period of the month following the month in which 125 days or 1000 hours of service were  
completed. I should have qualified under this section (exhibit 6).

5 There is also an email from Christina Rollins who is the Assistant Division Chief of CalPERS  
6 apologizing that my due process rights had been violated (exhibit 6).

7 I'm against the board taking this action as precedential status. It should not be designated either in  
8 part or in whole. This decision does not contain a significant determination of all facts. The letter  
9 from CalPERS to Napa County in 1999 to interpret the 1000-hour exclusion, was to develop a clear  
10 objective and guidelines to administer it. The response from Napa County defined what a temporary  
11 extra help employee was and that the capacity of an extra-help employee was no more than 1000  
12 hour in a fiscal year. These employees were not used in full time capacity but as temporary fill in  
13 not to exceed 1000 hours in a fiscal year. It also stated that Napa County does not include or  
14 exclude employees based on their job title or classification and that the interpretation/administration  
15 of the exclusion had not changed over time. That the County applied the exclusion in a consistent  
manner (Exhibit 2). This letter stated that the County had applied the exclusion consistently over  
time, which means that it applied the one-thousand-hour limit in the 90's and through this year as  
Assistant HR Director Newton stated that an extra-help employee working over a thousand hours  
would become a CalPERS Member. I was used in a full-time employee capacity, assigned a full-  
time shift and had to find my own coverage if I needed a time off.

16 Again, as stated previously, I have not been treated fairly and consistently as other similarly situated  
17 extra help employees working for Napa County have been. I have been singled out and treated  
18 differently as past and present employees have been allowed the option to purchase their extra-help  
19 service credit from CalPERS. I hope that the Board can review the evidentiary documents that I  
20 have supplied which were presented at the hearing and afford me the opportunity to purchase this  
21 service credit. As I do not want to be discriminated against and treated differently and should be  
22 treated equally under the law. Through the arguments hereinabove, in conjunction with evidence  
presented at the Hearing, Deborah Geske asks the Board REJECT the Proposed Decision of ALJ  
Wim Van Rooyen and enter Judgement in favor of Ms. Geske, to allow her to purchase the  
additional service credit from January 19, 1991 to July 5, 1991. Deborah Geske further asks that  
ALJ Wim Van Rooyen's proposed decision should NOT be designated precedential, in order to  
protect Ms. Geske's privacy.

23 **Evidence that supports the opposition to this decision is as followed:**

24 Exhibit 1 The CalPERS procedures manual that was entered into evidence, states on page 2 on the  
25 bottom of the page under the two asterisks states employee is excluded until he/she works 1,000  
26 hours or 125 days (if paid on a per diem basis) of a fiscal year (July 1 through June 30).  
27 Membership is effective no later than the first month following the month in which 1,000 hours or  
125 days are completed. Overtime worked is included when counting hours or days for purposes of  
qualifying for membership.

1 Exhibit 2 CalPERS letter dated January 26,1999 which asks for the County of Napa to interpret  
2 their hourly excursion and Napa County letter dated March 23. 1999 as their response to their  
3 interpretation and definition of a temporary employee. The exclusion is based on an employee  
4 working in a temporary or extra-help capacity for not more than 1000 hours in a fiscal year. Napa  
5 County does not include or exclude employees based on their job title or classification.

6 Exhibit 3 The amendment to the contract between California Public Employees' Retirement System  
7 and the Board of Supervisors of the County of Napa from 2003 which removed the hourly  
8 exclusion.

9 Exhibit 4 The notification of Arrears Determination dated April 27, 2021 from CalPERS stating that  
10 I qualified for the period of January 19,1991 through July 5, 1991 as the member completed 1000  
11 hours of work within the fiscal year (July 1 to June 30).

12 Exhibit 5 Three emails one from Christine Briceno the HR director of Napa County stating that  
13 CalPERS stating that CalPERS may adjust the accounts of people who had purchased their extra  
14 hire time from Napa County. An email from Christina Rollins the Assistant Division Chief of  
15 CalPERS stating that my due process rights had been violated and an Email from me to Christina  
16 Rollins stating the most recent correctional officer who had purchased his extra hire time back from  
17 the County of Napa in October 2022. This would have been after I had filed to purchase my service  
18 credit.

