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Debra Duardo, M.S.W., Ed.D., *Superintendent*

June 30, 2021

TO: Business and Personnel Administrators
 Chief Business and Chief Personnel Officials
 HRS Coordinators
 Los Angeles County K-12 School and Community College Districts,
 Regional Occupational Centers/Programs (ROC/Ps), Charter Schools and
 other Local Educational Agencies (LEAs)

FROM: Claudette Wiggan-Reid, CalPERS Retirement Systems Coordinator
 District Personnel Information Services
 Division of School Financial Services

SUBJECT: CalPERS Reporting Out-of-Class Hours (GC Section 20480)

Effective January 1, 2018, Assembly Bill (AB) 1487 added Government Code (GC) Section 20480 which requires agencies to report hours worked in an out-of-class position to the California Public Employees’ Retirement System (CalPERS). CalPERS states that the purpose of this legislation is to create transparency and to give others an opportunity to be in the vacant position. This mandate pertains to CalPERS **Classic and PEPRA** members.

Effective July 1, 2019, CalPERS requires out-of-class hours reporting to be uploaded into my|CalPERS. CalPERS will send notification letters directly to each employer as follows:

- 1) Annual Notice:
 CalPERS will send a letter in June to advise employers that the out-of-class hours reporting is due by July 30TH each year.
- 2) Failure to Comply Notice:
 CalPERS will send this letter in August to employers that did not submit the out-of-class hours report.

Employer Actions

Below are the steps to report out-of-class hours:

1. Collect data. Agencies using HRS may obtain the necessary data as follows:

Data Required	HRS Navigation
Employer CalPERS ID	Function 16, Screen 021 Use the 10-digit number in the CalPERS Division ID field.
Member/Participant CalPERS ID	Function 04, Screen 012 Use the 10-digit number in the CalPERS ID field.

2. Log into my|CalPERS and follow the steps in the **myCalPERS Out-of-Class Reporting Student Guide** (<https://www.calpers.ca.gov/docs/out-of-class-reporting-guide.pdf>). Refer to Scenario 2 in the CalPERS Student Guide.

Note: If your district did not have any out-of-class reporting, you must log-in to my|CalPERS and certify there is no reporting. Refer to Scenario 1 in the CalPERS Student Guide.

Below are some definitions outlined in GC Section 20480:

- **Out-of-Class** is an appointment of an employee to an upgraded position or higher classification by the employer or governing board or body in a vacant position for a limited duration.
- **Vacant Position** is a position that is vacant during recruitment for a permanent appointment. “Vacant position” does not refer to a position that is temporarily available due to an employee’s leave of absence.

Note:

Tracking of hours for the out-of-class assignment begins when recruitment is initiated for the vacancy. Please refer to your agency’s policy regarding when a recruitment begins.

GC Section 20480 parts (a) to (e) require that:

- a) Employees assigned to an out-of-class position can work a maximum of 960 hours in a fiscal year. *Remember to include hours docked when reporting the total hours worked.*

The employee may work different out-of-class assignments in which neither assignment exceeds the 960 hour limit without penalty. Employers are required to submit the hours for each fiscal year (i.e. 2020-2021 runs from July 1, 2020 to June 30, 2021).

- b) Employers must track and report the hours that an employee worked within thirty (30) days after the end of the fiscal year (i.e. by July 30th).
- c) As customary, compensation paid to the employee should be delineated in a collective bargaining agreement or a publicly available pay schedule.
- d) Penalties: Employers who violate GC Section 20480 will be assessed penalties equal to three times the amount of the difference between the compensation paid for the out-of-class appointment and the compensation that otherwise may have been paid and reported to the system for the employee's permanent position. If the employee worked 961 hours, the penalty will be calculated on the total 961 hours (not the one-hour excess). In addition, the district will be invoiced \$200 by CalPERS for administrative expenses.
- e) Employees are not liable for exceeding the 960 hours. Employers are prohibited from passing on the penalties to employees.

Example 1:

The Director position is vacant because the Director retired. The Assistant Director is temporarily appointed to the Director’s position to continue daily business operations while recruitment is in progress. The hours that the Assistant Director works while in the Director position, must be reported per GC Section 20480.

Example 2:

Another employee is then appointed to back-fill the Assistant Director’s position in Example 1. Because this position belongs to the Assistant Director, it is not a true vacancy and therefore the employee’s hours should not be reported to CalPERS.

In the scenario above, only one position will result in an out-of-class appointment according to GC Section 20480. For the purpose of this law, out-of-class **hours** reporting is only required for truly vacant positions.

Please note that GC Section 20480 did not change the compensation methods to employees. Compensation is discussed in the attachment of this bulletin.

Invoices

CalPERS will generate separate invoices for the penalty amount and the \$200 administrative fee that was assessed.

If you have any questions regarding this bulletin, please contact:

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- Aura Rodriguez at (562) 922-6467 or via email at Rodriguez_Aura@laco.edu

Approved:

Sean Lewis, Assistant Director
School Financial Systems and Services

CWR:sm

SFS-A68-2020-2021

Compensation Methods

Compensation to Employees (Vacant Positions)

Government Code (GC) Section 20480 does not impact employee compensation. Therefore, districts should continue their current method of compensating employees who are working in an out-of-class position. The most common compensation practices are:

1. Salary Level for Position: The employee is paid at the vacant position's salary range as shown on the publicly-available salary schedule.

District Actions:

- a) Pay the employee using P9M and earnings code "REG" for the higher position.
- b) Report the hours worked in MyCalPERS.

2. Higher Step Placement: The employee is placed on a higher step on their current publicly-available salary schedule to include an additional amount for the higher position.

District Actions:

- a) Pay the employee using P9M and earnings code "REG" for the higher position.
- b) Report the hours worked in MyCalPERS.

3. Temporary Upgrade Pay: The employee remains on their regular salary schedule and is also paid a lump sum amount or additional amount per hour. This is a special compensation payment most commonly known as "five percent (5%)" (*however, some districts pay a different percent*). Refer to Informational Bulletin No. 4750 dated February 2, 2018 to obtain the nine criteria for special compensation payments as established in the California Code of Regulations Section 571(b).

Temporary upgrade pay is reportable to CalPERS only for classic employees that are doing 100% of the job duties for the higher position. In this case, use the earnings code TUP (lump sum) or TPH (time-based) to pay the temporary upgrade amount.

- Classic employees doing less than 100% of the higher position duties, should NOT be paid using the earnings code TUP or TPH. *The earnings are not creditable to CalPERS.* In this scenario, districts should pay the amount using an earnings code that will not deduct CalPERS contributions (i.e. NDL).
- PEPRAs employees doing any portion or 100% of the higher positions duties, should NOT be paid using the earnings code TUP or TPH. *Temporary upgrade pay for PEPRAs employees is not creditable to CalPERS.* Pay the amount using an earnings code that will not deduct CalPERS contributions (i.e. NDL).

District Actions:

- a) Pay the employee using P9M and earnings code "REG" for the position.
- b) **Classic** employees: Pay using P9M and earnings code TUP or TPH for the higher position if the employee assumes 100% of the higher duties.
- c) **PEPRA** employees: Pay lump sum using P9M and earnings code "NDL" for the higher position.
- d) Report the hours worked in MyCalPERS.

Compensation to Employees (Non-Vacant Positions)

In Example 2 in the bulletin, the Assistant Director position is not a vacant position and is not an out-of-class position as defined by GC Section 20480. Therefore, out-of-class hours should not be reported for the employee who is back-filling for the assistant director. However, the employee still has to be compensated. The district should continue using the same compensation practices as listed above to pay employees in non-vacant positions.

The difference is that GC Section 20480 does not require out-of-class hours reporting for non-vacant positions.

Attachment to:

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