

**ATTACHMENT A**

**THE PROPOSED DECISION**

**BEFORE THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATE OF CALIFORNIA**

**In the Matter of the Appeal Regarding Final Compensation  
Calculation of:**

**HODI HARCHEGANI and SAN DIEGO UNIFIED SCHOOL  
DISTRICT, Respondents.**

**Case No. 2022-0414**

**OAH No. 2022070285**

**PROPOSED DECISION**

Marcie Larson, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on January 25 and February 6, 2023, from Sacramento, California.

Cristina Andrade, Senior Attorney, appeared on behalf of the California Public Employees' Retirement System (CalPERS).

Jose A. Cordova, Attorney at Law, represented respondent Hodi Harchegani, who appeared at the hearing.

There was no appearance by or on behalf respondent San Diego Unified School District (District). The District was duly served with a Notice of Hearing. The matter

proceeded as a default against the District pursuant to California Government Code section 11520, subdivision (a).

Evidence was received, the record closed, and the matter submitted for decision on February 6, 2023.

## **ISSUE**

The issue on appeal is whether the Hazard Premium Pay (Hazard Pay) reported by the District to CalPERS on behalf of respondent from March 1, 2020, through June 30, 2020, can be used in calculating respondent's final compensation for purposes of determining his CalPERS retirement allowance.

## **FACTUAL FINDINGS**

### **Procedural History**

1. On or about July 1, 1981, respondent became a member of CalPERS by virtue of his employment with the District. Respondent was a school miscellaneous member of CalPERS. On or about November 1, 2021, respondent submitted an application for service retirement (application) with CalPERS with a retirement date of December 31, 2021. At the time, respondent was a Transportation Operations Supervisor with the District. Respondent had 41.223 years of service credit.

2. The District is a school agency that contracts with CalPERS to provide retirement benefits for its eligible employees. The provisions of the District's contract with CalPERS are contained in the Public Employees' Retirement Law (PERL). (Gov. Code, § 20000 et seq.)

3. By letter dated January 31, 2022, CalPERS informed respondent his application was processed and the amount of his monthly service retirement allowance was \$9,297.92. The letter also provided respondent an account detail information sheet showing how his retirement allowance was calculated.

4. On February 8, 2022, respondent contacted CalPERS and disputed the amount of his monthly service retirement allowance. Respondent contended his salary for 2021, was higher than what CalPERS included in the January 31, 2022 letter and that his monthly service retirement allowance should be in excess of \$10,000 per month.

5. On February 18, 2022, CalPERS notified the District and respondent that after a review of respondent's compensation as the District reported, it was discovered that the reported compensation did not comply with the PERL. Specifically, CalPERS determined that Hazard Pay the District reported for March, April, May, and June 2020 was paid to respondent for continuing to work during the COVID-19 pandemic and did not meet the requirements of California Code of Regulations section 571, subdivision (a), which defines Hazard Premium Compensation. As a result, the additional pay did not meet the definition of compensation earnable as provided in Government Code section 20636.1 and was excluded from the calculation of respondent's retirement allowance. The District and respondent were notified that they could appeal CalPERS's decision.

6. On March 7, 2022, respondent appealed CalPERS's decision. By letter dated March 9, 2022, CalPERS acknowledged respondent's appeal.

7. On July 7, 2022, Renee Ostrander, Chief, Employer Account Management Division, CalPERS, signed and thereafter filed the Statement of Issues, in her official capacity.

8. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

### **Respondent's District Compensation**

9. In April 2020, a Memorandum of Understanding (MOU) was entered into between the District and the California School Employees Association and its Chapters 724, 759, and 788 (CSEA) to address the impacts of the COVID-19 pandemic. Through the MOU, the District declared that all employees, including CSEA members, were considered "disaster service workers and are subject to disaster service activities assigned to them (Government Code section 3100) and provisions should be made for those employees impacted by the epidemic." The MOU provided in relevant part that:

In order to promote public health, the safety of employees, and to ensure the continuity of learning for students, the San Diego Unified School District ("District") and the California School Employees Association and its Chapters 724, 759, & 788 (together "CSEA"), collectively referred to as the "Parties," have reached this Memorandum of Understanding ("MOU") concerning the District's response to the coronavirus (COVID-19) Pandemic.

