



AGENDA

RETIREMENT BOARD MEETING

REGULAR MEETING
February 8, 2017
9:00 a.m.

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

THE RETIREMENT BOARD MAY DISCUSS AND TAKE ACTION ON THE FOLLOWING:

1. Pledge of Allegiance.
2. Accept comments from the public.
3. Approve minutes from the January 11, 2017 meeting.
4. Routine items for February 8, 2017.
 - a. Approve certifications of membership.
 - b. Approve service and disability allowances.
 - c. Accept disability applications and authorize subpoenas as required.
 - d. Approve death benefits.
 - e. Accept Asset Allocation Report

CLOSED SESSION

5. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code Section 54957.6)

Agency designated representatives:
Gail Strohl, Chief Executive Officer
Christina Dunn, Admin/HR Manager
Joe Wiley, CCCERA's Chief Negotiator

Employee Organization: AFSCME, Local 2700
Unrepresented Employees: All CCCERA unrepresented positions

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.

6. The Board will go into closed session under Gov. Code Section 54957 to consider recommendations from the Medical Advisor and/or staff regarding the following disability retirement applications:

<u>Member</u>	<u>Type Sought</u>	<u>Recommendation</u>
a. Toni Harris	Service Connected	Service Connected
b. Dean Soltis	Service Connected	Service Connected

7. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(d)(2) to confer with legal counsel regarding potential litigation (one case).
8. The Board will continue in closed session pursuant to Govt. Code Section 54956.9(d)(1) to confer with legal counsel regarding pending litigation:
- a. *In the Matter of the Estate of Margaret O. Richards*, Circuit Court of the State of Oregon, Multnomah County, Case No. 14PB01866.

OPEN SESSION

9. Consider and take possible action to adjust the retirement allowance of retired Hazardous Materials Specialists IIs pursuant to Government Code Section 31539 to exclude compensation improperly increased by the members:
- a. Presentation of report and recommendations; Board questions
 - b. Opportunity for the retired members to present to the Board their positions and any information or records relevant to the issue; Board questions
 - c. Opportunity for the retired members' former employer, Contra Costa County, to present to the Board its position and any information or records relevant to the issue; Board questions
 - d. Public comment
 - e. Board deliberations and appropriate action
10. Consider and take possible action to provide additional clarification and direction pertaining to further review of Mr. Andrews' pension.
11. Consider and take possible action to adopt a cost-of-living increase for retirees as of April 1, 2017.
12. Consider authorizing the attendance of Board and/or staff:
- a. Public Funds Roundtable, Institutional Investor Public Funds Roundtable, Institutional Investor, April 26-28, 2017, Los Angeles, CA
 - b. Portfolio Concepts and Management, International Foundation of Employee Benefit Plans, May 1-4, 2017, Philadelphia, PA
13. Miscellaneous
- a. Staff Report
 - b. Outside Professionals' Report
 - c. Trustees' comments

The Retirement Board will provide reasonable accommodations for persons with disabilities planning to attend Board meetings who contact the Retirement Office at least 24 hours before a meeting.



Meeting Date
02/08/17
Agenda Item
#3

MINUTES

RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING

January 11, 2017
9:00 a.m.

Retirement Board Conference Room

The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

Present: Debora Allen, Candace Andersen, Scott Gordon, Jerry Holcombe, Louie Kroll, David MacDonald, John Phillips, William Pigeon, Gabe Rodrigues, Todd Smithey and Rusty Watts

Absent: Jerry Telles

Staff: Gail Strohl, Chief Executive Officer; Timothy Price, Chief Investment Officer; Karen Levy, General Counsel; Wrally Dutkiewicz, Compliance Officer; Christina Dunn, Administrative/HR Manager; Henry Gudino, Accounting Manager; Tim Hoppe, Retirement Services Manager; and Alexis Cox, Member Services Manager

Outside Professional Support:
Joe Wiley

Representing:
Wiley Price & Radulovich LLP

1. Pledge of Allegiance

Gordon led all in the *Pledge of Allegiance*.

2. Recognition of Luz Casas for 20 years of service

Phillips recognized and congratulated Luz Casas for her years of service.

3. Accept comments from the public

No member of the public offered comment.

4. Approval of Minutes

It was M/S/C to approve the minutes of the December 14, 2016 meeting with a correction to the numbering on Item 13. (Yes: Allen, Andersen, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts. Abs.: Gordon).

5. Routine Items

It was M/S/C to approve the routine items of the January 11, 2017 meeting. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)

Pigeon was present for subsequent discussion and voting.

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54957.6, 54956.9(d)(1), 54957 and 54956.9(d)(2).

The Board moved into open session.

6. There was no reportable action related to Govt. Code Section 54957.6.
7. There was no reportable action related to Govt Code Section 54956.9(d)(1).
8. It was **M/S/C** to accept the Medical Advisor's recommendation and grant the following disability benefits:
 - a. Spencer Chun – Non-Service Connected (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
 - b. Richard Perry – Service Connected (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
 - c. Kyle Sevier – Service Connected (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
 - d. This item was referred back to the Medical Advisor for an Independent Medical Evaluation.
 - e. This item was referred back to the Medical Advisor for an Independent Medical Evaluation.
9. There was no reportable action related to Govt. Code Section 54956.9(d)(2).

Gordon and Pigeon were no longer present for subsequent discussion and voting.

10. Legislative Update

Levy reviewed her memo on recently enacted legislation. She discussed AB 1661, which requires sexual harassment prevention training for all Trustees and AB 1692 which authorizes the Board of Supervisors of Contra Costa County to require the application of the Tier III disability standard (substantial gainful employment, Government Code Section 31720.1), Tier III disability amounts and Tier III COLA amounts to general (non-safety) PEPPRA members for who the Board of Supervisors is the governing board. She also discussed AB 2833 and its requirement for greater transparency of investment management fees. Among other things, the bill requires public pension systems to disclose the fee information received at least once annually at a meeting open to the public.

11. Update from Chief Investment Officer on implementation of Liquidity sub-portfolio

Price gave an update on portfolio liquidations. He stated that over the course of the 10-day transition period, the portfolio returned -0.7% and would have returned -1.3% if left in the portfolio. He reported in-kind transfers and cash were transferred to the new Liquidity sub-portfolio managers and at year end all three managers were at their initial targets and have been fully implemented. He stated the first draft of the liquidity reporting will be presented at the next meeting and the first benefit payment will be made from this program about two days before the next meeting.

He reported the Phase II restructuring recommendation will be presented at the next meeting. The recommendation and presentations will include emerging market managers and passive US equity managers.

12. Consider authorizing the attendance of Board and/or staff:

- a. It was **M/S/C** to authorize the attendance of all Board members and 5 staff members to the General Assembly, CALAPRS, March 4-7, 2017, Monterey, CA. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
- b. It was **M/S/C** to authorize the attendance of all Board members to the Sexual Harassment Prevention Training for Staff/Board, California Special Districts Association, January 24, 2017, Webinar. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
- c. It was **M/S/C** to authorize the attendance of 3 Board members and 3 staff members to the 2017 Investor Conference, Angelo, Gordon & Co., March 15, 2017, New York, NY. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
- d. It was **M/S/C** to authorize the attendance of 3 Board members to the Trustees' Roundtable, CALAPRS, February 3, 2017, San Jose, CA. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)
- e. It was **M/S/C** to authorize the attendance of 4 Board members and 2 staff members to the CII Spring 2017 Conference, Council of Institutional Investors, February 27-March 1, 2017, Washington, DC. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)

13. Miscellaneous

(a) Staff Report –

Strohl reported in accordance with CCCERA's Procurement Policy to report to the Board on contracts in excess of \$10k, CCCERA has contracted with Jacobi Strategies, a technology platform that bundles risk oversight and portfolio construction tools. The annual fee is \$25,000 and the first year costs could go up to \$25,000 depending on the hours needed for consulting on developing reports. She also reported that in the next few months CCCERA will be providing their first Employer Handbook to participating employers.

