

# **Office of Audit Services**



## **Public Agency Review**

### **North Kern-South Tulare Hospital District**

**CalPERS ID: 1201196431  
Job Number: P13-018**

**November 2014**



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](http://www.calpers.ca.gov)

November 26, 2014

CalPERS ID: 1201196431  
Job Number: P13-018

Lidia Albiar, MPA, LNHA, District Administrator  
North Kern-South Tulare Hospital District  
1509 Tokay Avenue  
Delano, CA 93215

Dear Ms. Albiar:

Enclosed is our final report on the results of the public agency review completed for the North Kern-South Tulare Hospital 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 3A. We reviewed the additional information regarding Findings 1 and 3A that you provided in your response; however, after consideration of this information our recommendations remain as stated in the report.

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 and we appreciate the time and assistance of you and your staff during this review.

Sincerely,

Original signed by Phyllis Miller  
PHYLLIS MILLER, Acting Chief  
Office of Audit Services

Enclosure

cc: Board of Directors, North Kern-South Tulare Hospital District  
Risk and Audit Committee Members, CalPERS  
Matthew G. Jacobs, General Counsel, CalPERS  
Anthony Suine, Chief, BNSD, CalPERS  
Renee Ostrander, Assistant Chief, CASD, CalPERS

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# NORTH KERN-SOUTH TULARE HOSPITAL DISTRICT

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# NORTH KERN-SOUTH TULARE HOSPITAL DISTRICT

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## RESULTS IN BRIEF

The primary objective of our review was to determine whether North Kern-South Tulare Hospital District (Agency) complied with applicable sections of the California Government Code, 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 the Government Code and CCR requirements.
- Payrates and earnings were incorrectly reported.
- Special compensation was not reported as required by CCR Section 571.
- Eligible part-time employees were not enrolled into CalPERS membership as required.

OAS did not identify any findings related to sampled employees subject to the Public Employees' Pension Reform Act of 2013 (PEPRA).

OAS recommends the Agency comply with applicable sections of the California Government Code, 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 March 1, 2003 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 by 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 Board approved plan for fiscal year 2013-14, the OAS reviewed the Agency's payroll reporting and member enrollment processes related to the Agency's retirement contract with CalPERS. The review period was limited to the examination of sampled employees, records, and pay periods from July 1, 2011 through June 30, 2013. The review objectives and a summary of the procedures performed are listed in Appendix A.

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## OFFICE OF AUDIT SERVICES REVIEW RESULTS

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

***Condition:***

The Agency did not have a publicly available pay schedule to identify the employee payrates for the period under review. In addition, the Agency defined the work week for Certified Nursing Assistants as 37.5 hours to CalPERS, but reported up to 40 hours a week in earnings. Without a publicly available pay schedule, OAS was unable to determine if the Agency correctly reported earnings for the Certified Nursing Assistants. 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. According to 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.
- Not reference another document in lieu of disclosing the payrate.

Pay amounts reported for positions that do not comply with the 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). There are no exceptions included in Government Code Section 20636(b)(1).

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***Recommendation:***

The Agency should ensure its pay schedule meets all of the Government Code and CCR requirements. In addition, the Agency should ensure earnings are reported for services rendered during normal working hours pursuant to publicly available pay schedules.

The Agency should work with CalPERS Customer Account Services Division (CASD) to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20636 (a), § 20636 (b)(1), § 20636 (d)  
CCR: § 570.5

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**2:** The Agency reported incorrect payrates and earnings.

***Condition:***

- A. The Agency incorrectly reported earnings for five employees. Specifically, the Agency did not report earnings for four employees who used Personal Time Off (PTO) in the pay period ending June 30, 2013. For example, one of the employees used nine hours of PTO and the Agency incorrectly decreased the employees reported earnings by the compensation paid for the nine hours. PTO is an accrual of vacation and sick leave combined that must be reported if it is taken within the normal hours the employee is scheduled to work in the pay period. Government Code Section 20630 includes vacation and sick leave as compensated time off. In addition, the Agency incorrectly reported earnings for one employee in the pay period ending June 30, 2013. The employee earned \$1,280.00 for working 80 hours and the Agency incorrectly reported earnings of \$1,164.00.
- B. The Agency incorrectly reported the payrate and earnings for an employee. During the pay period ending June 30, 2013, the employee was paid \$1,453.85 at an hourly payrate of \$18.23. The Agency incorrectly reported earnings of \$1,415.56 and an hourly payrate of \$17.75.
- C. The Agency reported an incorrect hourly payrate for an employee. Specifically, the Agency incorrectly reported the employee's hourly payrate as \$861.60 in the pay period ending November 15, 2012. The employee's hourly payrate should have been reported as \$10.77 with the corresponding earnings reported as \$861.60.

