

Office of Audit Services



CalPERS

Public Agency Review

Marinwood Community Services District

**CalPERS ID: 3122134566
Job Number: P14-089**

June 2016



California Public Employees' Retirement System
Office of Audit Services
P.O. Box 942701
Sacramento, CA 94229-2701
TTY: (877) 249-7442
(916) 795-0802 phone, (916) 795-7836 fax
www.calpers.ca.gov

June 23, 2016

CalPERS ID: 3122134566
Job Number: P14-089

Eric Dreikosen, District Manager
Marinwood Community Services District
775 Miller Creek Rd.
San Rafael, CA 94903

Dear Mr. Dreikosen:

Enclosed is our final report on the results of the public agency review completed for the Marinwood Community Services District (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Findings 1 and 2. We appreciate the additional information you provided in your response. After consideration of this information, the findings remain. However, we clarified Finding 1.

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, Marinwood Community Services 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

MARINWOOD COMMUNITY SERVICES DISTRICT

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RESULTS IN BRIEF

The objective of our review was to determine whether the Marinwood Community Services 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 findings during the review. Details are noted in the Results section beginning on page three of this report.

- Pay schedule did not meet all of the requirements of the Government Code and CCR.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Payrate and earnings were incorrectly reported.
- Member reciprocal self-certification was not maintained.
- Observation 1: Agency records did not agree with my|CalPERS information.
- Observation 2: Employee handbook was not approved by the Agency's governing body.

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 January 1, 1972 to provide retirement benefits for local miscellaneous and safety (fire) 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 payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review was limited to the examination of sampled employees, records, and pay periods from July 1, 2011 through June 30, 2014. The review objectives and methodology are listed in Appendix A.

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OFFICE OF AUDIT SERVICES REVIEW RESULTS

1: The Agency's pay schedules did not meet all of the Government Code and CCR requirements.

Condition:

The Agency's pay schedule did not meet all the requirements of the Government Code and CCR. Specifically, the pay schedules did not include all positions. The pay schedules provided by the Agency excluded the Lifeguard, Preschool Teacher, Preschool Director, Camp Counselor, Janitorial Assistant, Building Attendant, and Pool Attendant 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 sole discretion, may determine an amount that will be considered to be payrate as detailed in CCR Section 570.5.

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Recommendation:

The Agency should ensure its pay schedule meets all of the Government Code and CCR requirements.

The Agency should work with CalPERS Employer Account Management Division (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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2: The Agency did not report special compensation in accordance with the Government Code and CCR.

Condition:

- A. The Agency did not report uniforms in accordance with the Government Code and CCR. Specifically, the Agency did not report the monetary value for the purchase of uniforms for classic fire safety members. Government Code Section 20636 and CCR Section 571 require that the monetary value for the purchase, rental, and/or maintenance of required clothing be reported as special compensation for classic employees.
- B. The Agency incorrectly reported special compensation with base payrate for three fire safety employees during the pay period ended June 7, 2014. Specifically, the Agency reported Educational and Special Assignment Pay as part of the employees' base payrate. However, special compensation should be reported separately from base payrate and regular earnings. Government Code Section 20636(b)(1) defines "payrate" as the normal monthly rate or base pay of a member pursuant to publicly available pay schedules for services rendered on a full-time basis during normal working hours.
- C. The Agency incorrectly reported Holiday Pay for three fire safety employees as a lump sum amount in the pay period ended June 7, 2014. Government Code Section 20636(c)(3) requires the Agency to identify the pay period(s) in which special compensation was earned.
- D. The Agency's written labor agreement for fire safety employees did not indicate the conditions for payment of uniforms. In addition, the written labor agreement did not clearly indicate the conditions for payment of Holiday Pay. Although the agreement stated that Holiday Pay would be based on one-half shift pay or 12 hours of compensation, the Agency included Educational Incentive Pay and Special Assignment Pay when calculating the Holiday Pay. It was not clear in the written labor agreement if these items were to be included in the Holiday Pay. CCR Section 571(b) requires the written labor policy or agreement contain the conditions for payment of, including, but not limited to, eligibility for, and amount of the special compensation.

Reportable special compensation is defined in CCR Section 571(a) and must be reported if it conforms to all of the requirements listed in CCR Section 571(b). Specifically, special compensation is required to be contained in a written labor

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policy or agreement indicating the eligibility and amount of special compensation. Also, special compensation must be available to all members in the group or class, part of normally required duties, performed during normal hours of employment, paid periodically as earned, and historically consistent with prior payments for the job classification.

Recommendation:

The Agency should report the monetary value of uniforms for classic fire employees.