Levy The Court of Appeals has issued a new decision in another "vested rights" challenge to PEPRA. The CalFire v. CalPERS case involved PEPRA's elimination of non-qualified service purchases, which basically allowed members to purchase up-to five years of time they did not actually work. CalPERS implemented the PEPRA provision and CalFire Local 2881 challenged the elimination of the benefit on constitutional grounds. The Court of Appeals upheld the constitutionality of PEPRA's elimination of this benefit. The court of appeals decision is appealable. Fiduciary counsel Harvey Leiderman's alert pertaining to this new decision was distributed.

(b) Outside Professionals' Report -

None

(c) Trustees' comments –

Kroll requested an update for the February meeting on the hearings for members that were represented by the Physicians' and Dentists organization of Contra Costa County.

Smithey reported the Audit Committee met on November 2, 2016 noting the key items discussed were the safeguards of living status of retirees, outsourcing of internal audits, and the Subledger decommissioning process.

MacDonald reported he passed the Certificate of Achievement in Public Plan Policy (CAPP) exam and felt it was a very good program.

It was **M/S/C** to adjourn the meeting. (Yes: Allen, Andersen, Gordon, Kroll, MacDonald, Phillips, Rodrigues, Smithey and Watts)

John Phillips, Chairman

Scott Gordon, Secretary

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

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February 8, 2017

Items requiring Board Action

A. Certifications of Membership – see list and classification forms.

B. Service and Disability Retirement Allowances:

<u>Name</u>	<u>Number</u>	<u>Effective Date</u>	<u>Option Type</u>	<u>Group</u>	<u>Selected</u>
Arcega, Willie	45993	11/12/16	SR	Tier II and III	Unmod
Bhambra, Jagjit	52765	11/1/16	SR	Tier III	Unmod
Brown, Susan	63206	9/1/16	SR	Tier I	Unmod
Chiu, Grace	48361	11/1/16	SR	Tier III	Unmod
Dillon, Melanie	55009	10/1/16	SR	Tier II and III	Unmod
Gossett, Jenne	32896	11/1/16	SR	Tier III	Unmod
Hindsman, Roland	40765	11/30/16	SR	Tier II and III	Unmod
Ingram, Virginia	44253	11/8/16	SR	Tier III	Unmod
Maxwell, Jeffrey	D7274	10/22/16	SR	Safety A	Unmod
McConnell, Patricia	54801	11/1/16	SR	Tier III	Unmod
Minadeo, Joanne	44446	11/12/16	SR	Tier II and III	Unmod
Morris, Barbara	45539	11/01/16	SR	Tier II and III	Unmod
Oakley, Thomas	33927	11/02/16	SR	Safety A	Unmod
Quevedo, Luis	62657	10/22/16	SR	Tier II and III	Unmod
Ramlall, Ramganesh	62938	11/01/16	SR	Tier II and III	Unmod
Tokarzowski, Marcin	55136	10/31/16	SR	Tier I	Option 2
Whalen, Linda	64068	10/19/16	SR	Tier III	Option 2
Wilner, Sarah	40892	11/05/16	SR	Tier II and III	Unmod

C. Disability Retirement Applications: The Board's Hearing Officer is hereby authorized to issue subpoenas in the following cases involving disability applications:

<u>Name</u>	<u>Number</u>	<u>Filed</u>	<u>Type</u>
Melgoza-Moore, Sally	56008	01/04/17	NSCD

KEY:

Group
 I = Tier I
 II = Tier II
 III = Tier III
 S/A = Safety Tier A
 S/C = Safety Tier C

Option
 * = County Advance
 Selected w/option

Type
 NSP = Non-Specified
 SCD = Service Connected Disability
 SR = Service Retirement
 NSCD = Non-Service Connected Disability

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

BOARD OF RETIREMENT

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February 8, 2017

D.

Deaths:

<u>Name</u>	<u>Date of Death</u>	<u>Employer as of Date of Death</u>
Abille, June	12/29/2016	Contra Costa County
Ballew, Rosemary	12/23/2016	Contra Costa County
Bigbee, Marie	1/2/2017	Contra Costa County
Clark, Leslie	1/15/2017	Contra Costa County
Dimas, Ophelia	12/24/2016	Contra Costa County
Ford, Don	1/7/2017	Contra Costa County
Hughes, Thelma	12/20/2016	Beneficiary
Klebanoff, Helen	12/29/2016	Beneficiary
Lappin, Joseph	12/13/2016	Contra Costa County
Lopez, Daniel	1/13/2017	Central Contra Costa Sanitary District
Madrigal, Joaquin	9/4/2016	Alt-Payee
Maurer, John	1/22/2017	Contra Costa County
Maxfield, William	1/8/2017	Contra Costa Fire Protection District
Miller, Willie T	1/7/2017	Contra Costa County
Pratt, Charles	12/20/2016	Contra Costa County
Reeves, Mary	1/9/2017	Beneficiary
Roragen, Raymond	12/10/2016	Beneficiary
Schroth, Sheila	12/11/2016	Contra Costa County
Thomas, Richard	12/31/2016	Beneficiary
Turman, George	1/10/2017	Contra Costa County
Watts, Tanya	12/7/2016	Contra Costa County

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Option
 * = County Advance
 Selected w/option

Type
 NSP = Non-Specified
 SCD = Service Connected Disability
 SR = Service Retirement
 NSCD = Non-Service Connected Disability

CERTIFICATION OF MEMBERSHIPS

Name	Employee Number	Tier	Membership Date	Employer
Abang, Matthew R.	83687	P5.2	12/01/16	Contra Costa County
Ackerman, Mark D.	83246	P5.2	12/01/16	Contra Costa County
Alomar, Denise	78041	P5.2	12/1/2016	Contra Costa County
Baird-Kerr Matus, James A	84089	P5.2	12/1/2016	Contra Costa County
Bal, Aileen E.	84188	P5.2	12/1/2016	Contra Costa County
Baskin, Lianne	D9500	P5.3	12/1/2016	Superior Courts
Boutelle, Veronica R.	84190	P5.2	12/1/2016	Contra Costa County
Brown, Tashanique J.	84088	P5.2	12/1/2016	Contra Costa County
Cannavino, Cristina	84120	P5.2	12/1/2016	Contra Costa County
Chaparro, Josita L.G.	84187	P5.2	12/1/2016	Contra Costa County
Civello, Kimberly N.	84081	P5.2	12/1/2016	Contra Costa County
Crane, Thomas V.	84112	P5.2	12/1/2016	Contra Costa County
Dhillon, Karampreet	84174	P5.2	12/1/2016	Contra Costa County
Doboue, Marie C.	82585	P5.2	12/1/2016	Contra Costa County
Esplana-Ferrer, Ria C	84133	P5.2	12/1/2016	Contra Costa County
Ferrell, Lashurn M.	84040	P5.2	12/1/2016	Contra Costa County
Garcia, Raquel	80404	P5.2	12/1/2016	Contra Costa County
Gatmaitan, Mary Jane O	81928	P5.2	12/1/2016	Contra Costa County
Gillard, Tonika N.	84179	P5.2	12/1/2016	Contra Costa County
Graves, Trinell	84121	P5.2	12/1/2016	Contra Costa County
Greer, Theresa M.	84076	P5.2	12/1/2016	Contra Costa County
Grevenkamp, Scott M	84129	P5.2	12/1/2016	Contra Costa County
Hamilton, Jennifer R.	74708	P5.2	12/1/2016	Contra Costa County
Heinla, Cheryl L.	84075	P5.2	12/1/2016	Contra Costa County
Hills, Jo-Ann	82089	P5.2	12/1/2016	Contra Costa County
Jackson, Lauren M.	84130	P5.2	12/1/2016	Contra Costa County
Jarrar, Aous Z.	84077	P5.2	12/1/2016	Contra Costa County
Jefferson, Larry G.	84132	P5.2	12/1/2016	Contra Costa County
Johnson, Darci J.	84199	P5.2	12/1/2016	Contra Costa County
Jones, Natalie	D3301	P5.3	12/1/2016	Contra Costa Mosquito & Vector Control District
Jones-Herman, Tawana	84175	P5.2	12/1/2016	Contra Costa County
Justice, Lynn M.	77631	P5.2	12/1/2016	Contra Costa County
Kraai, Rachel M.	84162	III	12/1/2016	Contra Costa County
Kram, Justin W.	84017	P5.2	12/1/2016	Contra Costa County
Krasowski, Michelle J	84177	P5.2	12/1/2016	Contra Costa County
Lebrane, Kemoy V.	83760	P5.2	12/1/2016	Contra Costa County
Leiber, Philip R.	D3406	P4.3	12/1/2016	Central Contra Costa Sanitary District
Liang, Pamela	84080	P5.2	12/1/2016	Contra Costa County
Lin, Aung Z.	69904	P5.2	12/1/2016	Contra Costa County
Long, Robert A.	84091	P5.2	12/1/2016	Contra Costa County
Mack, Sabrina M.	D9500	P5.3	12/1/2016	Superior Courts