***Recommendation:***

The Agency should ensure payrates and earnings are reported correctly.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20120, § 20121, § 20160, § 20630, § 20636

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**3:** The Agency did not report special compensation as required by CCR.

***Condition:***

- A. The Agency did not report the monetary value for the purchase of uniforms as special compensation. The Agency requires maintenance employees to wear uniforms and purchases the uniforms on behalf of the employees. Furthermore, the Agency did not indicate the conditions for payment of the item of special compensation, including but not limited to, eligibility for, and the amount of the special compensation in its written labor policy or agreement. All items of special compensation must be contained in a written labor policy or agreement. Government Code Section 20636(c)(6) requires the monetary value for the purchase, rental and/or maintenance of required clothing be reported as special compensation.
- B. The Agency did not report Holiday Pay, a statutory item of special compensation, for employees who worked in positions that required staffing without regard to holidays. Pursuant to CCR Section 571, Holiday Pay meets the definition and should be reported to CalPERS as special compensation.

***Recommendation:***

The Agency should report the monetary value of uniforms for classic members and Holiday Pay as special compensation. In addition, the Agency should ensure special compensation items are contained in a written labor policy or agreement as required by the CCR.

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20630, § 20636  
CCR: § 571



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**4:** The Agency did not enroll temporary/part-time employees into membership when eligibility requirements were met.

***Condition:***

The Agency did not enroll four temporary/part-time employees when membership eligibility requirements were met. Specifically, three part-time employees worked more than 1,000 hours in fiscal year 2012-13 and were not enrolled timely. The employees met the membership eligibility requirement in the pay period ending March 15, 2013 and were not enrolled until March 16, 2014. In addition, one temporary/part-time employee met the membership eligibility requirement in the pay period ending March 15, 2013 and was not enrolled into CalPERS membership. Employees who work 1,000 hours within a fiscal year shall 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. Additionally, employees who have previous CalPERS membership are required to be immediately enrolled upon the first day of rendering services to the Agency.

***Recommendation:***

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

The Agency should work with CASD to make any necessary adjustments to active and retired member accounts pursuant to Government Code Section 20160.

***Criteria:***

Government Codes: § 20160, § 20305

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## CONCLUSION

OAS limited this review to the areas specified in the scope section of this report and in the objectives as outlined in Appendix A. OAS limited the test of transactions to employee samples selected from the Agency's payroll records. Sample testing procedures provide reasonable, but not absolute, assurance that these transactions complied with the California Government Code 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, California Code of Regulations.

Respectfully submitted,

Original signed by Phyllis Miller

PHYLLIS MILLER, CPA, CIA

Acting Chief, Office of Audit Services

Staff: Cheryl Dietz, CPA, Assistant Division Chief  
Diana Thomas, CIA, CIDA, Manager  
Edward Fama, Auditor  
Terry Heffelfinger, Auditor

# **APPENDIX A**

## **OBJECTIVES**

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# NORTH KERN-SOUTH TULARE HOSPITAL DISTRICT

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## OBJECTIVES

The objectives of this review were limited to the determination of:

- Whether the Agency complied with applicable sections of the California Government Code (Sections 20000 et seq.) and Title 2 of the CCR.
- Whether prescribed reporting and enrollment procedures as they relate to the Agency's retirement contract with CalPERS were followed.

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.

## SUMMARY

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 hours worked records
  - Agency payroll information including Contribution Detail Transaction History reports
  - Other documents used to specify payrate, special compensation, and benefits for employees
  - Various other documents as necessary
- ✓ 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 meeting 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 960 hours were worked in a fiscal year.
- ✓ 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 entities to determine if the Agency shared employees with an affiliated entity and if the employees were CalPERS members and whether their earnings were reported by the Agency or by the affiliated entity.
- ✓ Reviewed the Agency's calculation and reporting of unused sick leave balances, and reviewed contract provisions for additional service credits for unused sick leave.