The Agency should ensure special compensation is reported separately from base payrate.

The Agency should ensure special compensation is reported in the pay periods earned.

The Agency should ensure the calculation and payment amount of uniform allowances and Holiday Pay are contained in a written labor policies.

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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3: The Agency incorrectly reported payrate and earnings.

Condition:

- A. The Agency incorrectly reported payrate and earnings for a Fire Chief in the pay period ended June 7, 2014. Specifically, the Agency paid the Fire Chief a payrate of \$8,952.67 and earnings of \$4,132.00, but reported a monthly payrate of \$8,786.27 and earnings of \$4,055.20. As a result, payrate and earnings were under reported. Only compensation earnable, as defined under Government Code Section 20636 and the corresponding regulations, can be reported to CalPERS and considered in calculating retirement benefits. Payrate and earnings are important factors in computing a member's retirement allowance.
- B. The Agency incorrectly reported California Association of Professional Firefighters Long-Term Disability Premiums in base payrate for three fire safety employees during pay period ended June 7, 2014. Specifically, the Agency included \$0.08 per hour to compensate for payment of these premiums per the Safety Employees Memorandum of Understanding. The \$0.08 per hour should not have been included in the base payrate because it did not meet the definition of payrate pursuant to Government Code Section 20636(b)(1).

Recommendation:

The Agency should ensure that the correct payrate and earnings are reported to CalPERS.

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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4: The Agency did not maintain the required member reciprocal self-certification information.

Condition:

The Agency did not maintain the required member reciprocal self-certification documentation for employees hired after January 1, 2013. CCR Section 579.3 requires individuals to self-certify in writing as to whether he or she is also a member of another public retirement system and is eligible for reciprocity. Agencies are required to retain the retirement and benefit-related information provided by the newly-hired individuals.

Recommendation:

The Agency should ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and provide the additional required information if reciprocity exists. Further, the Agency should ensure it retains the information provided.

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, § 7522.02, § 7522.04
CCR: § 579. 3

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Observation 1: The Agency's records do not agree with my|CalPERS information.

Condition:

OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB) Statement No. 67: *Financial Reporting for Pension Plans*. The significant census data elements include, but are not limited to, date of birth, date of hire or years of service, marital status, gender, employment status (active, inactive, or retired), class of employee, and eligible compensation.

The Agency did not have documentation supporting dates of hire for five employees. The Agency did not have documentation supporting the dates of birth for two employees, and did not have documentation of one employee's gender. For three employees, the dates of hire in the Agency's records did not agree with dates listed in my|CalPERS. The Agency should work with the appropriate CalPERS division to make any corrections, if necessary.

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Observation 2: The Agency's did not provide documentation of the governing body approval of the labor agreement for non-safety employees.

Condition:

The Agency was unable to provide documentation of the City Council's approval of the written labor agreement (employee handbook) in effect during the review period for employees not covered under the safety employees written labor agreement. The non-safety employee's handbook was last amended in 1987.

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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

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

Staff: Cheryl Dietz, CPA, Assistant Division Chief
Diana Thomas, CIA, CIDA, Senior Manager
Marlene Noss, Staff Management Auditor
Monica Bynum, Program Auditor

APPENDIX A

OBJECTIVES

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OBJECTIVES

The objectives of this review were to determine whether the Agency complied with:

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

This review did not include an assessment as to whether the Agency is a "public agency," and expresses no opinion or finding with respect to whether the Agency is a public agency or whether its employees are employed by a public agency.

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 Board minutes and Agency Board resolutions
 - 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
 - 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.

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- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.
- ✓ Reviewed the Agency's enrollment practices for temporary and part-time employees to determine whether individuals met CalPERS membership requirements.
- ✓ Reviewed the Agency's employment practices for retired annuitants to determine if retirees were lawfully employed and reinstated when unlawful employment occurs.
- ✓ Reviewed the Agency's independent contractors to determine whether the individuals were either eligible or correctly excluded from CalPERS membership.
- ✓ Reviewed the Agency's affiliated entity organizational structure to determine whether employees of the affiliated entity qualified for CalPERS membership and were enrolled as required.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, if contracted to provide additional service credits for unused sick leave.
- ✓ Reviewed the Agency's records to determine whether member census data agreed with my|CalPERS information.

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APPENDIX B

AGENCY'S WRITTEN RESPONSE

MARINWOOD COMMUNITY SERVICES DISTRICT

775 Miller Creek Road, San Rafael, CA 94903-1323

Phone: (415) 479-7751 - Fax: (415) 479-7759

May 20, 2016

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

Dear Ms. Chappuie:

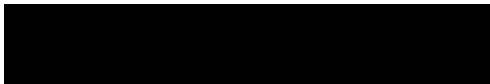
Marinwood Community Services District (District) stands in possession of the draft report dated May 6, 2016 regarding your agency's compliance review of our contract with the California Public Employees' Retirement System.