Key:

I = Tier I	P4.2 = PEPR Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPR Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPR Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPR Tier 5 (3% COLA)	S/E = Safety Tier E

CERTIFICATION OF MEMBERSHIPS

Maqsoudi, Dunyau	75306	P5.2	12/1/2016	Contra Costa County
Marroquin, Shana Y.	84024	P5.2	12/1/2016	Contra Costa County
McCarthy, Ignatius	84191	P5.2	12/1/2016	Contra Costa County
Mendez, Janet C.	84066	P5.2	12/1/2016	Contra Costa County
Middleton, Meranda E.	84184	P5.2	12/1/2016	Contra Costa County
Miramontes, Eleonor A.	84059	P5.2	12/1/2016	Contra Costa County
Mitchell, Jasmine C.	84164	P5.2	12/1/2016	Contra Costa County
Nack, Nissa L.	84176	P5.2	12/1/2016	Contra Costa County
Neal, Rachel A.	84113	P5.2	12/1/2016	Contra Costa County
Nichols, Presious A.	84182	P5.2	12/1/2016	Contra Costa County
Noy, Mariana T.	84119	III	12/1/2016	Contra Costa County
Ojibway, Rhussel J	84157	P5.2	12/1/2016	Contra Costa County
Peebles, Melissa L.	84134	P5.2	12/1/2016	Contra Costa County
Petitt Jr., Randolph C.	D3406	P4.3	12/1/2016	Central Contra Costa Sanitary District
Polee, Darneesha R.	83593	P5.2	12/1/2016	Contra Costa County
Pruitt, Kimberly	65233	III	12/1/2016	Contra Costa County
Quintanilla Henriquez, Roxana N	83153	P5.2	12/1/2016	Contra Costa County
Rafael, Brasilio F.	84090	P5.2	12/1/2016	Contra Costa County
Ramirez, Alma R.	75049	III	12/1/2016	Contra Costa County
Reed, Gina M.	84136	P5.2	12/1/2016	Contra Costa County
Reimer, Loren S.	D3406	P4.3	12/1/2016	Central Contra Costa Sanitary District
Rodriguez Cruz, Jhoanna C.	84158	P5.2	12/1/2016	Contra Costa County
Rodriguez, Mayra B.	84189	P5.2	12/1/2016	Contra Costa County
Roland, Christy	84186	P5.2	12/1/2016	Contra Costa County
Rood, Audrey L.H.	84147	P5.2	12/1/2016	Contra Costa County
Sheetz, Kara S.	84178	P5.2	12/1/2016	Contra Costa County
Shi, Henry H.	84181	P5.2	12/1/2016	Contra Costa County
Sims, Kimberly M.	63282	III	12/1/2016	Contra Costa County
Skinner, Karen L.	37179	P5.2	12/1/2016	Contra Costa County
Smith, Laurianne L.	84074	P5.2	12/1/2016	Contra Costa County
St Julian, Rachel R.	84180	P5.2	12/1/2016	Contra Costa County
Tetteh, Victor K.	84156	P5.2	12/1/2016	Contra Costa County
Vegara, Ma Corazon L.	84173	P5.2	12/1/2016	Contra Costa County
Vu, Uyen	84185	P5.2	12/1/2016	Contra Costa County
Washington, Chipso	81970	P5.2	12/1/2016	Contra Costa County
White, Tiffany M.	83652	PE.2	12/1/2016	Contra Costa County
Whitehead, Meagan R.	84149	P5.2	12/1/2016	Contra Costa County
Wilks, Pamela D.	84183	P5.2	12/1/2016	Contra Costa County
Wong, Peter C.Y.	84102	P5.2	12/1/2016	Contra Costa County
Wright, Taylor A.	D3406	P4.3	12/1/2016	Central Contra Costa Sanitary District
Wright, Tiffany A.	81910	P5.2	12/1/2016	Contra Costa County

Key:

I = Tier I	P4.2 = PEPR Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPR Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPR Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPR Tier 5 (3% COLA)	S/E = Safety Tier E

TIER CHANGES

<i>Name</i>	<i>Employee Number</i>	<i>Old Tier</i>	<i>New Tier</i>	<i>Effective Date</i>	<i>Employer</i>	<i>Reason for Change</i>
Bottorff, Beth	83232	P5.2	III	12/1/2016	Contra Costa County	Reciprocity
Rodwell, Stephen	D7830	P4.3	I	12/1/2016	San Ramon Valley Fire District	Reciprocity

Key:

I = Tier I	P4.2 = PEPR Tier 4 (2% COLA)	S/A = Safety Tier A
II = Tier II	P4.3 = PEPR Tier 4 (3% COLA)	S/C = Safety Tier C
III = Tier III	P5.2 = PEPR Tier 5 (2% COLA)	S/D = Safety Tier D
	P5.3 = PEPR Tier 5 (3% COLA)	S/E = Safety Tier E

Contra Costa County Employees' Retirement Association
Asset Allocation as of December 31, 2016

Meeting Date
02/08/17
Agenda Item
#4e.