[¶] ... [¶]

Now, therefore, the Parties agree to the following:

1. Effective March 16, 2020 and due to the COVID-19 school closures, regular monthly salaried employees will be paid their regular monthly salary for days worked, based on the employee's current work year calendar and base salary.

2. Effective March 16, 2020, employees who are required to report to a school site/department and/or employees who are required to come into contact with the public/other employees, shall be compensated for such services at one and a half (1.5) times their standard rate of pay for hours worked each day they report to an onsite location.

[¶] ... [¶]

The Parties agree the MOU addresses the impacts and effects of the COVID-19 pandemic. The parties recognize that the COVID-19 pandemic is evolving and so is the governmental response. The parties will comply with further state or federal legislation or orders as they affect the terms and conditions of employment of bargaining-unit employees and will bargain as needed over the effects of such further directives.

[¶] ... [¶]

This is a one-time, non-precedent setting agreement limited to the COVID-19 school closures.

[¶] ... [¶]

10. The MOU does not describe the additional pay as Hazard Pay or special compensation. The MOU was set to expire at the "end of the emergency school closure or June 30, 2020, whichever is sooner." The MOU could have been extended based on written agreement of the parties, but was not.

11. District employees Judith Wind-Walker, Administrator of Business Operations, Alma Delavago, Accountant I, and Estela Rodriguez, Accounting Clerk in the Transportation Department for the District, testified at hearing regarding the additional pay respondent received as a result of the MOU.

12. In March 2020, respondent earned \$962.68 in additional pay pursuant to the MOU. In April 2020, respondent earned an additional \$1,540.28. In May 2020 he earned an additional \$1,347.74 and in June an additional \$4,235.74. Although respondent earned the additional money for work he performed from March through June 2020, he was not paid until May and June 2021. None of the District employees who testified knew why there was a delay in the pay. Contrary to the language of the MOU the additional pay was identified by the District as Hazard Pay when inputted into payroll and reported to CalPERS. Ms. Wind-Walker confirmed that CalPERS retirement contributions were taken out of the Hazard Pay. The additional pay was reported to CalPERS as Hazard Pay in May and June 2021.

13. Ms. Delavago explained that at some point she learned the pay the District had identified as Hazard Pay for employees covered by the MOU should not have been reported to CalPERS as compensable income. CalPERS contributions should not have been taken from Hazard Pay. Respondent was not the only District employee affected by this issue.

## **CalPERS Final Compensation Review**

14. Jennifer Sandness is a Manager in CalPERS's Employer Account Management Division, Compensation Compliance and Review Unit. She testified at hearing concerning how a member's retirement allowance is calculated. She explained that the three factors used are: the member's service credit, which is how much time the member has worked for an employer; the member's age; and the member's final compensation, which is the member's fulltime base payrate and any eligible special compensation. The member's highest final compensation for 12 consecutive months is used to ensure the member receives the highest possible retirement allowance. Member contributions to CalPERS are not factored into the retirement allowance calculation.

15. Ms. Sandness explained that CalPERS created a publication titled "What You Need to Know About Your CalPERS School Benefits," which is available to school employees who are member of CalPERS, such as respondent. This publication provides detailed information concerning how retirement allowances are calculated.

16. Ms. Sandness also explained that when compensation is reported by an employer, CalPERS assumes the information is correct until there is a final compensation review. A final compensation review occurs at the time of retirement and can also occur when a member requests CalPERS provide an estimate. For example, at respondent's request, on July 15, 2021, CalPERS provided respondent a written estimate indicating his unmodified monthly retirement allowance would be \$9,658.02, if he retired on December 31, 2021. On November 10, 2021, CalPERS sent respondent another estimate indicating his unmodified monthly allowance would be \$9,470.03, if he retired on December 31, 2021.

