

Sonoma County Office of Education  
Business Services

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**EXTERNAL FISCAL SERVICES UPDATES**

**DEBUG MEETING: MARCH 23, 2018**

**REMINDERS:**

***Retirement Incentives:***

When the employer gives the employee a choice of when and how a retirement incentive will be paid, Constructive Receipt doctrine applies and the total value is taxable at the time the offer is accepted. For more information use this link:

<https://www.irs.gov/businesses/corporations/nonqualified-deferred-compensation-audit-techniques-guide>. In order to avoid tax implications of Constructive Receipt, it is recommended the LEA determine when and how the incentives are to be paid.

***CalPERS Salary Schedule Requirement:***

California Code of Regulations (CCR) 570.5 outlines the Requirement for a Publicly Available Pay Schedule. Each pay schedule is required to include position title for every employee position, payrate for each position and time base for each payrate (see attached CalPERS Circular Letter 200-056-11 and Circular Letter 200-050-12). Government Code Section 20636(b)(1) defines "Payrate", including for a member who is not in a group or class. Paragraph (1) of subdivision (e) reads, "Under no circumstances shall one employee be considered a group or class." Per paragraph (2) of subdivision (e), Increases in compensation earnable shall be limited for any employee who is not in a group or class during the final compensation period, as well as the two years immediately preceding the final compensation period, to the average increase in compensation earnable for all employees who are in the same membership classification.

Example: CBOs on their own pay schedule would be non-compliant, but could be added to a "management" pay schedule to bring them into compliance.

For CalPERS purposes, it is critical all LEAs review their pay schedules to verify they meet the required elements necessary to meet the definition for a publicly available pay schedule and that none are for a class or group of one.

***Hiring CalPERS Retirees:***

See attached copy of the Employer Checklist for Hiring CalPERS Retirees. Should a retiree be unlawfully employed, the retiree is subject to mandatory reinstatement from retirement, and must pay retroactive member contributions plus interest for the period of unlawful employment. The retiree must also reimburse CalPERS the entire amount of retirement allowance he or she received during the period of unlawful employment. Likewise, the employer will pay employer contributions plus interest on the employees' behalf for the period of unlawful employment via retroactive payroll reporting. The member and employer may also be required to reimburse CalPERS for administrative expenses incurred in responding to the investigation and resolution of the unlawful employment.