Liquidity	Market Value	Percentage of Total Fund	Phase 1 Target Percentage	Phase 1 Over/(Under)	Long Term Target	Long Term Over/(Under)
Insight	823,209,000	10.7%	10.5%	0.2%		
Sit	432,740,000	5.6%	5.9%	-0.3%		
Dimensional Fund Advisors	400,516,000	5.2%	5.9%	-0.7%		
PIMCO Total Return	5,000	0.0%	0.0%	0.0%		
Goldman Sachs	56,000	0.0%	0.0%	0.0%		
Lazard	1,031,000	0.0%	0.0%	0.0%		
Cash	69,553,000	0.9%	1.6%	-0.7%	1.0%	-0.1%
Total Liquidity	1,727,110,000	22.5%	23.9%	-1.4%	25.0%	-2.5%

Range
20% - 28%

Growth

Domestic Equity

Robeco	342,952,000	4.5%	4.2%	0.3%		
Jackson Square	312,432,000	4.1%	4.3%	-0.2%		
Emerald Advisors	251,478,000	3.3%	3.2%	0.1%		
Intech (Core)	292,698,000	3.8%	3.8%	0.0%		
PIMCO Stocks+	350,162,000	4.6%	4.4%	0.2%		
Ceredex	242,747,000	3.2%	3.0%	0.2%		
Total Domestic Equity	1,792,469,000	23.3%	22.9%	0.4%	6.0%	17.3%

Global & International Equity

Pyrford (BMO)	403,823,000	5.3%	5.5%	-0.2%	5.0%	0.3%
William Blair	403,728,000	5.3%	5.5%	-0.2%	5.0%	0.3%
JPMorgan Global Opportunities	127,462,000	1.7%	1.8%	-0.1%		
First Eagle	324,077,000	4.2%	4.3%	-0.1%		
Artisan Global Opportunities	321,213,000	4.2%	4.5%	-0.3%		
Intech (Global Low Volatility)	23,168,000	0.3%	0.3%	0.0%		
Emerging Markets Equity	0	0.0%	0.0%	0.0%	10.0%	-10.0%
Total Global & International Equity	1,603,471,000	20.9%	21.9%	-1.0%	20.0%	0.9%

High Yield (Allianz)

Private Equity	770,217,000	10.0%	8.8%	1.2%	12.0%	-2.0%
Private Credit	161,939,000	2.1%	2.1%	0.0%	16.0%	-13.9%
Real Estate - Value Add	200,940,000	2.6%	4.2%	-1.6%	4.0%	-1.4%
Real Estate - Opportunistic & Distressed	549,482,000	7.2%	4.2%	3.0%	4.0%	3.2%
Real Estate - REIT (Adelante)	65,133,000	0.8%	1.0%	-0.2%	1.0%	-0.2%
Total Growth Assets	5,531,598,000	72.0%	70.2%	1.8%	63.0%	9.0%

Range
60% - 80%

Risk Diversifying

AFL-CIO	236,464,000	3.1%	3.2%	-0.1%	3.0%	0.1%
Diversifying Strategies (Wellington)	187,762,000	2.4%	2.5%	-0.1%	9.0%	-6.6%
Total Risk Diversifying	424,226,000	5.5%	5.7%	-0.2%	12.0%	-6.5%

Range
0% - 10%

Total Fund	7,682,934,000	100%	100%	0%	100%	0%
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*Phase 1 targets and ranges reflect Phase 1 asset allocation targets accepted by the Board on October 26, 2016 (BOR Resolution 2016-3)

**Private Market Investments
As of December 31, 2016**

REAL ESTATE - Value Add

	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Invesco IREF I	10/22/03	04/30/11	3rd 1 YR	GP	4/30/2014	50,000,000	6,532,000	0.09%	
Invesco IREF II	05/30/07	12/31/15				85,000,000	14,861,000	0.19%	
Invesco IREF III	08/01/13	08/01/20				35,000,000	19,281,000	0.25%	20,305,000
Invesco IREF IV	12/01/14	12/01/21				35,000,000	25,170,000	0.33%	11,627,000
Long Wharf FREG III	03/30/07	12/30/15				75,000,000	12,558,000	0.16%	
Long Wharf FREG IV	08/14/13	09/30/21				25,000,000	24,671,000	0.32%	
Long Wharf FREG V	10/31/16	09/30/24				50,000,000	14,234,000	0.19%	35,766,000
LaSalle Income & Growth Fund VI	01/31/12	01/31/19				75,000,000	83,633,000	1.09%	3,946,000
LaSalle Income & Growth Fund VII	10/31/16	09/30/24				75,000,000	0	0.00%	75,000,000
						505,000,000	200,940,000	2.62%	146,644,000

Outstanding Commitments

146,644,000

Total

347,584,000

REAL ESTATE - Opportunistic & Distressed

	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
DLJ Real Estate Capital Partners, L.P. III	06/30/05	06/30/14	1st 2 YR	GP	6/30/2016	75,000,000	41,782,000	0.54%	
DLJ Real Estate Capital Partners, L.P. IV	12/31/07	09/30/16				100,000,000	82,551,000	1.07%	
DLJ Real Estate Capital Partners, L.P. V	07/31/13	12/31/22				75,000,000	45,214,000	0.59%	39,072,000
Oaktree Real Estate Opportunities Fund V	12/15/11	12/31/16				50,000,000	33,370,000	0.43%	
Oaktree Real Estate Opportunities Fund VI	09/30/13	09/30/20				80,000,000	89,579,000	1.17%	5,682,000
Oaktree Real Estate Opportunities Fund VII	02/28/15	02/28/23				65,000,000	6,500,000	0.08%	58,500,000
Siguler Guff Distressed Real Estate Opp. Fund	12/31/11	12/31/16				75,000,000	67,994,000	0.89%	11,993,000
Siguler Guff Distressed Real Estate Opp. Fund II	08/31/13	08/31/20				70,000,000	51,716,000	0.67%	40,988,000
Siguler Guff Distressed Real Estate Opp. II Co-Inv	01/31/16	01/31/23				25,000,000	13,583,000	0.18%	11,417,000
Paulson Real Estate Fund II	11/10/13	11/10/20				20,000,000	21,913,000	0.29%	1,874,000
Angelo Gordon Realty Fund VIII	12/31/11	12/31/18				80,000,000	65,987,000	0.86%	18,145,000
Angelo Gordon Realty Fund IX	10/10/14	10/10/22				65,000,000	29,293,000	0.38%	40,463,000
						780,000,000	549,482,000	7.15%	228,134,000

Outstanding Commitments

228,134,000

Total

777,616,000

PRIVATE CREDIT

	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Torchlight Debt Opportunity Fund II	09/28/06	09/30/16				128,000,000	48,577,000	0.63%	
Torchlight Debt Opportunity Fund III	09/30/08	09/30/16				75,000,000	10,513,000	0.14%	
Torchlight Debt Opportunity Fund IV	08/01/12	08/30/20				60,000,000	61,858,000	0.81%	
Torchlight Debt Opportunity Fund V	12/31/14	09/17/22				75,000,000	22,241,000	0.29%	63,750,000
Angelo Gordon Energy Credit Opportunities	09/10/15	09/10/20				75,000,000	18,750,000	0.24%	56,250,000
						413,000,000	161,939,000	2.11%	120,000,000

