

**ATTACHMENT C**

**RESPONDENTS ARGUMENTS**



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**Fresno**

December 23, 2024

Board Services Unit Coordinator  
California Public Employees' Retirement System  
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[Board@CalPERS.ca.gov](mailto:Board@CalPERS.ca.gov)

Re: Respondent's Argument in the Matter of the Appeal Regarding Final Compensation Calculation of Priscilla A. Dichoso, Respondent, and Redwood City School District, Respondent  
Ref. No. 2023-0935

Dear Board:

This letter is submitted as Respondent Redwood City School District's Argument for the Board's Consideration in the Appeal of Final Compensation Calculation of Priscilla Dichoso. The purpose of this letter is to ask the Board to reconsider and reject the proposed decision regarding Priscilla Dichoso's retiree benefits. The Proposed Decision denies the appeal and finds that the 2020 contract payrates reported by the District on behalf of respondent cannot be used in the calculation of respondent's final compensation for purposes of determining her CalPERS retirement allowance.

Rather, the District requests that the Board consider the following arguments and reject the proposed decision and, instead, order that her 2020 contract be used to determine her payrates for final compensation for purposes of determining her CalPERS retirement allowance.

California Code of Regulations, Title 2, § 572, provides that employees in a group or class may request an exception from the average increase limitations with Government Code section 20636.1, subdivision (e)(2). The Proposed Decision finds that this request was not made within 30 days, but Ms. Dichoso's appeal ostensibly requested this exception in the arguments she made and which were submitted in her appeal. The lack of citation to that section should not be held against her. Ms. Dichoso was a loyal employee, who instead of leaving the District during COVID to seek a higher paying job, stayed with the District and negotiated a new contract as

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Board Services Unit Coordinator  
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her previous contract had expired. Ms. Dichoso did not believe this would be her last contract, but unfortunately she was diagnosed with a medical condition which forced her to retire earlier than expected.

"Compensation earnable" includes an employee's "payrate," plus other special compensation. "Payrate" means "the normal monthly rate of pay or base pay of the member paid in cash to **similarly situated members of the same group or class of employment for services rendered on a fulltime basis during normal working hours**, pursuant to publicly available pay schedules." (Gov. Code, § 20636.1, subd. (b)(1).) It should be noted that this section does not say "group or class" of same employer. Ms. Dichoso did not receive an unreasonable increase in compensation, instead she received an amount commensurate with other chief business officers in the County. Furthermore, even within the District she received the same increases as other executive management employees. The difference is that other executive management employees in this District are certificated employees and members of CalSTRS, instead of classified employees and members of CalPERS.

Finally, per California Code of Regulations, Title 2, § 570.5 (b), if an employer's pay schedule does not meet the regulatory requirements, CalPERS may, in its sole discretion, "determine an amount that will be considered to be payrate, taking into consideration all information it deems relevant." The information CalPERS may consider includes, "documents approved by the employer's governing body in accordance with requirements of public meetings laws and maintained by the employer." (C.C.R., Title 2, § 570.5 (b).) In this case that means Ms. Dichoso's 2020 contract was properly negotiated and Board approved. Further, the CalPERS Compliance Review Office used Ms. Dichoso's first contract to determine her earnable compensation. Consequently, it is arbitrary and capricious not to use the second contract. As such, this Board should use its discretion and grant Ms. Dichoso's appeal.

Very truly yours,

DANNIS WOLIVER KELLEY



Jenell Van Bindsbergen

JVB:cc

cc: Redwood City School District

1  
2 BOARD OF ADMINISTRATION

3 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

4 In the Matter of the Appeal  
5 Regarding Final Compensation  
6 Calculation of

7 PRISCILLA AQUINO-DICHOSO,

8  
9 Respondent,

10 and

11 REDWOOD CITY SCHOOL DISTRICT,

12  
13 Respondent.

AGENCY CASE NO. 2023-0935

Office of Administrative  
Hearing No. 2024070538

RESPONDENT PRISCILLA AQUINO-  
DICHOSO'S ARGUMENT AGAINST  
THE PROPOSED DECISION OF THE  
ADMINISTRATIVE LAW JUDGE, AND  
PETITION TO CALPERS BOARD FOR  
RECONSIDERATION

Hearing Date: January 13, 2025

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18 PRISCILLA AQUINO-DICHOSO ("Priscilla") respectfully files this  
19 PETITION FOR RECONSIDERATION TO THE CALPERS BOARD ("Petition")  
20 against the Proposed Decision ("Decision") of Administrative  
21 Law Judge ("ALJ"), Sean Gavin, dated 12/17/2024, and to request  
22 the Board to designate its decision as precedent, in whole or  
23 in part, if it is adopted.  
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27 RESPONDENT'S ARGUMENTS AGAINST ALJ PROPOSED DECISION AND PETITION FOR RECONSIDERATION

1 CalPERS denial of the proper retirement allowance calculation  
2 for Priscilla Aquino-Dichoso ("Priscilla") based on her final  
3 compensation is wrongful, unfair, grossly oppressive and  
4 unconscionable contrary to CalPERS overall fiduciary duty to  
5 provide accurate retirement benefits to its members. The  
6 proposed ALJ decision clearly inflicts undue harm, penalty, and  
7 punishment to the wrong person, a non-guilty, innocent party:  
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9  
10 1. The factual findings in the ALJ Proposed Decision repeatedly  
11 indicated that the REDWOOD CITY SCHOOL DISTRICT ("District")  
12 did not comply with the Public Employees' Retirement Law  
13 (PERL) by not providing publicly available salary schedules  
14 for the Chief Business Official (CBO) position making  
15 Priscilla's final compensation not "compensation earnable"  
16 per PERL requirement.  
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20 The same factual findings also clearly indicate that the  
21 District contracts with CalPERS and must comply with PERL and  
22 its associated regulations. Priscilla is not a party to the  
23 agreement between CALPERS and the District, and therefore  
24 should not be detrimentally affected by any non-compliance by  
25 the contracting parties. Each contracting parties should have  
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27 RESPONDENT'S ARGUMENTS AGAINST ALJ PROPOSED DECISION AND PETITION FOR RECONSIDERATION

1 remedial provisions for non-compliance of such contract and  
2 not have a non-party, innocent outsider person to unduly  
3 suffer the consequences of any breach of the terms and  
4 conditions of their agreement.  
5

6  
7 2. Nothing in the factual findings of the ALJ Proposed Decision  
8 does it mention any wrongdoings, violations, salary spiking,  
9 or illegal employment activities on the part of respondent  
10 Priscilla since her membership with CALPERS in 1997 through  
11 her retirement in July 2022. It is therefore wrongful and  
12 inhumane to deprive her of her full pension allowance during  
13 her retirement years.  
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16 The Administrative Law Judge clearly indicated that the  
17 conduct of the District, and not any conduct of Priscilla,  
18 caused the denial of Priscilla's appeal.  
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20  
21 Priscilla's duties and responsibilities as the Chief Business  
22 Official is limited to all fiscal affairs of the District  
23 only, and does not include human resource services or  
24 compliance with PERL requirements. The fact that the new  
25 CBO, Rick Edson, requested the Board to approve salary  
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27 RESPONDENT'S ARGUMENTS AGAINST ALJ PROPOSED DECISION AND PETITION FOR RECONSIDERATION

1 schedules for the CBO position retroactively, was merely to  
2 address CalPERS refusal to use Priscilla's final compensation  
3 for retirement allowance calculation purposes. The District  
4 did not want to cause any harm to its employees and would  
5 rectify any errors or inadvertencies, whenever possible.  
6 Clearly, under normal circumstances, it was not Mr. Edson's  
7 responsibility as a CBO to get approval for pay schedules  
8 especially for his own position; otherwise, it will be self-  
9 serving, improper and a clear conflict of interest.  
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13 3. CalPERS itself is not without any fault, negligence or  
14 violation or dereliction of fiduciary duty. Had CalPERS  
15 exercised due diligence in its fiduciary duty to manage  
16 retirement benefits program for public employees, CALPERS  
17 should have proactively, timely and properly notified the  
18 employee (Priscilla) regarding a highly-likely damaging and  
19 severely significant detriment to an employee's retirement  
20 benefits. Instead, CalPERS waited for six (6) months after  
21 Priscilla's July 2022 retirement to inform her that her final  
22 compensation with the District is not acceptable for  
23 retirement calculation purposes because of the District's  
24 non-compliance with PERL requirements.  
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27 RESPONDENT'S ARGUMENTS AGAINST ALJ PROPOSED DECISION AND PETITION FOR RECONSIDERATION

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2 The monthly employee and employer pension contributions were  
3 timely and properly remitted by the District to CalPERS,  
4 based on Priscilla's regular monthly compensation. CALPERS  
5 should have already been put on notice earlier upon receipt  
6 of monthly remittances about the increases in Priscilla's  
7 monthly compensation, and, CalPERS should have dutifully  
8 alerted or reminded the District as well as Priscilla of  
9 CalPERS and PERL requirements to prevent future harmful  
10 issues. Instead, CalPERS waited until Priscilla's retirement,  
11 when it is no longer possible for her to seek corrections and  
12 rectification on any inadvertencies or non-compliance by her  
13 employer. It is grossly unfair, harsh and unjust to deprive  
14 Priscilla of her lifetime pension without any advance  
15 notification or an opportunity to fix any potential problems.  
16 CalPERS is in possession of the contributed funds and has  
17 therefore the obligation to pay the correct amount of pension  
18 allowance.  
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23 THEREFORE, based on the foregoing compelling facts, Priscilla  
24 respectfully requests the CalPERS Board to take actions, as  
25 follows:  
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27 RESPONDENT'S ARGUMENTS AGAINST ALJ PROPOSED DECISION AND PETITION FOR RECONSIDERATION

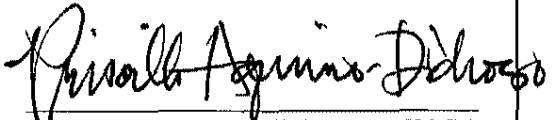


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- A. Decline to adopt the Proposed ALJ Decision dated December 17, 2024;
- B. Implement the CalPERS Board's own decision to rule in favor of Priscilla by granting her appeal of CALPERS 12/29/22 Retirement Allowance Formal Determination;
- C. Order CALPERS to utilize the final payrate of \$18,026.67 per month as applicable to the final compensation calculation for purposes of determining Priscilla's CALPERS retirement allowance retroactively from retirement date of 7/1/2022.
- D. Order and designate as precedent for future appeals for CalPERS and its contracting employers to deal with any violation, non-compliance, disputes or breach of agreements between the contracting parties themselves only and not to unduly harm, punish and penalize, in any manner, an innocent employee or anyone who is not even a party to such an agreement.

Respectfully submitted,

Dated: 12/23/2024

  
 PRISCILLA AQUINO-DICHOSO