

Temporary Upgrade Pay

CalPERS Office of Audit Services Employer Compliance Review

Job Number: P18-004

March 2020





California Public Employees' Retirement System

Office of Audit Services

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Memorandum

March 5, 2020

To: CALPERS PUBLIC AGENCIES AND GOVERNING BODIES PER ATTACHMENT

Original signed by Beliz Chappuie

From: BELIZ CHAPPUIE, Chief
Office of Audit Services

Subject: Temporary Upgrade Pay

Enclosed is our final report on the results of our Temporary Upgrade Pay review for 60 public agency employers (Employers). The Office of Audit Services (OFAS) prepared one final report that includes the results of the 60 Employers reviewed. The observations identified and the details of the impacted employees have been shared with each Employer through a draft report. Employers' responses have been summarized in their respective final reports included in the appendix to this report. Employers' full responses to the draft reports have been forwarded to the appropriate CalPERS division and are also on file at OFAS and are available upon request.

In accordance with our resolution policy, we have referred the issues identified in the report to the appropriate division at CalPERS. Employers should work with the division to address the recommendations specified in our report. It was our pleasure to work with each Employer, and we appreciate their time and assistance during this review.

Attachment

cc: Risk and Audit Committee Members
Matthew G. Jacobs, General Counsel, CalPERS
Anthony Suine, Deputy Executive Officer, CSS, CalPERS
Renee Ostrander, Chief, EAMD, CalPERS
Don Martinez, Chief, MAMD, CalPERS

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Objective and Scope

CalPERS ID	Job Number	Contract Date
4282193951	4P18-045	January 1, 1962

The objective of this Office of Audit Services (OFAS) review was to determine whether public agency employers (Employer) reported Temporary Upgrade Pay in compliance with the Public Employees' Retirement Law (PERL).

Temporary Upgrade Pay is a type of special compensation that is reportable for classic members if it conforms to all requirements of Government Code section 20636 and meets the definition and criteria listed in the California Code of Regulations (CCR) section 571. Specifically, Temporary Upgrade Pay is defined in CCR subsection 571(a) as compensation to employees who are required by their employer or governing board or body to work in an upgraded position/classification of limited duration. Incorrect reporting of Temporary Upgrade Pay could cause the following: miscalculation of employer contributions, delays in processing member retirement benefits, inaccurate retirement estimates, incorrect payment of benefits, and hardship to retired members due to a reduction in benefits.

OFAS's review was limited to the examination of a sample of employee records for the period of January 1, 2017 through March 28, 2019. Unless otherwise specified, OFAS did not review areas outside the scope described herein, including, but not limited to, other types of special compensation, payrates and regular earnings, member contributions, membership enrollment, employment after retirement, or out-of-class appointment limitations pursuant to Government Code section 20480.

Results in Brief

	Exception	Observation
1	Not Reportable	The Employer reported Temporary Upgrade Pay for two sampled active employees that was not in compliance with the PERL. Specifically, the Temporary Upgrade pay was not reportable because the written labor policy was not approved by the Employer's governing body. For one employee the Employer reported Temporary Upgrade Pay of \$837.60 for the pay period ended January 14, 2018. The Employer also reported Temporary Upgrade Pay of \$31.20 as a retroactive special compensation adjustment for the pay periods ended July 2, 2017 through January 14, 2018. For the other employee the Employer reported Temporary Upgrade Pay of \$33.84 as a retroactive special compensation adjustment for the pay periods ended July 2, 2017 through March 11, 2018. Government Code subsection 20636(c)(2) states special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement, and CCR 571 states special compensation must be reported if contained in a written labor policy or agreement that has been duly approved and adopted by the

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	Exception	Observation
		<p>employer's governing body in accordance with requirements of applicable public meeting laws. The Employer explained the Chief Executive Officer (CEO) was granted authority for approving the Temporary Upgrade Pay by the governing body, and the pay was subsequently authorized in a written labor policy by the CEO. However, the CEO is not considered the governing body and the pay was not approved and adopted by the governing body in accordance with requirements of applicable public meeting laws; therefore, the pay was not reportable. When items of compensation are misreported, the employees' member contributions and retirement benefits may be impacted.</p>
2a	Not Accurately Reported	<p>The Employer reported Temporary Upgrade Pay for three sampled active employees including the two sampled active employees noted in Observation 1 that was not in compliance with the PERL. Specifically, the Employer reported Temporary Upgrade Pay that included regular earnings that ranged from \$318.40 to \$397.60. The employer should have reported the regular earnings as retroactive salary adjustments for the corresponding periods during July 2017 through May 2018. Government Code subsection 20636 (c)(3)(C) requires Employers to report special compensation separately from payrate. The Employer explained misreporting was due to an oversight. When items of compensation are misreported, the employees' member contributions and retirement benefits may be impacted.</p>
2b	Not Accurately Reported	<p>The Employer reported Temporary Upgrade Pay for one sampled retired member and one sampled active employee that was not in compliance with the PERL. Specifically, the Employer did not report the Temporary Upgrade Pay for the period earned. For one employee the Employer reported Temporary Upgrade Pay of \$316.80 for the period July 3, 2017 through July 16, 2017 when the pay was earned from June 19, 2017 through July 3, 2017, and for the other employee the Employer reported Temporary Upgrade Pay in a lump sum amount of \$1,736.38 for the pay period ended March 11, 2018 when the pay was earned from May 6, 2017 through September 24, 2017. Government Code subsection 20636(c)(3)(A) requires employers to identify the period in which reported special compensation was earned. The Employer explained they misunderstood the rules pertaining to reporting pay for the period earned. When items of special compensation are misreported, the employees' member contributions and retirement benefits may be impacted.</p>

Recommendation and Criteria

The Employer should ensure Temporary Upgrade Pay is reported in compliance with Government Code section 20636 and CCR sections 570, 571, and 572. The Employer should

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work with the CalPERS Employer Account Management Division to identify all active and retired members impacted by this incorrect reporting and to determine what adjustments are needed to correct the improperly reported pay amounts. To the extent that any amounts of pay were improperly included in the retirement allowance of retired members, a correction to the retirement allowance should be made pursuant to Government Code section 20160.

Government Code: § 20120, § 20121, § 20122, § 20160, § 20636
CCR: § 570, § 571, § 572

Other Matters

OFAS identified an other matter that was outside the scope of this review. This matter was discussed with the Employer. OFAS encourages the Employer to work with CalPERS to ensure compliance with the PERL.

1	Pay Schedule	The position and payrate for a Senior Information Systems Analyst was not listed on the 2017-2018 approved pay schedule.
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Conclusion

OFAS limited this review to the areas specified in the objective and scope section of this report. Sample testing procedures provide reasonable, but not absolute, assurance that the Employer complied with the specified provisions for reporting Temporary Upgrade Pay. The results 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 with regard to the results noted within the report. The appropriate CalPERS divisions will notify the Employer of the final determinations and provide appeal rights, if applicable, at that time.

Summarized Response

The Employer agreed with the Observations noted in the report.

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