Outstanding Commitments

120,000,000

Total

281,939,000

Private Market Investments
As of December 31, 2016

PRIVATE EQUITY	Inception Date	Target Termination	# of Extension	Discretion by GP/LP	New Target Termination	Funding Commitment	Market Value	% of Total Asset	Outstanding Commitment
Adams Street Partners	12/22/95	INDEFINITE				180,000,000	134,633,000	1.75%	86,697,000
Adams Street Secondary II	12/31/08	12/31/20				30,000,000	19,395,000	0.25%	12,637,000
Adams Street Secondary V	10/31/12	10/31/22				40,000,000	20,104,000	0.26%	18,580,000
Adams Street Venture Innovation Fund	03/09/16	03/09/28				75,000,000	0	0.00%	75,000,000
Bay Area Equity Fund	06/14/04	01/15/13	1st 2 YR	LP	1/15/2015	10,000,000	5,554,000	0.07%	
Bay Area Equity Fund II	2/29/09	12/31/17				10,000,000	11,048,000	0.14%	
Carpenter Community BancFund	01/31/08	01/31/16				30,000,000	27,135,000	0.35%	1,479,000
EIF USPF I	11/08/02	11/08/12	3rd 1YR	LP	11/08/15	30,000,000	807,000	0.01%	
EIF USPF II	06/15/05	06/15/15				50,000,000	43,389,000	0.56%	
EIF USPF III	02/28/07	02/28/17				65,000,000	68,010,000	0.89%	
EIF USPF IV	06/28/10	06/28/20				50,000,000	50,085,000	0.65%	
Oaktree Private Investment Fund 2009	02/28/10	01/31/17				40,000,000	18,455,000	0.24%	
Ocean Avenue Fund II	06/11/14	05/31/24				30,000,000	17,885,000	0.23%	14,884,000
Ocean Avenue Fund III	06/11/14	05/31/24				50,000,000	5,000,000	0.07%	45,000,000
Paladin III	11/30/07	12/31/17				25,000,000	25,374,000	0.33%	
Pathway	11/09/98	05/31/21				125,000,000	49,874,000	0.65%	14,643,000
Pathway 2008	12/26/08	12/26/23				30,000,000	24,360,000	0.32%	6,931,000
Pathway 6	05/24/11	05/24/26				40,000,000	30,906,000	0.40%	13,050,000
Pathway 7	02/07/13	02/07/23				70,000,000	35,717,000	0.46%	33,482,000
Pathway 8	11/23/15	11/23/25				50,000,000	8,830,000	0.11%	40,972,000
Siguler Guff CCCERA Opportunities	06/03/14	05/31/25				200,000,000	70,042,000	0.91%	132,748,000
Siguler Guff Secondary Opportunities	12/31/16	12/31/26				50,000,000	8,250,000	0.11%	41,750,000
Real Assets									
Aether III & III Surplus	11/30/13	11/30/20				75,000,000	47,186,000	0.62%	27,869,000
Aether IV	01/01/16	01/01/28				50,000,000	5,957,000	0.08%	44,043,000
ARES EIF V	09/09/15	09/09/25				50,000,000	11,439,000	0.00%	38,561,000
Commonfund Capital Natural Resources IX	06/30/13	06/30/20				50,000,000	27,073,000	0.35%	20,500,000
Wastewater Opportunity Fund	12/31/15	11/30/22				25,000,000	3,708,000	0.05%	21,292,000
						1,545,000,000	770,217,000	9.88%	690,118,000
Outstanding Commitments							690,118,000		
Total							1,460,335,000		

Market value column is the latest ending quarter plus any additional capital calls after the ending quarter.

The Target Termination column is the beginning of liquidation of the fund, however, some funds may be extended for an additional two or three years.



MEMORANDUM

Date: February 8, 2017

To: CCCERA Board of Retirement

From: Wrally Dutkiewicz
Compliance Officer

Subject: Consider and Take Possible Action to Exclude Excess On-Call Pay (D33) Paid to Eleven Retired Hazardous Materials Specialist II (V4VC) From Pension Calculations Pursuant to Government Code 31539
Supplemental Staff Report

Background

At its May 4, 2016 meeting the Board of Retirement considered whether to exclude excess on-call pay (D33) paid to ten retired Hazardous Materials Specialist II (V4VC) from pension calculations pursuant to Government Code Section 31539. No action was taken by the Board of Retirement at the meeting and the matter was continued to a future Board of Retirement meeting. This report is a supplement to the report presented on May 4, 2016.

This review was conducted pursuant to Government Code Section 31539 (a)(2) which states:

“The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of the retirement and the system applied that overstated amount as the basis for calculating the member’s monthly retirement allowance or other benefits under this chapter.”

During the May 4, 2016 Board of Retirement meeting staff presented data illustrating that unusual increases in on-call compensation were observed and was included in the eleven members’ final average salary and that the inclusion of the increased on-call compensation caused the retirement system to calculate pension benefits on an increased basis. In addition, the Board of Retirement received written and verbal responses from retirees and their attorneys, and former Hazardous Materials Department management.

Following the May 4, 2016 meeting staff made additional information requests to the Hazardous Materials Department and Health Services payroll department and received payroll

data for the five years preceding the dates of retirement for each of the members along with clarifying information on the manner in which on-call time and compensatory time were coded and paid.

In consideration of Government Code Section 31539(a)(2) there are two questions that the analysis that was performed was to provide insights into and provide the basis upon which the Board of Retirement would be able to consider:

1. What action did the member take that led to an increase in paid on-call compensation during their final average salary period?
2. Did that action that led to an increase in on-call compensation being paid during their final average salary period lead to an improper increase in the calculation of the members' monthly retirement allowance?

Effect of Unusual Increases in On-Call Compensation

It was observed that the average increase in on-call compensation received by eleven (11) HazMat Specialist II (V4VC) was 56.04% in the final average salary (FAS) periods. The highest increases in on-call pay were 100% and the lowest increase was 26.16%.

The unusual increases in on-call call compensation received by eleven (11) HazMat Specialist II (V4VC) had the following effects:

1. Average FAS increased by 14.84% across the eleven retirees. The highest increase in FAS was 28.65% and the lowest increase in FAS was 5.82%.¹
2. Due to the increase in FAS amounts, the average increase in annual pension amounts was \$10,921. The highest increase in pension amount was \$23,496 and the lowest increase was \$3,792.²
3. Due to the unusual increases in on-call compensation paid to the eleven HazMat Spec II retirees in their FAS period, and insufficient employee and employer contributions having been collected, CCCERA's actuary Segal Consulting has calculated that CCCERA's Unfunded Actuarial Accrued Liability (UAAL) has increased by

¹ Attachment A: Table A Percent Increase of Paid On-Call Compensation in FAS Period Over Pre-FAS Period – Average of Column E

² Attachment A: Table B Increase in Retirement Benefit Due to Increased On-Call Pay – Column B

\$1,841,108³. This increase in UAAL is currently a component of the County's total UAAL which has been amortized over an eighteen year period beginning with the valuation that immediately followed each members' date of retirement. Should the Board of Retirement, through its review and consideration, take action to adjust the members' retirement allowances by excluding excess on-call compensation, an off-setting actuarial credit would be applied which would adjust the UAAL accordingly as of the next valuation date.

Causes of Unusual Increases in On-Call Compensation

There are three observed contributing causes of the unusual increases in on-call compensation in the retired members' final average salary periods:

1. The members directly influenced the payment of on-call time compensation in their final average salary period by electing to have on-call time worked during their final average salary (FAS) periods paid as on-call time, for which, in time periods preceding their FAS period, was elected by the member and coded on their time sheets as non-pensionable compensatory time off. Per the Memorandum of Understandings (MOUs) that were in effect at the time non-pensionable overtime worked by the member was eligible to be received by the member as cash or could be elected to be coded as compensatory time off.⁴ Pay code D33 on-call time was not indicated by the MOUs to be an eligible form of pay to be converted to compensatory time off as only non-pensionable overtime was eligible for the conversion to compensatory time off.

It was observed in the review of timesheets that members' had directed their payroll department to have on-call time coded as compensatory time off. Six of the eleven retired members' timesheets for the five year period preceding their retirement date indicated that the members' had on-call time coded as compensatory time off for much of the time period preceding their retirement dates, with the exception of the pre-FAS and FAS periods. The timesheet documents also showed that direction was both explicitly given to payroll by the members through written direction on the time sheets for the payroll department to code their on-call time as compensatory time off, and by accepted practice as evidenced by the manager or supervisor sign off on the timesheets converting on-call time to compensatory time off.⁵

³ Attachment B: Segal Consulting letter to CCCERA dated July 15, 2016 Exhibit A – Segal Consulting column heading *Increase in CCCERA UAAL – Grand Total*

⁴ Attachment C – Memorandum of Understanding Between Contra Costa County and Public Employees Union, Local One, October 2008 – June 2011 & July 1, 2011 – June 30, 2013

⁵ Attachment F – Sample Timesheet

In the attached charts (Attachment D) the switch to having the on-call time coded as D33 is illustrated by the grey shaded columns (on-call hours) and solid black line (paid on-call hours) to the right side of the charts while the compensatory time coded is indicated by the striped columns to the left of the charts led to the retirement system calculating the retirement allowances of the members on an enhanced basis (See Attachment D Charts: Hanson – Chart 3, Khoo – Chart 6, Loyd – Chart 7, Nicholson Chart – 8, Price – Chart 9, Wedl – Chart 10).

2. The members were able to increase their on-call compensation by their own volition by acquiring additional on-call time in their final average salary periods by volunteering to work additional on-call hours and accepting trades of on-call hours from other members. The Hazardous Materials Department has a mandate from Contra Costa County to administer and deliver Hazardous Materials Programs within the County. However, the annual Hazardous Materials Area Plan, County Salary Regulations, County Personnel Policies, the applicable Memoranda of Understanding (MOU) during the members' FAS period, and the Hazardous Materials Specialist II (V4VC) job description, do not state that the on-call time worked by the members was required duty. The County Salary Regulations under Section 8 – Conditions of Employment – Hours provides the definition of a normal work week as being comprised of forty (40) hours.⁶ On-call time is also defined in the County salary regulations as any period during which the employee is not actually on duty.⁷

It was observed in the review of schedules and time-sheets, and in email⁸ from and to the Hazardous Assistant Director, that the retirees had the ability to trade, swap, and sign up for additional shifts, thus indicating that there was, in practice, a discretionary allocation of on-call time by the Director and Assistant Director, and voluntary election to sign up and work the on-call time by the members. This ability for the members to self-elect and acquire additional on-call during their FAS led to additional on-call compensation being paid upon which the retirement system calculated the members' retirement allowance on an enhanced basis (See Attachment D: Charts Adebiji– Chart 1, Glimme – Chart 2, Hutchin – Chart 4, Jonsson –Chart 5, Yoshioka – Chart 11).

3. Hazardous Materials Department management and supervisors facilitated the increase of paid on-call compensation in the members' final average salary. The Hazardous

⁶ Attachment I: Contra Costa County Salary Regulations Section 8.2(a) Normal Workweek

⁷ Attachment I: Contra Costa County Salary Regulation Section 8.1(a) On-Call Time – Definition and Credit

⁸ Attachment E: Email thread October 4, 2012 from S. Moriaka, Asst. Director to HazMat Spec II staff "*Additional On-Call Time Distribution*"

Materials department Director and Assistant Director did not have a formal written department directive or procedure that had been communicated to Hazardous Materials Specialist II members that governed the administration of and the allocation of on-call time which contributed to the members' ability to acquire additional on-call hours during their final average salary period.

With respect to timesheet approval and the coding of on-call time, management and supervisory approval was evidenced by the approval signatures upon the timesheets generally, and specifically for timesheets that coded on-call time as compensatory time off.

Recommendations:

Based on the review and analysis of the data the following recommendations are made:

1. If the Board were to find that the resulting unusual increases in on-call compensation in the members' final average salary period were attributable to either of the following:
 - a. The members' own direct influence on enhancing their on-call compensation in their final average salary period by changing their election to cease receiving non-pensionable compensatory time and receive payment for D33 on-call time hours; or
 - b. The members' own direct influence on enhancing their on-call compensation in their final average salary period by self-electing to acquire and work additional on-call hours;

Then the Board may consider and take action to direct staff to recalculate and adjust the members' pensions prospectively by excluding the amounts of excess on-call pay indicated for each member in Attachment A, Table A, Column C.

Retiree Name	Retiree Name
Adebiyi, G	Loyd, S
Glimme, E	Nicholson, C
Hanson, S	Price, N
Hutchin, D	Wedl, M
Jonsson, E	Yoshioka, J
Khoo, S	

2. To the extent that any pension overpayment may exist due to the inclusion of the excess on-call compensation included in the members' FAS used in the calculation of the members' pensions, that the Board would direct staff to seek the recoupment of the members' cumulative pension overpayments from the date of retirement plus appropriate interest pursuant to CCCERA's Policy Governing the Overpayment or Underpayment of Member Benefits. (Attachment G)

Attachments:

A	<ul style="list-style-type: none"> • Table A: Percent Increase of Paid On-Call Compensation in FAS Period Over pre-FAS Period • Table B: Increase In Retirement Benefit Due to Increased On-Call Pay
B	Segal Consulting letter to CCCERA dated July 15, 2016
C	<p>Memorandum of Understanding Between Contra Costa County and Public Employees Union, Local One</p> <ul style="list-style-type: none"> • October 1, 2008 – June 30, 2011 • July 1, 2011 – June 30, 2013
D	<p>Charts – Paid On-Call Hours Five Years Preceding Retirement Date</p> <p>Chart 1 – Adebisi, G Chart 2 – Glimme, E Chart 3 – Hanson, S Chart 4 – Hutchin, D Chart 5 – Jonsson, E Chart 6 – Khoo, S Chart 7 – Loyd, S Chart 8 – Nicholson, C Chart 9 – Price, N Chart 10 – Wedle, M Chart 11 – Yoshioka, J</p>
E	Email Thread October 4, 2012 – Additional On-Call Time Distribution
F	Timesheet Example – Direction to Payroll Department to Code On-Call Time As Compensatory Time
G	Policy Governing the Overpayment or Underpayment of Member Benefits
H	Accumulated Overpayment With and Without Interest Tables
I	Contra Costa County Salary Regulation Section 8 – Conditions of Employment – Hours

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February 8, 2017

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Attachment A

Table A: Percent Increase of Paid On-Call Compensation in FAS Period Over pre-FAS Period

		A	B	C	D	E
		On-Call Compensation Paid in 12 Months Preceding the FAS Period	Annual Paid FAS On-call Compensation	Difference In Paid Annual On- Call Compensation in FAS Period Over pre-FAS Period	FAS Annual Total Compensation	Percent Increase In FAS Compensation Attributed to Increased On- Call Pay
Name	Retirement Date					
Nicholson, C	12/1/2011	-	\$36,042.58	\$36,042.58	\$161,854.32	28.65%
Price, N	2/23/2013	\$18,957.99	\$48,432.92	\$29,474.93	\$162,274.56	22.20%
Loyd, S	3/31/2012	\$4,250.82	\$28,948.90	\$24,698.08	\$151,022.16	19.55%
Khoo, S	11/1/2012	\$23,708.17	\$53,494.70	\$29,786.53	\$183,234.36	19.41%
Hanson, S	2/29/2012	\$22,824.71	\$46,597.49	\$23,772.78	\$166,202.52	16.69%
Glimme, E	10/1/2008	-	\$15,601.63	\$15,601.63	\$121,560.72	14.72%
Hutchin, D	10/1/2009	\$16,731.71	\$35,298.77	\$18,567.06	\$152,793.60	13.83%
Yoshioka, J	3/28/2014	\$37,427.00	\$51,734.54	\$14,307.54	\$172,686.24	9.03%
Wedl, M	7/1/2014	\$22,282.07	\$31,505.36	\$9,223.29	\$147,336.48	6.68%
Adebiyi, G	7/19/2007	\$24,053.96	\$32,577.38	\$8,523.42	\$137,615.40	6.60%
Jonsson, E	3/31/2011	\$22,710.94	\$31,509.87	\$8,798.93	\$159,903.36	5.82%

