

Office of Audit Services



CalPERS

Public Agency Review

Kern County Schools

CalPERS ID: 6553895281
Job Number: SP15-008

July 2016



California Public Employees' Retirement System
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July 28, 2016

CalPERS ID: 6553895281
Job Number: SP15-008

Toni Smith, Assistant Superintendent
Kern County Schools
1300 17th Street
Bakersfield, CA 93301-4533

Dear Ms. Smith:

Enclosed is our final report on the results of the public agency review completed for the Kern County Schools (Agency). Your written response, included as an appendix to the report, indicates agreement with the issues noted in the report except for Finding 1. We appreciate the explanation you provided. After our analysis, our finding remains as stated in the report. However, we added clarifying language to the finding.

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 Trustees, Kern County Board of Education
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

KERN COUNTY SCHOOLS

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RESULTS IN BRIEF

The objective of our review was to determine whether the Kern County Schools (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 two of this report.

- Pay schedule did not meet all of the Government Code and CCR requirements.
- Special compensation was not reported in accordance with the Government Code and CCR.
- Eligible employee was not properly enrolled.
- Member reciprocal self-certification was not maintained.
- Retired annuitant's employment did not comply with all Government Code requirements.
- Observation: Agency records did not agree with my|CalPERS information.

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

SCOPE

The Agency contracted with CalPERS effective July 1, 1949 to provide retirement benefits for local miscellaneous 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. Additionally, OAS reviewed active member census data used to calculate pension liability for financial reporting purpose pursuant to the Governmental Accounting Standards Board (GASB). 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 did not have a pay schedule that met all of the Government Code and CCR requirements.

Condition:

The Agency did not have a pay schedule that met all of the Government Code and CCR requirements. Specifically, the payrates for the Management employees were not listed on an approved pay schedule. In addition, the pay schedules for certificated employees did not indicate the time base such as hourly, daily, bi-weekly, monthly, or annually. The Agency also did not maintain one pay schedule that identified the position title and payrate for every employee position. Multiple pay schedules were needed to identify the position title and payrate for every employee position.

Only compensation earnable as defined under Government Code Section 20636.1 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.

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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 20636.1(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.

Recommendation:

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

The Agency should work with 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, § 20636.1
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 the monetary value for the rental and maintenance of uniforms provided to the classic employees in the Food Service, Fleet Maintenance, Maintenance, and Operations departments. In addition, the Agency did not report the monetary value of uniforms provided to the classic employees in the California Living Museum (CALM). The Agency provided uniforms through a uniform service company. However, the Agency did not report the monetary value for the rental and maintenance of the uniforms. Government Code Section 20636.1 and CCR Section 571 require the monetary value for the purchase, rental, and/or maintenance of required clothing be reported as special compensation.
- B. The Agency's written labor policy was not approved in accordance with requirements of applicable public meetings laws and did not include the conditions for payment, including the monetary value, for the rental and maintenance of uniforms. CCR Section 571 requires that the conditions for payment including, but not limited to, eligibility for, and amount of special compensation be included in a written labor policy or agreement approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws.
- C. The Agency did not report Holiday Pay as special compensation for classified employees covered under the Superintendent of Schools Classified Association. Classified employees worked in positions that required scheduled staffing without regard to holidays. Specifically, the Agency compensated an employee for a holiday in the pay period ended May 31, 2014. However, the Agency did not report the Holiday Pay as special compensation. Holiday Pay is a statutory item that must be reported as special compensation pursuant to Government Code Section 20636.1 and CCR Section 571.

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

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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 ensure the monetary value for the purchase, rental, and maintenance of uniforms provided are reported as special compensation for classic members.

The Agency should ensure the conditions for payment of uniforms are contained in a written labor policy or agreement approved by the employer's governing body in accordance with requirements of applicable public meetings laws.

The Agency should ensure Holiday Pay is reported as special compensation.

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, § 20636.1
CCR: § 571

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3: The Agency did not properly enroll a part-time employee.

Condition:

The Agency did not enroll one Substitute/Temporary employee into CalPERS membership when eligibility requirements were met. Specifically, the employee exceeded the 1,000-hour requirement in pay period ended January 31, 2013. However, the Agency did not enroll the employee into CalPERS membership until March 1, 2013. Government Code Section 20305 requires employees who complete 1,000 hours within a fiscal year to be enrolled into membership effective not later than the first day of the first pay period of the month following the month in which 1,000 hours of service were completed.

Government Code Section 20283 provides that any employer that fails to enroll an employee into membership when he or she becomes eligible, or within 90 days thereof, when the employer knows or can reasonably be expected to have known of that eligibility shall be required to pay all arrears cost for member contributions and administrative costs of five hundred dollars per member as reimbursement to this system's current year budget.

Recommendation:

The Agency should monitor the hours worked by part-time employees to ensure the employees are enrolled when membership requirements are met.

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, § 20283, § 20305

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

Condition:

The Agency did not maintain the required member reciprocal self-certification for six employees enrolled into CalPERS membership 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 this information.

The Agency should work with EAMD to assess the impact of this incorrect reporting and make any adjustments, if necessary, to any impacted retired member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, §7522.02, § 7522.04
CCR: § 579.3

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5: Retired annuitant's employment did not comply with all Government Code requirements.