19 Exhibit 6 California Code, Government Code – GOV 20305 section 3 His or her employment is, in  
20 the opinion of the board, on a seasonal, limited term, on call, emergency, intermittent, substitute or  
21 other irregular basis, and is compensated and meets one the following conditions: (a) the  
22 appointment or employment contract does not fix a term of full-time, continuous employment in  
23 excess of six months, but full-time employment continues for longer than six months, in which case  
24 membership shall be effective not later than the first day of the first pay period of the seventh month  
25 of employment. (b) The person completes 125 days, if employed on a per diem basis or, if  
26 employed on other than a per diem basis, completes 1000 hours within the fiscal year, in which  
27 case, membership shall be effective not later than the first day of the first pay period of the month  
28 following the month in which 125 days or 1000 hours of service were completed.

29 Testimony of Assistant Director HR Faye Newton who has seventeen and a half years with Napa  
30 County and two and a half in this position. She stated during her testimony that hourly rate is  
31 defined in the FLSA so a lot of our employees are hourly rate and in 2024 if an extra hire employee  
32 reached a thousand hours, they would become CalPERS members.

33 Employees of Napa County since the amendment of the contract in 2003, have been entitled to  
34 purchase back their extra hire time. Napa County classifies these employees as extra help that work  
35 under a thousand hours per fiscal year. It has been the past practice of Napa County to allow the  
36 employee to purchase prior service credit as an extra hire employee and over the years countless  
37 employees have purchased this service credit. It was undisputed through the hearing that I worked  
38 over the one-thousand-hour limit set forth and should have been afforded the opportunity to  
39 purchase this credit through the one-thousand-hour rule and government code 20503.

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DATED: May 17, 2024

  
Deborah Geske  
Respondent

# Exhibit 1

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CALIFORNIA  
**EPERS**

# Procedures Manual

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Produced by the  
Employer Services Unit, Field Services Division  
Public Employees' Retirement System

#20 (1990)

## DETERMINING MEMBERSHIP ELIGIBILITY

The following chart is a general guide for determining when and if your employee qualifies for PERS membership. For situations not covered in the chart, contact PERS, Membership Review Unit (Section 841).

PERS MEMBERSHIP STATUS	APPOINTMENT TYPES	MEMBER AT APPOINTMENT	MONITOR	EXCLUDED	OPTIONAL MEMBER
<b>CURRENT MEMBER</b>  (has funds on deposit or service credit)	(1) Appointed to a position excluded by your PERS contract— <i>public agencies only</i>			X	
	(2) Teacher Assistant— <i>schools only</i> (Education Code Section 22609)			X	
	(3) Student in a Student position— <i>schools only</i>			X	
	(4) Elected Official (as defined by Gov't Code Section 20361; see 1-045)				X
	(5) All others, regardless of length of appointment or hours worked	X			
<b>NOT CURRENT MEMBER</b>  (has had contributions re- funded or was never a member)	(6) Appointed to a position excluded by your PERS contract— <i>public agencies only</i>			X	
	(7) Teacher Assistant— <i>schools only</i> (Education Code Section 22609)			X	
	(8) Student in a Student position— <i>schools only</i>			X	
	(9) Elected Official (as defined by Gov't Code Section 20361; see 1-045)				X
	(10) Full-time appointment for more than 6 months (Gov't. Code Sections 20336)	X			
	(11) Full-time appointment for less than one year but unspecified duration (less than academic year for schools)		X *		
	(12) Full-time appointment for 6 months or less			X **	
	(13) Works an average of 20 hours or more per week, appointment is one year or longer (academic year or longer for schools) (G.C. 20334)	X			
	(14) Works less than 20 hours per week			X **	
	(15) Irregular basis appointment (seasonal, limited-term, on-call, emergency, intermittent, substitute, etc.)			X **	

\*Employee is excluded from PERS membership for the first six months. Membership is effective not later than the first day of the seventh month of employment.

\*\*Employee is excluded until he/she works 1,000 hours or 125 days (if paid on a per diem basis) of a fiscal year (July 1 through June 30). Membership is effective not later than the first of the month following the month in which 1,000 hours or 125 days are completed. Overtime worked is included when counting hours or days for purposes of qualifying for membership. (G.C. 20336)

Effective January 1, 1989, permits part-time employees who work less than 20 hours a week the option to elect to be members of PERS provided that their contracting agency employer amends its contract or their school employer adopts a resolution to permit such an election. (G.C. 20365)

NOTE: This chart does not apply to a PERS retiree. Please refer to Employment of a Retiree.