17. A member can also use the CalPERS online Retirement Estimate Calculator to obtain a retirement allowance estimate. The terms of use for the Retirement Estimate Calculator, require the user to agree to the following terms:

The Retirement Estimate Calculator is intended to provide an estimate only. The estimate does not constitute an official CalPERS retirement allowance, nor should it be relied upon as such. Estimates will be based on the information you provide, and are non-binding between you and CalPERS. Your actual retirement allowance, including optional allowances, will be determined by CalPERS after you formally apply for retirement. CalPERS is governed by the California Public Employees' Retirement Law. If there is a conflict between the law and the information you provide, the law takes precedence.

18. Eric Herrera, an Associate Governmental Program Analyst in CalPERS's Employer Account Management Division, Compensation Compliance Unit, was assigned to conduct respondent's final compensation review when he filed his application. Mr. Herrera testified at hearing that when CalPERS receives a service retirement application, the member's reported compensation is verified to ensure it complies with the PERL's requirements.

19. Mr. Herrera's review of respondent's compensation included verifying his payrate and any special compensation the District reported. There were no mistakes related to respondent's payrate. The District reported respondent had two types of special compensation: longevity pay and Hazard Pay. The longevity pay was properly reported. However, Mr. Herrera requested the District provide additional information

to verify the reported Hazard Pay. The District provided Mr. Herrera a copy of the MOU.

20. Mr. Herrera explained that special compensation must meet certain requirements to be included in a member's final compensation. Specifically, Hazard Pay must meet the definition of California Code of Regulations section 571, subdivision (a), which applies to "employees who are routinely and consistently exposed to toxic, radioactive, explosive or other hazardous substances or perform hazardous activities to implement health and safety procedures." Mr. Herrera explained the type of jobs that qualify for hazard pay are safety positions such as police, fire, corrections, and labor-intensive jobs. Hazard Pay is not normally reported for administrative positions or paid on a temporary basis. It is also not paid for a natural disaster response.

21. After reviewing the information the District provided, Mr. Herrera determined that the additional pay respondent received for work performed from March through June 2020, pursuant to the terms of the MOU, did not meet the definition of Hazard Pay and was not compensation earnable as provided in Government Code section 20636.1. Respondent worked in an administrative position. The pay was not for being routinely and consistently exposed to hazardous materials or conditions. Rather, the pay was for a four-month period when he continued to work on-site during the COVID-19 pandemic. There were no hazardous activities respondent had to perform.

22. Based on the information obtained by Mr. Herrera, CalPERS determined that respondent's Hazard Pay reported by the District did not comply with the PERL. In a letter dated February 18, 2022, CalPERS explained to respondent that the District reported the following as Hazard Pay for respondent: March 2020-\$962.68; April 2020-

\$1,540.28; May 2020-\$1,347.74; and June 2020-\$4,235.74. CalPERS explained that the Hazard Pay “was for continuing to work during the COVID-19 pandemic.” The Hazard Pay “...was not historically consistent with prior payments, and these payments do not meet the definition of Hazard Premium listed in CCR section 571 (a)...” As a result, the pay does not qualify as “compensation earnable” under Government Code section 20636.1 and must be excluded from the calculation of his retirement benefit.

CalPERS also informed respondent that the District was directed to “reverse the identified compensation and all corresponding contributions that were reported.” Thereafter, CalPERS would credit the District with any contributions paid. The District would then return any contributions respondent paid. CalPERS also asked the District to “stop any future reporting to CalPERS of this type of compensation.”

## **Respondent’s Testimony**

23. Respondent retired from the District on December 31, 2021, after working for 41 years. His goal was to earn at least \$10,000 per month from his service retirement. He made the decision to retire after using CalPERS online Retirement Estimate Calculator three times in 2021, to obtain an estimate of his monthly service retirement allowance. He input the amount of compensation listed in his paystubs for the last 12 months before he planned to retire. Respondent asserted he also asked CalPERS to prepare estimates, but did not received the July or November 2021 CalPERS estimates.

24. Respondent is not familiar with the PERL. He does not know how CalPERS or PERL defines compensation earnable. However, CalPERS contributions were taken out of the additional “Hazard Pay” he received for work he performed from March through June 2020, so he believed that pay should be included in the calculation for

his final compensation. Respondent explained that he would not have retired had he known that his monthly service retirement allowance would be \$700 less than the CalPERS Retirement Estimate Calculator indicated.