Table B: Increase In Retirement Benefit Due To Increased On-Call Pay:

A B C

Name	Annual Pension Amount As Of Retirement Date	Increase in Annual Retirement Benefit Due to Increased On-Call Pay *	Percentage
			Increase In Pension Amount Due to Excess On- Call
Nicholson, C	\$105,510.60	\$23,496.00	22.27%
Price, N	\$86,643.60	\$15,732.00	18.16%
Loyd, S	\$91,618.08	\$14,988.00	16.36%
Khoo, S	\$126,688.08	\$20,592.00	16.25%
Hanson, S	\$60,100.80	\$8,592.00	14.30%
Glimme, E	\$64,000.44	\$8,088.00	12.64%
Hutchin, D	\$75,228.00	\$8,100.00	10.77%
Yoshioka, J	\$87,783.72	\$7,272.00	8.28%
Wedl, M	\$60,562.32	\$3,792.00	6.26%
Adebiyi, G	\$69,681.36	\$3,888.00	5.58%
Jonsson, E	\$101,701.92	\$5,592.00	5.50%

*Attachment B: Segal Consulting letter to CCCERA dated July 15, 2016 Exhibit A – Segal Consulting column heading Increase in CCCERA UAAL – Grand Total

Attachment B



100 Montgomery Street Suite 500 San Francisco, CA 94104-4308
T 415.263.8200 www.segalco.com

July 15, 2016

Ms. Gail Strohl
Chief Executive Officer
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

**Re: Contra Costa County Employees' Retirement Association
Impact of Unusual Increases in Compensation for
Hazardous Materials Specialist II Retirees**

Dear Gail:

As requested, we are providing our analysis regarding the impact of certain unusual increases in compensation for eleven retirees. The eleven retirees all had County service as a Hazardous Material (HazMat) Specialist II and received on-call pay while working in this job category.

BACKGROUND

We were asked to quantify the impact of the unusual increase in on-call pay at the end of each retiree's respective active career. For purposes of our analysis, we have defined the unusual increase period as the last twelve months prior to retirement and have compared the on-call pay received during this period to the on-call pay received during the twelve months immediately prior. Our results are expressed as the impact of this increase in on-call pay on CCCERA's Unfunded Actuarial Accrued Liability (UAAL).

ANALYSIS

Our calculations are based on data provided by CCCERA that included the on-call pay received during the Final Average Compensation (FAC) period (the one-year period prior to retirement for non-Tier 2) along with the on-call pay received during the prior FAC period for each retiree. Based on this data, we estimated the increase in monthly retirement benefit due to the increase in on-call pay during the last twelve months prior to retirement for each retiree. For those members with Tier 2 service, we calculated the increase in the Tier 2 monthly retirement

benefit by spreading the increase in on-call pay during the last twelve months prior to retirement across the entire Tier 2 FAC period of three years.

We then calculated the Present Value of Future Benefits (PVB) at retirement for the increase in monthly retirement benefit for each retiree. We have based the PVB on the actuarial assumptions used in the December 31 actuarial valuation preceding each member's retirement date.

Next, we estimated the member and employer contributions made on the increase in on-call pay using the member and employer contribution rates that were in effect during the twelve months prior to retirement (when the increase in on-call pay was received). Then we accumulated those contributions to each member's retirement date using the investment return assumption in effect from the December 31 actuarial valuation preceding the member's retirement date.

RESULTS

Exhibit A contains the results of our calculations. The increase in monthly retirement benefits at retirement date for all eleven retirees is about \$10,000 per month.

The increase in CCCERA's UAAL at each member's retirement date is determined by taking the difference between the PVB and the accumulated value of the contributions. The results of this calculation are shown in the last column of Exhibit A. The increase in CCCERA's UAAL due to the unusual increase in on-call pay for all eleven retirees in total is estimated at \$1.8 million. Under CCCERA's funding policy this increase in UAAL will be amortized over 18 years and paid solely by the employers in the cost group (the County in this case).

When a member's compensation increases near retirement due to an increase in on-call pay, the member and employer contributions also increase. However, as is the case in these calculations, the increase in contributions does not cover the PVB associated with the increased monthly retirement benefit. The increase in contributions due to the increase in on-call pay occurs for only a relatively short period of time, but the retirement benefit is increased for every year of service earned by the member. This can be a substantial increase in benefits for those with many years of service and is illustrated by the results shown in Exhibit A.

ASSUMPTIONS

The calculations are based on assumptions previously described in this letter. The participant data used in these calculations was separately provided by CCCERA or was obtained from previous actuarial valuations. These calculations were completed under the supervision of John Monroe, ASA, MAAA, Enrolled Actuary.

Ms. Gail Strohl
July 15, 2016
Page 3

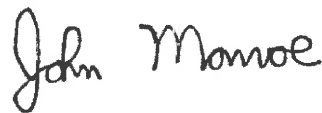
We are members of the American Academy of Actuaries and we meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please feel free to call us with any questions.

Sincerely,



Paul Angelo, FSA, MAAA, FCA, EA
Senior Vice President & Actuary



John Monroe, ASA, MAAA, EA
Vice President & Actuary

/bqb

EXHIBIT A

Name	Retirement Date	Increase in Monthly Final Average Compensation (FAC) Due to Increased On-Call Pay¹	Increase in Monthly Retirement Benefit Due to Increased On-Call Pay	Present Value of Increase in Monthly Retirement Benefit at Retirement Date Due to Increased On-Call Pay (1)	Accumulated Member and Employer Contribution at Retirement Date Due to Increased On-Call Pay (2)	Increase in CCCERA UAAL at Retirement Date (3) = (1) – (2)
Nicholson, C.	12/01/2011	\$3,004	\$1,958	\$362,883	\$23,179	\$339,704
Yoshioka, J.	03/28/2014	1,192	606	116,686	12,448	104,238
Adebiyi, G.	07/19/2007	710	324	59,246	5,960	53,286
Jonsson, E.	03/31/2011	733	466	91,115	5,122	85,993
Hutchin, D.	10/01/2009	1,547	675	119,732	11,286	108,446
Khoo, S.	11/01/2012	2,482	1,716	360,308	21,874	338,434
Lloyd, S.	03/31/2012	2,058	1,249	254,028	16,975	237,053
Hanson, S.	02/29/2012	1,981	716	138,188	16,324	121,864
Wedl, M.	07/01/2014	769	316	70,428	7,634	62,794
Price, N.	02/23/2013	2,456	1,311	305,436	22,977	282,459
Glimme, E.	10/01/2008	1,300	674	116,952	10,115	106,837
		Grand Total:	\$10,011	\$1,995,002	\$153,894	\$1,841,108

¹ Information shown is for non-Tier 2 only. Three members (Adebiyi, Hutchin, Glimme) also had an increase in their monthly Tier 2 FAC as a result of increased on-call pay during the last twelve months prior to retirement. This increase has been reflected in the increased monthly benefit shown in the table above.

Attachment C

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
PUBLIC EMPLOYEES UNION, LOCAL ONE

OCTOBER 1, 2008 – JUNE 30, 2011

SECTION 7 - OVERTIME AND COMPENSATORY TIME

The result is a workweek that is a fixed and regularly recurring period of seven (7) consecutive twenty-four (24) hour periods (168 hours).

- H. **Workweek for Twenty-Four Hour (24) Facility Employees:** For employees who work in a twenty-four (24) hour facility in the Health Services Department and who are not on a 9/80 work schedule, the workweek begins at 12:01 a.m. Sunday and ends at 12:00 midnight on Saturday.