In your present position with this agency, you are excluded from PERS membership because:

- 1. Your full-time seasonal or limited term appointment is limited to 6 months or less.
- 2. Your part-time appointment is limited to less than an average of 20 hours per week.
- 3. Your appointment is on an on-call, intermittent, emergency, substitute, or other irregular basis which excludes you from membership until you have worked 1,000 hours (or 125 days if paid on per diem basis) this fiscal year.
- 4. Your position is excluded by PERS contract agreement which excludes:  

Enter contract exclusion: (For Public Agencies Only)
- 5. You are employed to render professional legal service to a city.  
 Exceptions: City attorneys are optional members.  
 Deputy city attorneys are mandatory members.
- 6. You are an independent contractor.
- 7. You are employed as a student aide by a school district in a position established for students only and you are attending school in the same district. (For County Schools Only).

NOTE: If you are a member of PERS by previous employment (either you have funds on deposit or service credit), exclusions 1, 2, and 3 do not apply to you and you are a member in your present position. Be sure to notify your employer to complete a Membership Form (MEM-1) to report your employment to PERS.

ITEM	EXCLUSIONS	INSTRUCTIONS
1	Seasonal or Limited-Term Appointment	An employee whose full-time seasonal or limited-term employment is limited to six months or less is excluded from membership.
2	Less than 20 hours per week Appointment	A part-time employee employed to work less than an average of 20 hours per week is excluded from membership. However, Government Code Section 20365, effective January 1, 1989, permits employees who work less than 20 hours a week the option to elect to be members of PERS provided that their contracting agency employer amends its contract or their school employer adopts a resolution to permit such an election.  All part-time school employees and part-time public agency employees whose employers elect this benefit and who also provide Social Security coverage will automatically be covered by Social Security even if they do not elect to be PERS members.
3	Irregular or Intermittent	An employee is excluded from membership if appointed on an on-call, intermittent, emergency, substitute, or other irregular basis until the employee has worked 1,000 hours (or 125 days if paid on a per diem basis) in the fiscal year (July 1 through June 30).

NOTE: Exclusions 1, 2 and 3 do not apply to persons who have funds on deposit or service credit with PERS. Check with employee for current membership status.

- 1. Your full-time seasonal or limited term appointment is limited to 6 months or less.
- 2. Your part-time appointment is limited to less than an average of 20 hours per week.
- 3. Your appointment is on an on-call, intermittent, emergency, substitute, or other irregular basis which excludes you from membership until you have worked 1,000 hours (or 125 days if paid on per diem basis) this fiscal year.
- 4. Your position is excluded by PERS contract agreement which excludes:

\_\_\_\_\_  
Enter contract exclusion. (For Public Agencies Only)

- 5. You are employed to render professional legal service to a city.  
Exceptions: City attorneys are optional members.  
Deputy city attorneys are mandatory members.
- 6. You are an independent contractor.
- 7. You are employed as a student aide by a school district in a position established for students only and you are attending school in the same district. (For County Schools Only).

NOTE: If you are a member of PERS by previous employment (either you have funds on deposit or service credit), exclusions 1, 2, and 3 do not apply to you and you are a member in your present position. Be sure to notify your employer to complete a Membership Form (MEM-1) to report your employment to PERS.

ITEM	EXCLUSIONS	INSTRUCTIONS
4	PERS Contract Exclusion (Applies to Public Agencies only)	Public Agencies by PERS contract agreement may exclude certain categories of employees. The Coverage Key (Item 10) at the front of the manual will list any exclusions from your PERS contract. Enter the specific exclusion which applies to the employee.
5	Professional Legal Service	Persons rendering professional legal service are excluded from membership.  Exceptions:  1) City Attorneys are optional members (see page 1-045).  2) Deputy Attorneys are optional members (see page 1-045). Membership Form (MEM-1) to report their employment to PERS.

In your present position with this agency, you are excluded from PERS membership because:

1. Your full-time seasonal or limited term appointment is limited to 6 months or less.

2. Your part-time appointment is limited to less than an average of 20 hours per week.

3. Your appointment is on an on-call, intermittent, emergency, substitute, or other irregular basis which excludes you from membership until you have worked 1,000 hours (or 125 days if paid on per diem basis) this fiscal year.

4. Your position is excluded by PERS contract agreement which excludes:

Enter contract exclusion: (For Public Agencies Only)

5. You are employed to render professional legal service to a city.  
 Exceptions: City attorneys are optional members.  
 Deputy city attorneys are mandatory members.