## **LEGAL CONCLUSIONS**

1. CalPERS is governed by the PERL. The purpose of the PERL is "to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits." (Gov. Code, § 20001.)

2. Deference to CalPERS's interpretation of the PERL is "in recognition of the fact that, as the agency charged with administering the PERL, [Cal]PERS has expertise and technical knowledge as well as an intimate knowledge of the problems dealt with in the statute and various administrative consequences arising from particular interpretations." (*City of Pleasanton v. Board of Administration of the California Public Employees' Retirement System* (2012) 211 Cal.App.4th 522, 539.)

### **Burden of Proof and Applicable Law**

3. The party asserting the affirmative in an administrative action has the burden of going forward and the burden of persuasion by a preponderance of the evidence. (*McCoy v. Board of Retirement* (1986) 183 Cal.App.3d 1044, 1051.) CalPERS has the burden of proving a prima facie case in support of its final determination concerning respondent's retirement allowance. Once that has occurred, the burden shifts to respondent to establish that he is entitled to the retirement allowance that he

seeks. (See *McCoy v. Board of Retirement* (1986) 183 Cal.App.3d 1044, 1047; *Harmon v. Board of Retirement* (1976) 62 Cal.App.3d 689, 691.)

4. Each party must meet its burden by a preponderance of the evidence. (Evid. Code, § 115 [“Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence”].) Evidence that is deemed to preponderate must amount to “substantial evidence.” (*Weiser v. Board of Retirement* (1984) 152 Cal.App.3d 775, 783.) To be “substantial,” evidence must be reasonable in nature, credible, and of solid value. (*In re Teed’s Estate* (1952) 112 Cal.App.2d 638, 644.)

5. CalPERS is a prefunded defined benefit retirement plan. (*Oden v. Board of Administration* (1994) 23 Cal.App.4th 194, 198). The formula for determining a member’s retirement benefit takes into account: (1) years of service; (2) a percentage figure based on the age on the date of retirement; and (3) final compensation. Government Code section 20630 defines “compensation” as follows:

(a) As used in this part, “compensation” means the remuneration paid out of funds controlled by the employer in payment for the member’s services performed during normal working hours or for time during which the member is excused from work because of any of the following:

(1) Holidays.

(2) Sick leave.

(3) Industrial disability leave, during which, benefits are payable pursuant to Sections 4800 and 4850 of the Labor

Code, Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6, or Section 44043 or 87042 of the Education Code.

(4) Vacation.

(5) Compensatory time off.

(6) Leave of absence.

(b) When compensation is reported to the board, the employer shall identify the pay period in which the compensation was earned regardless of when reported or paid. Compensation shall be reported in accordance with Section 20636, or in accordance with Section 20636.1 for school members, and shall not exceed compensation earnable, as defined in Sections 20636 and 20636.1, respectively.

6. Government Code section 20636.1 defines "compensation earnable" for a school member as follows in relevant part:

(a) Notwithstanding Section 20636, and Section 45102 of the Education Code, "compensation earnable" by a school member means the payrate and special compensation of the member, as defined by subdivisions (b) and (c), and as limited by Section 21752.5.

[¶] ... [¶]

(c)(1) Special compensation of a school member includes any payment received for special skills, knowledge, abilities, work assignment, workdays or hours, or other work conditions.

(2) Special compensation shall be limited to that which is received by a member pursuant to a labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e).

[¶] ... [¶]

(6) The board shall promulgate regulations that delineate more specifically and exclusively what constitutes "special compensation" as used in this section. A uniform allowance, the monetary value of employer-provided uniforms, holiday pay, and premium pay for hours worked within the normally scheduled or regular working hours that are in excess of the statutory maximum workweek or work period applicable to the employee under Section 201 and following of Title 29 of the United States Code shall be included as special

compensation and appropriately defined in those regulations.

(7) Special compensation does not include any of the following:

(A) Final settlement pay.

(B) Payments made for additional services rendered outside of normal working hours, whether paid in lump sum or otherwise.

(C) Other payments the board has not affirmatively determined to be special compensation.