On behalf of the District, thank you for the efforts of all involved in conducting this review as well as the accommodations and courtesies provided by the reviewer as we collected the documentations requested. Personally, as a fairly recent addition to the District, as well as public sector/government employment and CalPERS in general, I found the process quite valuable and informative.

As requested, please accept the following as written response from the District in regards to the findings, recommendations and observations outlined in your report.

Should you have any additional questions, concerns or comments, please feel free to contact me directly.

Sincerely,



Original signed by Eric Dreikosen

Eric Dreikosen
District Manager

1. The Agency's pay schedules did not meet all of the Government Code and CCR requirements.

The District agrees with the recommendation of ensuring our pay schedule meets all the Government Code and CCR requirements.

The District agrees with the recommendation to work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted member.

In response to the conditions listed, please note with the exception of Janitorial Assistant and Building Attendant, the other nine (9) positions listed are seasonal part-time positions that do not meet the annual requirements for initial CalPERS eligibility. The position of Janitorial Assistant was actually created as a partnership with a local non-profit organization People with Disabilities Succeeding in an effort to help their organization's clients find and perform meaningful work.

Three (3) of the positions listed had been eliminated prior to your compliance review. These include Tennis Aid, Youth Program Instructor and Accounting Assistant.

Finally, for the position of Swim Team Coach, we act as the fiscal agent for our local swim team, the Marinwood Waterdevils. As such, the position as well as all wages assigned are not at the control of our District and we are unclear on how this specific relationship and related positions should be documented within the CalPERS system, if at all? However, no individual in this position meets the annual requirements for initial CalPERS eligibility.

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

The District agrees with the recommendation to report the monetary value of uniforms for classic fire employees.

The District agrees with the recommendation to ensure special compensation is reported separately from base payrate.

The District agrees with the recommendation to ensure special compensation is reported in the pay periods earned. However, this is currently counter to a provision stated in the current labor agreement between the District and the firefighter employee group. As such, it will require a meet and confer process with the employee group.

The District agrees with the recommendation to ensure the calculation and payment amount of uniform allowances and Holiday Pay are contained in a written labor policies. However, the District does not agree that this information is not included in the current written labor agreement as it relates to "uniform allowances" (also stated in the first sentence of Condition: D). The labor agreement states the District directly purchases and provides all uniform components for all firefighters. The labor agreement also states how often and in what quantities said uniforms will be provided and/or replaced. As such, there is no "payment amount" received by the employee. Furthermore, any change in language to the current MOU between the District and the firefighter employee group will require a meet and confer process with the employee group.

The District agrees with the recommendation to work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted member.

3. The Agency incorrectly reported payrate and earnings.

The District agrees with the recommendation to ensure that the correct payrate and earnings are reported to CalPERS.

The District agrees with the recommendation to work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted member.

4. The Agency did not maintain the required member reciprocal self-certification information.

The District agrees with the recommendation to ensure employees hired on or after January 1, 2013 certify in writing whether they are members of another public retirement system and provide the additional required information if reciprocity exists. Further, the District agrees with the recommendation to ensure the information provided is retained. *Of Note: The district has since implemented this practice with our most recent hires utilizing the form provided by CalPERS as part of this review.*

The District agrees with the recommendation to work with CalPERS Employer Account Management Division (EAMD) to identify and make adjustments, if necessary, to any impacted member.

The Following is in response to the separate observations listed on pages 9 and 10 of the report:

Observation 1: The Agency's records do not agree with my/CalPERS information.

The District has made corrections where possible, including obtaining documentation of listed employees stating date of birth and gender. The District agrees to work with the appropriate CalPERS division(s) to make any further corrections, if necessary.

Observation 2: The Agency did not provide documentation of the governing body approval of the labor agreement for non-safety employees.

As stated, the current employee handbook was last amended in 1987. With the fairly recent hire of a new District Manager, the creation of an updated employee handbook was a priority item. Currently, a draft updated handbook is undergoing legal review. As soon as this process is completed, it will be presented to the Board of Directors for formal adoption.

Conclusion:

The District once again expresses their gratitude to the staff of CalPERS involved in this compliance review. We look forward to working further with CalPERS to ensure we address areas of need while continuing our long-standing and valued relationship.

Respectfully submitted,



Eric Dreikosen
District Manager
Marinwood Community Services District

Original signed by Eric Dreikosen