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**NORTH KERN-SOUTH TULARE HOSPITAL DISTRICT**

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# **APPENDIX B**

## **AGENCY RESPONSE**



## North Kern South Tulare Hospital District

1509 Tokay Avenue • Delano, CA 93215  
www.nksthd.org

**TO:** CalPERS  
Phyllis Miller- Office of Audit Services  
October 30, 2014

**FROM:** North Kern South Tulare Hospital District  
Lidia Albiar, Administrator  
CalPERS ID: 1201196431  
Job Number: P13-018

This letter is in response to the draft report provided to the District based on a compliance review conducted by Edward Fama in June 2014. Below are the responses of the District:

### **1. The Agency's pay schedule did not meet the requirements of CCR Section 570.5.**

The District does not agree with this finding. The District was able to provide a pay schedule identifying the bases for employee pay rates, however, had not been updated since a change in administration. The pay schedule was used as a guide to determine pay rates for employees, however, varied depending on experience and education and pay rates have been adjusted annually for merit increases.

Though the District disagrees with the findings, the District will comply with the recommendation made by CalPERS. It is under the District's Administrator's duties and obligations to set forth pay rates for District employees, however, for purposes of the CalPERS compliance review, an updated pay schedule will be presented and adopted by the District's Board of Directors at the next board meeting to eliminate any ambiguity of the District's pay schedule. The pay schedule shall include a listing of all employee positions, starting pay rates, time base, and shall be available for public review indicating the effective date. Such document will be retained by the District for a period of not less than 5 years.

### **2. The Agency reported incorrect pay rates and earnings.**

- A. The District acknowledges that earnings were reported incorrectly for the four mentioned employees who used PTO within the pay period ending June 30, 2013. The District also acknowledges it incorrectly reported earnings for one employee in the pay period ending June 30, 2013 which should have been reported as \$1,280.00 for working 80 hours. The District agrees with the recommendation made by CalPERS.
- B. The District acknowledges that earnings were reported incorrectly for the one mentioned employee for pay period ending June 30, 2013 which should have been reported for \$1,453.85 at an hourly pay rate of \$18.23. The District agrees with the recommendation made by CalPERS.



## North Kern South Tulare Hospital District

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www.nksthd.org

- C. The District acknowledges that it incorrectly reported one employee's pay rate as \$861.60 per hour rather than \$861.60 in total earnings for period ending November 15, 2012 (with an hourly pay rate of \$10.77 per hour). The District agrees with the recommendation made by CalPERS.

### **3. The Agency did not report special compensation as required by CCR.**

- A. The District does not agree with this finding. The monetary value for the purchase of "uniforms" shall not be included in special compensation as such clothing was/is not a requirement for maintenance personnel. The District does not have a uniform policy that requires maintenance personnel to wear the facility purchased clothing. The clothing has been provided to such staff for convenience and ease of not wearing a name badge. Such staff may wear similar clothing for their work shift for as long as a name badge is worn simultaneously. The District does not agree that the clothing provided to maintenance personnel should be reported to CalPERS as special compensation as wearing such clothing was not a requirement.
- B. The District acknowledges that holiday pay was not reported as special compensation for employees who worked in positions that required staffing without regard to holidays. The District agrees with the recommendation made by CalPERS to ensure that holiday pay (to be included in special compensations), is contained within a written policy of the District.

### **4. The Agency did not enroll temporary / part-time employees into membership when eligible requirements were met.**

The District acknowledges that the four mentioned temporary/part-time employees were not enrolled when membership eligibility requirements were met. The District agrees with the recommendation made by CalPERS.

The District welcomes compliance reviews, such as CalPERS, to improve the District's practices and benefits provided to its employees. We are committed to making the necessary changes to comply with Public Employees' Retirement Law (PERL). To ensure continued compliance is sustained, the District would like to request a copy of PERL or any other policies that govern the District to comply with CalPERS.

Sincerely,

Lidia Albiar, MPA, LNHA  
District Administrator