(d) Notwithstanding any other provision of law, payrate and special compensation schedules, ordinances, or similar documents shall be public records available for public scrutiny.

(e)(1) As used in this part, "group or class of employment" means a number of employees considered together because they share similarities in job duties, work location, collective bargaining unit, or other logical work-related grouping. A single employee is not a group or class.

(2) Increases in compensation earnable granted to any employee who is not in a group or class shall be limited during the final compensation period applicable to the employees, as well as the two years immediately preceding

the final compensation period, to the average increase in compensation earnable during the same period reported by the employer for all employees who are in the same membership classification, except as may otherwise be determined pursuant to regulations adopted by the board that establish reasonable standards for granting exceptions.

[¶] ... [¶]

7. California Code of Regulations, title 2, section 571, defines special compensation and provides in relevant part:

(a) The following list exclusively identifies and defines special compensation items for members employed by contracting agency and school employers that must be reported to CalPERS if they are contained in a written labor policy or agreement:

[¶] ... [¶]

(4) SPECIAL ASSIGNMENT PAY

[¶] ... [¶]

Hazard Premium-Compensation to employees who are routinely and consistently exposed to toxic, radioactive, explosive or other hazardous substances or perform hazardous activities to implement health or safety procedures.

[¶] ... [¶]

(b) The Board has determined that all items of special compensation listed in subsection (a) are:

(1) Contained in a written labor policy or agreement as defined at Government Code section 20049, provided that the document:

(A) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;

(B) Indicates the conditions for payment of the item of special compensation, including, but not limited to, eligibility for, and amount of, the special compensation;

(C) Is 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;

(D) Indicates an effective date and date of any revisions;

(E) Is retained by the employer and available for public inspection for not less than five years; and

(F) Does not reference another document in lieu of disclosing the item of special compensation;

(2) Available to all members in the group or class;

- (3) Part of normally required duties;
- (4) Performed during normal hours of employment;
- (5) Paid periodically as earned;
- (6) Historically consistent with prior payments for the job classification;
- (7) Not paid exclusively in the final compensation period;
- (8) Not final settlement pay; and
- (9) Not creating an unfunded liability over and above PERS' actuarial assumptions.

(c) Only items listed in subsection (a) have been affirmatively determined to be special compensation. All items of special compensation reported to PERS will be subject to review for continued conformity with all of the standards listed in subsection (b).

(d) If an items of special compensation is not listed in subsection (a), or is out of compliance with any of the standards in subsection (b) as reported for an individual, then it shall not be used to calculate final compensation for that individual.

8. Government Code section 20164.5 addresses disallowed compensation as follows:

(a) For purposes of this section, "disallowed compensation" means compensation reported for a member by the state, school employer, or a contracting agency that the system subsequently determines is not in compliance with the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1), Section 20636 or 20636.1, or the administrative regulations of the system.

(b) If the system determines that the compensation reported for a member by the state, school employer, or a contracting agency is disallowed compensation, the system shall require the state, school employer, or contracting agency to discontinue reporting the disallowed compensation. This section shall also apply to determinations made on or after January 1, 2017, if an appeal has been filed and the member, the retired member, survivor, or beneficiary has not exhausted their administrative or legal remedies.

(1) In the case of an active member, all contributions made on the disallowed compensation shall be credited against future contributions to the benefit of the state, school employer, or contracting agency that reported the disallowed compensation, and any contribution paid by, or on behalf of, the member, including contributions under Section 20691, shall be returned to the member by the

state, school employer, or contracting agency that reported the disallowed compensation.

[¶] ... [¶]

(g) This section does not affect or otherwise alter a party's right to appeal any determination regarding disallowed compensation made by the system.

### **Cause for Denial of Appeal**

9. Respondent failed to establish that the additional pay he received under the MOU can be used in calculating his final compensation for purposes of determining his CalPERS retirement allowance. The money paid for on-site work performed from March through June 2020, was in response to the Covid-19 pandemic. The additional pay does not qualify as compensation earnable under Government Code section 20636.1, because it does not qualify as special compensation.