Condition:

The Agency did not reinstate a retired annuitant who exceeded the 960-hour threshold in the pay period ended May 31, 2014 for hours worked. Specifically, the retired annuitant worked 1,299 hours in Fiscal Year 2013-14. Pursuant to Government Code Section 21224, a retired person may serve without reinstatement as long as he or she does not exceed a combined total of 960 hours worked for all employers in a fiscal year.

Government Code Section 21220 addresses the conditions and consequences of unlawful employment of a person who has been retired under this system. The Government Code states that any retired member employed in violation of this article shall reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law, pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment plus interest thereon, and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

The Government Code also states that any public employer that employs a retired member in violation of this article shall pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon, and contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

Recommendation:

The Agency should ensure employment of retirees comply with the Government Code.

The Agency should work with CalPERS Benefit Services Division (BNSD) to determine the appropriate course of action and make any necessary adjustments to member accounts pursuant to Government Code Section 20160.

Criteria:

Government Codes: § 20160, § 21220, § 21224

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Observation: 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* requirements. 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.

OAS identified two employees who had hire dates that were different from the hire dates in my|CalPERS. The hire dates in my|CalPERS were based on the contract effective date instead of the actual date of hire. OAS also identified 141 individuals who had employment statuses that were different from the employment statuses in my|CalPERS. The 141 individuals were listed as active in my|CalPERS. However, the Agency's records indicate that 95 employees separated, four employees were employees of other school districts and 42 employees were appointed as permanent employees subsequent to June 30, 2014. There was also one employee who had two CalPERS identification numbers and two Social Security numbers. OAS recommends the Agency work with the appropriate CalPERS division to make any corrections, if necessary.

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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, Manager
Nuntawan Camyre, Lead Auditor
Terry Heffelfinger, Lead Auditor
Aileen Wong, Lead Auditor

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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 procedures prescribed in the Agency's retirement contract with CalPERS.

METHODOLOGY

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

- ✓ Reviewed:
 - Provisions of the contract and contract amendments between the Agency and CalPERS
 - Correspondence files maintained at CalPERS
 - Agency 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.
- ✓ Reviewed CalPERS reports to determine whether the payroll reporting elements were reported correctly.

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- ✓ 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

NOTE: An attachment to the Agency's response was intentionally omitted from this appendix.

June 29, 2016

Beliz Chappanie, Chief
Office of Audit Services – CalPERS
P.O. Box 942701
Sacramento, CA 94229-2701

Re: Job Number SP15-008

Dear Ms. Chappanie:

Please accept this letter in response to the draft compliance review report dated June 9, 2016. The following information is provided regarding the findings noted in the report:

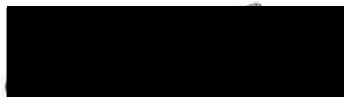
1. Pay Schedules – the agency did not have a schedule that met all of the Government Code and CCR requirements. Specific issues cited:
 - a. The pay rates for Management employees were not listed on pay schedule.
 - **Response:** pay rates are listed on all pay schedules.
 - b. Pay schedules for Certificated employees did not indicate the time base, such as hourly, daily, bi-weekly, monthly, or annually.
 - **Response:** agreed; the Certificated Non-Management salary schedules have been revised to include “annual” as the time base. All other schedules had a time base indicated.
 - c. Did not maintain one pay schedule that identified the position title and pay rate for every employee position. Multiple pay schedules were needed to identify the position title and pay rate for every employee position.
 - **Response:** agreed; Classified, Certificated, and Management have separate pay schedules. Please advise if these schedules are required to be combined into one document.
2. Special Compensation – the agency did not report special compensation in accordance with the Government Code and CCR.
 - a. The agency did not report the monetary value for the rental and maintenance of uniforms provided to employees in specified departments.
 - **Response:** agreed; we will report the special compensation associated with the value of rental and maintenance of uniforms accordingly.

- b. The agency did not report Holiday Pay as special compensation for classified employees covered under the Superintendent of Schools Classified Association.
 - **Response:** agreed; Holiday Pay has been paid as overtime for full time employees. We have begun reporting that pay as special compensation.
- 3. Membership Enrollment – the agency did not properly enroll a part-time employee.
 - a. The agency did not enroll one Substitute/Temporary employee into CalPERS membership when eligibility requirements were met.
 - **Response:** the employee met eligibility requirements effective 2/1/13. The employee was enrolled with an effective date of 3/1/13; however, the membership effective date has since been changed to 2/1/13. The employee in question has not worked for our agency since 1/30/13 (see timesheets attached).
- 4. Reciprocal Self-Certifications – the agency did not maintain the required member self-certification.
 - a. The agency did not maintain the required member reciprocal self-certification for six employees enrolled into CalPERS membership after January 1, 2013.
 - **Response:** agreed; we have implemented a process to ensure the required forms are maintained.
- 5. Retired Annuitants – retired annuitant’s employment did not comply with all Government Code requirements.
 - a. The agency did not reinstate a retired annuitant who exceeded the 960-hour threshold in the pay period ended May 31, 2014, for hours worked.
 - **Response:** agreed; our process for monitoring work hours of retired annuitants has been tightened to ensure employment of retirees complies with the Government Code.

Please contact me at (661) 636-4784 if you have any questions regarding the above information.

Sincerely,

Christine Lizardi Frazier
Kern County Superintendent of Schools



Original signed by Toni Smith

Toni Smith, Assistant Superintendent
Human Resources and Special Services

TS:cl
Enc.