6. You are an independent contractor.
7. You are employed as a student aide by a school district in a position established for students only and you are attending school in the same district. (For County Schools Only).

NOTE: If you are a member of PERS by previous employment (either you have funds on deposit or service credit), exclusions 1, 2, and 3 do not apply to you and you are a member in your present position. Be sure to notify your employer to complete a Membership Form (MEM-1) to report your employment to PERS.

If you feel that your employment does qualify you for PERS membership, ask your employer for an explanation. If you still have doubts, you may appeal directly to PERS by sending a letter to the Membership Division at the address shown above stating the reasons why you feel you should be a member.

SIGNATURE OF CERTIFYING OFFICER	TITLE	DATE
SIGNATURE OF EMPLOYEE	DATE	

NOTE: Benefits provided by PERS are described in the "PERS BENEFITS" information booklet available from your employer.

ITEM	EXCLUSIONS	INSTRUCTIONS
6	Independent Contractors	Independent contractors or employees of independent contractors who are not employees of the agency are excluded from membership.
7	Student Aide (Applies to SCHOOLS Only)	Students who are employed by a school district in a position established for students only and attending school in the same district are excluded from membership. This includes students enrolled in a California teacher training institution with a temporary certificate to serve as a teacher assistant.  Non-students or students from other districts employed in student positions are not excluded from membership under this provision.
8	Signatures	Self-explanatory.

## PUBLIC AGENCY PROCEDURE MANUAL REVISION RECORD

Place initials and date in boxes of corresponding number each time a circular letter with manual revisions is received. If you receive a circular letter that is out of numerical order, contact the Employer Services Section, Field Services Division, P.O. Box 942710, Sacramento, CA 94229-2710, or telephone (916) 326-3635.

### IDENTIFICATION OF CIRCULAR LETTER NUMBERS FOR PUBLIC AGENCY MANUAL REVISIONS

CIRCULAR NUMBER	INITIAL	DATE OF INSERTION	CIRCULAR NUMBER	INITIAL	DATE OF INSERTION	CIRCULAR NUMBER	INITIAL	DATE OF INSERTION
535-1	PERS	7-01-80	535-16			535-31		
535-2	PERS	7-01-81	535-17			535-32		
535-3	PERS	7-01-82	535-18			535-33		
535-4	PERS	1-01-85	535-19			535-34		
535-5	PERS	12-01-86	535-20			535-35		
535-6	PERS	12-01-87	535-21			535-36		
535-7		5-1-90	535-22			535-37		
535-8			535-23			535-38		
535-9			535-24			535-39		
535-10			535-25			535-40		
535-11			535-26			535-41		
535-12			535-27			535-42		
535-13			535-28			535-43		
535-14			535-29			535-44		
535-15			535-30			535-45		

## Exhibit 2



Actuarial and Employer Services Division  
 P.O. Box 942709  
 Sacramento, CA 94229-2709  
 Telecommunications Device for the Deaf - (916) 326-3240  
 (916) 326-\_\_\_\_, FAX (916) 326-3287

Reply to Section 116  
 Refer to No. 0221

January 26, 1999

Catherine O'Neal, Auditor's Office  
 County of Napa  
 1195 Third Street  
 Napa, CA 94559

Dear Ms. O'Neal:

Your agency has an exclusion of "All Hourly Rated or Hourly Basis Employees" in its contract with CalPERS. This is a valid contract exclusion. Employees described by this exclusion may not participate in CalPERS and cannot receive credit for such service, even if later they become eligible for CalPERS membership.

Under Government Code Section 20125, CalPERS has a responsibility to determine who should be admitted into membership in the system. To do this we require some clarification about the use and interpretation of this exclusion by your agency. **Our intent is, through a cooperative effort with you, to develop clear, objective guidelines for the administration of this exclusion.** This will provide for consistent application of the exclusion both for determining membership eligibility as well as granting of additional service credit (such as Service Prior to Membership). Please answer the following questions:

1. How does your agency interpret this exclusion? Do you consider that it applies:
  - a. To employees based on their Time Base (e.g., 15 hours a week, "less than half-time"), and/or their Appointment Length/Tenure (e.g., "temporary/seasonal," "less than 6 months")?
  - b. To employees based on their Job/Position Title or Classification? For example, do you exclude *specific* job classifications such as "Recreation Leaders," "Reserve Firefighters," "Lifeguard," or "Administrative Interns"?
  - c. To employees based on their Department(s) or duties? For example, "Van Drivers in the Recreation Department".
  - d. To employees based on their Staff Level/Class, or Collective Bargaining Status? For example, is the exclusion applied differently to "Management employees," "Supervisory employees," "Unit 5 employees," "Nonrepresented employees"?
  - e. On some other basis? (Please explain this basis clearly.)

California Public Employees' Retirement System  
 Lincoln Plaza - 400 P Street - Sacramento, CA 95814

#116

2. Has the interpretation/administration of the exclusion changed over time? If so, what changes in interpretation have taken place, and when were they effective?
3. Do you have any "internal" reference materials (such as Personnel Rules/Regulations, Policies, etc.) that you use in administering this exclusion? If so, please provide us with a copy of these materials.

Our intent, as stated earlier, is to develop clear and objective guidelines regarding the administration of the "hourly" exclusion, to remove any inconsistency in treatment of such individuals, and to maintain CalPERS' fiduciary responsibility to monitor the eligibility of persons in CalPERS membership.

Please be assured of our good faith intent to work with you to clarify any questions regarding this exclusion. If you have any questions at all about this or other issues, don't hesitate to call me directly at (916) 326-3127.

Receiving your response by March 1, 1999 will be greatly appreciated. I look forward to working with you in clarifying the application of this exclusion.

Sincerely,



Steve Propp, Analyst  
Special Projects Unit  
Actuarial and Employer Services Division

0221



**NAPA COUNTY**

**PERSONNEL SERVICES**

1195 THIRD STREET, ROOM 110 \* NAPA, CALIFORNIA 94559-3082  
AREA CODE 707-253-4303

Bruce Held  
Personnel Director

March 23, 1999

Steve Propp, Analyst  
Special Projects Unit  
Actuarial and Employer Services Division  
Public Employees' Retirement System  
P.O. Box 942709  
Sacramento, CA 94229-2709

Dear Mr. Propp:

As you are aware, Napa County has a valid contract exclusion of all "Persons compensated on an hourly and/or per diem basis hired on or after May 1, 1969." Our agency interprets this exclusion to include all employees we consider "temporary or extra-help." Our definition of a "temporary" employee is covered in our Personnel Rules (copy enclosed). Our responses to your letter of January 26, 1999 are as follows:

1. a. This exclusion is based on an employee working in a "temporary or extra-help" capacity for not more than 1000 hours in a fiscal year.
- b. Napa County does not include or exclude employees based on their job title or classification. We do, however, have a number of classifications that we use on a regular basis as extra-help. We provided you with these classifications back in 1996 (copy attached).
- c. Not applicable.
- d. Napa County does not consider extra help employees as covered employees for collective bargaining purposes. Only employees in allocated part-time or full-time positions are covered by collective bargaining agreements.
- e. As mentioned previously, this exclusion is based on an employee working in a "temporary or extra-help" capacity for not more than 1000 hours in a fiscal year. We use "extra-help" employees to fill in when we have employees off on extended leaves as well as when additional staffing is needed for a specific period of time.

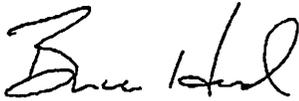
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Steve Propp, Analyst  
Public Employees' Retirement System  
Page 2

2. The interpretation/administration of the exclusion has not changed over time. We are still applying the exclusion in a consistent manner.
3. We have enclosed a copy of our Personnel Rules which defines what we consider a "temporary or extra-help" employee.

I hope the above information will assist you in clarifying the application of the "hourly" exclusion we have in our contract. Please contact me at 707-253-4303 if you have any further questions.

Sincerely,



Bruce Heid  
Personnel Director

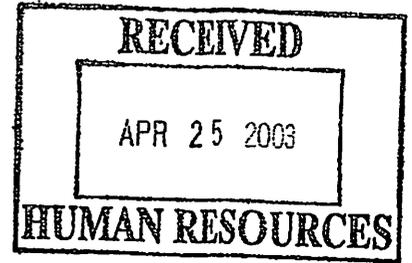
BH:ph

Enclosure

## Exhibit 3



NAPA COUNTY AGREEMENT NO. 1464



California  
Public Employees' Retirement System

# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
Board of Supervisors  
County of Napa

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective January 1, 1949, and witnessed December 7, 1948, and as amended effective October 1, 1955, April 1, 1963, January 1, 1965, May 1, 1969, July 1, 1971, November 8, 1974, January 1, 1976, January 1, 1977, July 27, 1978, March 1, 1980, January 1, 1981, January 2, 1982, August 28, 1982, January 1, 1983, March 24, 1984, November 3, 1989, September 26, 1990, June 20, 1992, September 1, 1992, March 21, 1997, May 15, 1999, April 11, 2000, and July 21, 2001 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

Pursuant to Government Code sections 20460.1, 20469.1, subdivision (b), and 71624, this contract is hereby amended to add the Trial Court of Napa County, hereinafter referred to as Trial Court, as a contracting party. Trial Court shall participate in the Public Employees' Retirement System from and after the implementation date of the Trial Court Employment Protection and Governance Act pursuant to the terms and conditions of this contract, making its employees members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for in this contract and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective July 21, 2001, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.
2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1949 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
  - a. County Peace Officers (included as local safety members);
  - b. Employees other than local safety members (herein referred to as local miscellaneous members).
4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
  - a. **FIRE FIGHTERS.**
5. Removal of the exclusion of "Persons Compensated on an Hourly and/or Per Diem Basis Hired On or After May 1, 1969, Prospectively Only", pursuant to Section 20503, is declarative of agency's previous interpretation and does not mandate any new classes of employees into membership.
6. Public Agency and the Napa County Flood Control and Water Conservation District have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Napa County Flood Control and Water Conservation District, pursuant to Section 20567.5 of the Government Code. Such merger is effective as of March 1, 1980. Legislation repealed said Section effective January 1, 1988.

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).
8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
9. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21573 (Third Level of 1959 Survivor Benefits).
  - b. Section 21222.1 (One-Time 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - c. Section 21222.2 (One-Time 5% Increase - 1971). Legislation repealed said Section effective January 1, 1980.
  - d. Section 21319 (One-Time 15% Increase for Local Miscellaneous Members Who Retired or Died Prior to July 1, 1971). Legislation repealed said Section effective January 1, 2002.
  - e. Section 21327 (One-Time Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1975). Legislation repealed said Section effective January 1, 2002.
  - f. Section 20042 (One-Year Final Compensation) for local safety members, and for those local miscellaneous members entering membership on or prior to September 1, 1992.
  - g. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local miscellaneous members entering membership on or prior to September 1, 1992 and for local safety members entering membership on or prior to March 24, 1984.
  - h. Section 21024 (Military Service Credit as Public Service), Statutes of 1974.
  - i. Section 21325 (One-Time 3% to 15% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to January 1, 1974). Legislation repealed said Section effective January 1, 2002.

- j. Section 21326 (One-Time 1% to 7% Increase For Local Miscellaneous Members and Local Safety Members Who Retired or Died Prior to July 1, 1974). Legislation repealed said Section effective January 1, 2002.
  - k. Section 20475 (Different Level of Benefits Provided for New Employees). Section 20042 (One-Year Final Compensation) and Sections 21624 and 21626 (Post-Retirement Survivor Allowance) are not applicable to local miscellaneous members entering membership after September 1, 1992. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) is not applicable to Local Safety Members entering membership after March 24, 1984.
  - l. Section 20903 (Two Years Additional Service Credit).
  - m. Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members only.
  - n. Section 21023.5 (Public Service Credit for Peace Corps or AmeriCorps: VISTA Service).
  - o. Section 20503 (To Remove the Exclusion of Persons Compensated on an Hourly and/or Per Diem Basis, Hired On or After May 1, 1969, Prospectively from the effective date of this amendment to contract).
- 10. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on January 1, 1976. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
  - 11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
  - 12. Public Agency shall also contribute to said Retirement System as follows:
    - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.

- b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the 20<sup>th</sup> day of April, 2003.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BOARD OF SUPERVISORS  
COUNTY OF NAPA

BY *Kenneth W. Marzion*  
KENNETH W. MARZION, CHIEF  
ACTUARIAL & EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY *Paul Weyant*  
PRESIDING OFFICER

APPROVED AS TO FORM  
Office of County Counsel  
By: *Silvia Robinson*  
Date: 4/1/03

4/1/03  
Witness Date

Attest:  
*M. Bruce Deputy*  
Clerk

## Exhibit 4



P.O. Box 942715 Sacramento, CA 94229-2715  
888 CalPERS (or 888-225-7377) | Fax: (916) 795-2330  
TTY: (877) 249-7442  
[www.calpers.ca.gov](http://www.calpers.ca.gov)

California Public Employees' Retirement System

April 27, 2021

Attn. Arrears Administrator  
County of Napa  
1195 THIRD STREET, ROOM 110  
NAPA, CA 94559-3082

Business Partner ID: 2830167653

### Notification of Arrears Determination

Member Name: Deborah A Geske  
Member CalPERS ID [REDACTED]

Dear County of Napa:

We have determined Deborah A Geske qualified for California Public Employees' Retirement System (CalPERS) membership from 01/19/1991 through 07/05/1991. This determination is based on a review of the member's employment history and the payroll information certified by your agency on the employment certification in myCalPERS.

Indicated below is the qualifying basis under Government Code (Gov. Code) section 20305 of the California Public Employees' Retirement Law by which membership was attained.

- Member completed 1,000 hours of work within the fiscal year (July 1 to June 30)
- Payroll and contributions were not reported when membership was established

Due to this determination:

- Member Paid arrears (Gov. Code section 20160) apply to the above employment period. Both the member and your agency will be liable for their portion of the contributions due on this member's account.

If you do not agree with this determination, you must provide CalPERS with sufficient documentation to the contrary and the reason you do not agree within 30 calendar days from the date of this letter. If we do not receive any additional information by **May 27, 2021**, we will move forward with processing the arrears determination.

You have the right to appeal this decision. If you desire to do so, submit your written appeal at the address below or via email to [Membership\\_Appeals@calpers.ca.gov](mailto:Membership_Appeals@calpers.ca.gov) no later than **May 27, 2021**, in accordance with Gov. Code section 20134 and Sections 555-555.4, Title 2, California Code of Regulations

Employer Account Management Division  
Attn: Division Chief

49 notification of Arrears determination

P.O. Box 942709  
Sacramento, CA 94229-2709

An appeal, if filed, should set forth the factual basis and legal authorities for such appeal. If you file an appeal, our legal office will contact you and handle all requests for information.

Your appeal will be set for hearing with the Office of Administrative Hearings (OAH). The assigned CalPERS attorney will contact you to coordinate a hearing date. Depending on the current caseload of the OAH and the assigned attorney, the hearing date may be set several months after the case is opened. The OAH will typically offer its earliest available hearing date that meets the schedule of both parties. If you choose not to be represented by an attorney, the assigned CalPERS attorney will be in direct communication with you during the appeal process. If you do hire an attorney, please let CalPERS know immediately so our attorney can work directly with yours.

For more information regarding administrative hearings, the applicable statute, and the Code of Regulations visit our website at [www.calpers.ca.gov](http://www.calpers.ca.gov).

Approximately 30 days following the hearing, the Administrative Law Judge will issue a Proposed Decision. The CalPERS Board of Administration will then decide whether to accept or reject that Proposed Decision. If the board rejects the Proposed Decision, they will hold a full board hearing to review the entire hearing record again before finalizing their decision.

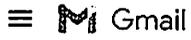
We remain committed to assisting our members and employers in all matters within the scope of the statutory authority available to us. If you have any questions regarding this letter, call us at **888 CalPERS** (or **888-225-7377**) or email [Membership\\_Reporting@CalPERS.ca.gov](mailto:Membership_Reporting@CalPERS.ca.gov).

Sincerely,

Membership Services Section  
Employer Account Management Division

cc: Deborah A Geske - CalPERS ID [REDACTED]

## Exhibit 5



Search mail



3 of 1,725

Fwd: Appe



Debbie Geske  
to me

9:28 AM (26 minutes ago)

Sent from my iPhone

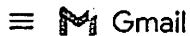
Begin forwarded message:

**From:** Debbie Geske  
**Date:** March 6, 2023 :  
**To:** "Rollins, Christine"  
**Subject:** Re: Appeal, re: [redacted]

Good Morning Ms Rollins,

Thank you for responding. When we talked you asked for previous employees that have been allowed to purchase their extra hire time. I have supplied the most r Joseph Tilford Fallon with a Napa County hire date of 8/19/00 as a correctional officer. His correctional officer extra hire time was prior to that date and purchased CalPers in October 2022. His extra hire time was the same classification as mine and he worked in the same capacity as I did.

Thank you  
Deborah Geske  
Sent from my iPhone



Search mail



3 of 1,725

On Jan 24, 2023, at 2:57 PM, Rollins, Christina <[Christina.Rollins@calpers.ca.gov](mailto:Christina.Rollins@calpers.ca.gov)> wrote:

Hi Ms. Geske,

Thank you for this email. I have also verified by looking at your account that your case has been continuing since 2021. Again, I apologize on behalf of my team and will address accordingly. As a CalPERS member, you have the right to due process under our laws and that was not provided to you.

I will be collecting all of the documents for your case and submitting to our Legal Office by the end of the week, most likely by tomorrow. Once that happens, I will send you a confirmation email and shortly after that you will receive a letter of acknowledgement from our Legal Office.

Please do not hesitate to reach out to me with any questions or concerns you have and thank you for your patience with this matter.

*Christina Rollins*  
Assistant Division Chief  
Employee Account Management Division  
Security Administrator

Follow us on [Twitter](#) | Like us on [Facebook](#) | View Videos on [YouTube](#)



Search mail



7 of 1,725

FW: Purchase of extra hire time as a correctional officer Inbox x



Geske, Debr  
to me

Wed, Sep 21, 2022, 8:59AM

Debbie Geske

**From:** Bricano, Christine <c  
**Sent:** Wednesday, Novemb  
**To:** Geske, Debra <DEBOR  
**Subject:** RE: Purchase of extra hire

Hi there Debbie, it's great to hear from you. Have you supplied CalPERS with that specific information? Ultimately it is a CalPERS decision whether to allow a member to service credit in question.

Also, it would not surprise me if it were an error on CalPERS' part since the records were so paper based back then. They may need to adjust this person's account and are made aware of it as an error.

-Christine

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## Exhibit 6



# California Code, Government Code - GOV § 20305

Current as of January 01, 2023 | Updated by [FindLaw Staff](#)

(a) An employee whose appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months is excluded from this system unless:

(1) He or she is a member at the time he or she renders that service and is not otherwise excluded pursuant to this article or by a provision of a contract.

(2) His or her position requires regular, part-time service for one year or longer for at least an average of 20 hours a week, or requires service that is equivalent to at least an average of 20 hours a week for one year or longer, unless he or she elects membership pursuant to [Section 20325](#).

(3) His or her employment is, in the opinion of the board, on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis, and is compensated and meets one of the following conditions:

(A) The appointment or employment contract does not fix a term of full-time, continuous employment in excess of six months, but full-time employment continues for longer than six months, in which case membership shall be effective not later than the first day of the first pay period of the seventh month of employment.

(B) The person completes 125 days, if employed on a per diem basis or, if employed on other than a per diem basis, completes 1,000 hours within the fiscal year, in which case, membership shall be effective not later than the first day of the first pay period of the month following the month in which 125 days or 1,000 hours of service were completed. For purposes of this subdivision, "day" means each eight-hour period of employment worked by an employee paid on a per diem basis so that membership is effective after he or she has completed 1,000 hours of compensated service in a fiscal year.

(C) The person is employed by the Department of Forestry and Fire Protection in one of the positions that provide state safety membership pursuant to [Section 20400](#) or state peace officer/firefighter membership pursuant to [Section 20392](#).

(4) He or she is a temporary faculty member of the California State University and meets one of the following conditions:

EX 1

Page 4  
DU

(A) He or she works two consecutive semesters or three consecutive quarters at half-time or more, and is not otherwise excluded pursuant to this article, in which case, membership shall be effective with the start of the next consecutive semester or quarter if the appointment requires service of half-time or more.

(B) He or she works two consecutive semesters or three consecutive quarters at a minimum teaching load of six weighted units, and is not otherwise excluded pursuant to this article, in which case membership shall be effective at the start of the next consecutive semester or quarter, but not earlier than July 1, 2004, if the appointment requires service of six weighted units or more. This subparagraph does not apply to faculty members unless provided for in a memorandum of understanding agreed upon, on or after January 1, 2003, pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) He or she is a member of the Board of Prison Terms, the State Personnel Board, or the State Air Resources Board and elects to become a member pursuant to Section 20320.

(6) He or she is participating in partial service retirement, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

(7) He or she is included by specific provision of the board relating to the exclusion of less than full-time employees.

(b) This section shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on and after January 1, 1975. Except as provided in Section 20502, no contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis.

## California Code, Government Code - GOV § 20325

Current as of January 01, 2023 | Updated by FindLaw Staff

(a) A county superintendent of schools, a school district, a community college district, or a contracting agency, whose respective resolution or contract contains an election to be subject to this section, may offer to its part-time employees whose service is less