The payments respondent received were not historically consistent with any prior payments. Despite the District's erroneously reporting the pay as Hazard Pay, the pay does not meet the definition of Hazard Premium listed in California Code of Regulations section 571, subdivision (a). Respondent did not receive the pay because he was required to be "routinely and consistently exposed to toxic, radioactive, explosive or other hazardous substances or perform hazardous activities to implement health or safety procedures." Respondent provided no evidence of any change or addition to his duties he was required to perform to receive the additional pay, other than work on-site at the District.

10. Respondent contends that because CalPERS contributions were taken out of his Hazard Pay, that pay should be included in the calculation of his CalPERS retirement allowance. He also relied on the CalPERS retirement estimate calculator that indicated his monthly retirement allowance would exceed \$10,000. Respondent argues the doctrine of equitable estoppel should be applied to prevent CalPERS from excluding his Hazard Pay.

11. Pursuant to the doctrine of equitable estoppel, CalPERS may be estopped from taking action against a member or denying benefits to a member. For the doctrine to apply, a member must establish four elements: (1) the party to be estopped must be apprised of the facts; (2) he must intend that his conduct shall be acted upon, or must so act that the party asserting the estoppel had a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts; and (4) he must rely upon the conduct to his injury. (*Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 305.)

But even if all four of these elements are proven, equitable estoppel "will not be applied against the government if to do so would effectively nullify 'a strong rule of policy, adopted for the benefit of the public.....'" (*City of Long Beach v. Mansell* (1970) 3 Cal.3d 462, 493.) As the court explained: "The government may be bound by an equitable estoppel in the same manner as a private party when the elements requisite to such an estoppel against a private party are present and, in the considered view of a court of equity, the injustice which would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect upon public interest or policy which would result from the raising of an estoppel." (*Id.* at pp. 496-497.)

To establish the first element of estoppel, respondent must prove that CalPERS either knew the true facts or that it engaged in "careless and culpable conduct

resulting in the deception of the party entitled to claim the estoppel." (*Banco Mercantil v. Sauls, Inc.* (1956) 140 Cal.App.2d 316, 323.) Respondent failed to prove the first element of equitable estoppel. CalPERS was not aware of the District's improper reporting of the Covid-19 pandemic pay until an until a final review of his compensation was conducted in response to his application. Upon discovery of the error, CalPERS obtained more information from the District and then notified respondent and the District of its determination. CalPERS determined the additional pay did not qualify as Hazard Pay and must be excluded from the calculation of his CalPERS retirement allowance, as required pursuant to Government Code section 20164.5.

12. Moreover, applying the doctrine of equitable estoppel would be contrary to strong public policy. CalPERS has a fiduciary duty to protect the retirement fund for the benefit of all its beneficiaries. It cannot ignore a mistake that benefits one beneficiary in a manner that is inconsistent with the law or inequitable to its other beneficiaries. The court recently addressed this issue in *Blaser v. California State Teachers Retirement System* (2022) 302 Cal.Rptr.3d 428, finding that estoppel is not available against the governmental entity if its invocation would require that government entity to take action beyond its statutory authority. (See *Id.* at p. 447.) The court further stated that "equitable estoppel cannot be applied [...] to effectively perpetuate the erroneous calculation and payment of monthly benefits because to do so would contravene the law prohibiting a gift of public funds." (*Id.* at p. 451.)

13. Respondent is requesting CalPERS to act beyond its statutory authority by allowing him to receive an retirement allowance he is not entitled to under the PERL. Such conduct is not allowed. As a result, respondent did not establish that CalPERS should be equitably estopped from excluding from respondent's final

compensation the Hazard Pay the District reported to CalPERS on behalf of respondent from March 1, 2020, through June 30, 2020.

14. Respondent did not establish, by a preponderance of the evidence, his Hazard Pay was compensation that should have been included in the calculation of respondent's final compensation for purposes of determining his CalPERS retirement allowance. Therefore, his appeal must be denied.

## **ORDER**

Respondent Hodi Harchegani's appeal is DENIED.

DATE: March 7, 2023

*Marcie Larson*

Marcie Larson (Mar 7, 2023 13:24 PST)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings