

**ATTACHMENT C
RESPONDENT'S ARGUMENT**

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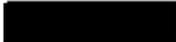
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<u>TO</u>	<u>COMPANY</u>	<u>FAX #</u>	<u>PHONE</u>
Cheree Swedensky, Assistant to the Board of Administration	California Public Employees' Retirement System CalPERS Executive Office	916.795.3972	

FROM Joshua E. Morrison, Esq.

RE **In the Matter of the Appeal Regarding Full-Time Payrate Reporting of TUSTIN UNIFIED SCHOOL DISTRICT, Respondent**
Responding Agency No. 2020-0436 / OAH No. 2020090431

RESPONDENT'S ARGUMENT

MESSAGE Attached please find "Respondent's Argument" pertaining to the above-referenced matter. A hardcopy to follow via First Class mail.

Thank you.

ORIGINAL WILL FOLLOW BY MAIL: Yes

NUMBER OF PAGES (including this sheet) 2

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**Re: In the Matter of the Appeal Regarding Full-Time Payrate Reporting of
TUSTIN UNIFIED SCHOOL DISTRICT
Respondent Agency Case No. 2020-0436 / OAH No. 2020090431**

RESPONDENT'S ARGUMENT

The Tustin Unified School District ("District") hereby requests, in the above-referenced matter, as follows: (1) that the Board adopt the Proposed Decision of the Administrative Law Judge as the decision of the Board; and (2) that the Board designate the Proposed Decision as precedential.

The District's legal argument is set forth in the District's Post-Hearing Brief and Reply Brief, which are incorporated herein by reference. For the reasons set forth therein, the District agrees with the Proposed Decision, which essentially adopts the District's analysis, and requests that the Board adopt that decision as its own.

As stated in the Proposed Decision, CalPERS has attempted to enforce an underground regulation which posits that school districts must utilize a 173.33 factor to establish a relationship between hourly and monthly rates of pay. It appears CalPERS intends to apply the same underground regulation in the future if clear direction is not provided to the contrary. For this reason, the District requests the Proposed Decision be designated as precedential. The District recognizes that there is value in clear and consistent rules, but it is crucial that those rules be clearly stated in applicable statutes or regulations, and not imposed through underground regulations.

Very truly yours,

ATKINSON, ANDELSON, LOYA, RUUD & ROMO



Joshua E. Morrison

JEM:jkc