6.2- 4/10 Shifts If the County wants to eliminate any existing 4/10 shift and substitute a 5/8 shift or to institute a 4/10 shift which does not allow for three (3) consecutive days off (excluding overtime days or a change of shift assignment), or change existing work schedules or existing hours of work, it will meet and confer with the Union prior to implementing said new shift or hours change. This obligation does not apply where there is an existing system for reassigning employees to different shifts or different starting/stopping times. Nothing herein prohibits affected employees and their supervisor from mutually agreeing on a change in existing hours of work provided other employees are not adversely impacted.

SECTION 7 - OVERTIME AND COMPENSATORY TIME

Effective October 1, 2008 – February 28, 2010.

7.1 Overtime. Overtime is any authorized work performed in excess of forty (40) hours per week or eight (8) hours per day. Overtime for 4/10 shift employees is any work performed beyond ten (10) hours per day or forty (40) hours per week. All overtime shall be compensated for at the rate of one and one-half (1-1/2)

SECTION 7 - OVERTIME AND COMPENSATORY TIME

times the employee's base rate of pay (not including shift and other special differentials).

Overtime for permanent employees is earned and credited in a minimum of one-tenth hour increments and is compensated by either pay or compensatory time off.

7.2 Compensatory Time. The following provisions shall apply:

- A. Employees may periodically elect to accrue compensatory time off in lieu of overtime pay. Eligible employees must notify their Department Head or his or her designee of their intention to accrue compensatory time off or to receive overtime pay at least thirty (30) days in advance of the change.
- B. The names of those employees electing to accrue compensatory time off shall be placed on a list maintained by the Department. Employees who become eligible (i.e., newly hired employees, employees promoting, demoting, etc.) for compensatory time off in accordance with these guidelines must elect to accrue compensatory time or they will be paid for authorized overtime hours worked.
- C. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.
- D. Employees may not accrue a compensatory time off balance that exceeds one hundred twenty (120) hours (i.e., eighty (80) hours at time and one-half). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.

SECTION 7 - OVERTIME AND COMPENSATORY TIME

- E. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in d above, accrued compensatory time off balances may not exceed one hundred twenty (120) hours.
- F. The use of accrued compensatory time off shall be by mutual agreement between the Department Head or his/her designee and the employee. Compensatory time off shall not be taken when the employee should be replaced by another employee who would be eligible to receive, for time worked, either overtime payment or compensatory time accruals as provided for in this Section. This provision may be waived at the discretion of the Department Head or his or her designee.
- G. When an employee promotes, demotes or transfers from one classification eligible for compensatory time off to another classification eligible for compensatory time off within the same department, the employee's accrued compensatory time off balance will be carried forward with the employee.
- H. Compensatory time accrual balances will be paid off when an employee moves from one department to another through promotion, demotion or transfer. Said payoff will be made in accordance with the provisions and salary of the class from which the employee is promoting, demoting or transferring as set forth in i below.
- I. Since employees accrue compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime worked, they shall be paid their accrued hours of compensatory time at the straight time rate of pay whenever:

SECTION 7 - OVERTIME AND COMPENSATORY TIME

1. The employee changes status and is no longer eligible for compensatory time off.
 2. The employee promotes, demotes or transfer to another department.
 3. The employee separates from County service.
 4. The employee retires.
- J. The Office of the County Auditor-Controller will establish timekeeping procedures to administer this Section.

SECTION 7 - OVERTIME AND COMPENSATORY TIME

Effective March 1, 2010.

7.1 Overtime. Overtime is any authorized work performed in excess of forty (40) hours per week or eight (8) hours per day. Overtime for 4/10 shift employees is any work performed beyond ten (10) hours per day or forty (40) hours per week. All overtime shall be compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay (not including shift and other special differentials).

Overtime for permanent employees is earned and credited in a minimum of one-tenth hour increments and is compensated by either pay or compensatory time off.

7.2 Compensatory Time. The following provisions shall apply:

- A. Employees may periodically elect to accrue compensatory time off in lieu of overtime pay. Eligible employees must notify their Department Head or his or her designee of their intention to accrue compensatory time off or to receive

SECTION 7 - OVERTIME AND COMPENSATORY TIME

overtime pay at least thirty (30) days in advance of the change.

- B. The names of those employees electing to accrue compensatory time off shall be placed on a list maintained by the Department. Employees who become eligible (i.e., newly hired employees, employees promoting, demoting, etc.) for compensatory time off in accordance with these guidelines must elect to accrue compensatory time or they will be paid for authorized overtime hours worked.
- C. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.
- D. Employees may not accrue a compensatory time off balance that exceeds one hundred twenty (120) hours (i.e., eighty (80) hours at time and one-half). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.
- E. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in d above, accrued compensatory time off balances may not exceed one hundred twenty (120) hours.
- F. The use of accrued compensatory time off shall be by mutual agreement between the Department Head or his/her designee and the employee. Compensatory time off shall not be taken when the employee should be replaced by another employee who would be eligible to receive, for time worked, either overtime payment or compensatory time accruals as provided for in this Section. This provision

SECTION 7 - OVERTIME AND COMPENSATORY TIME

may be waived at the discretion of the Department Head or his or her designee.

- G. When an employee promotes, demotes or transfers from one classification eligible for compensatory time off to another classification eligible for compensatory time off within the same department, the employee's accrued compensatory time off balance will be carried forward with the employee.
- H. Compensatory time accrual balances will be paid off when an employee moves from one department to another through promotion, demotion or transfer. Said payoff will be made in accordance with the provisions and salary of the class from which the employee is promoting, demoting or transferring as set forth in i below.
- I. Since employees accrue compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime worked, they shall be paid their accrued hours of compensatory time at the straight time rate of pay whenever:
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 - 2. The employee promotes, demotes or transfer to another department.
 - 3. The employee separates from County service.
 - 4. The employee retires.
- J. The Office of the County Auditor-Controller will establish timekeeping procedures to administer this Section.

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
PUBLIC EMPLOYEES UNION, LOCAL ONE



JULY 1, 2011 – JUNE 30, 2013

SECTION 7 - OVERTIME AND COMPENSATORY TIME

a change in existing hours of work provided other employees are not adversely impacted.

SECTION 7 - OVERTIME AND COMPENSATORY TIME

7.1 Overtime. Overtime is any authorized work performed in excess of forty (40) hours per week or eight (8) hours per day. Overtime for 4/10 shift employees is any work performed beyond ten (10) hours per day or forty (40) hours per week. All overtime shall be compensated for at the rate of one and one-half (1-1/2) times the employee's base rate of pay (not including shift and other special differentials).

Overtime for permanent employees is earned and credited in a minimum of one-tenth hour increments and is compensated by either pay or compensatory time off.

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- B. The names of those employees electing to accrue compensatory time off shall be placed on a list maintained by the Department. Employees who become eligible (i.e., newly hired employees, employees promoting, demoting, etc.) for compensatory time off in accordance with these guidelines must elect to accrue compensatory time or they will be paid for authorized overtime hours worked.

SECTION 7 - OVERTIME AND COMPENSATORY TIME

- C. Compensatory time off shall be accrued at the rate of one and one-half (1-1/2) times the actual authorized overtime hours worked by the employee.
- D. Employees may not accrue a compensatory time off balance that exceeds one hundred twenty (120) hours (i.e., eighty (80) hours at time and one-half). Once the maximum balance has been attained, authorized overtime hours will be paid at the overtime rate. If the employee's balance falls below one hundred twenty (120) hours, the employee shall again accrue compensatory time off for authorized overtime hours worked until the employee's balance again reaches one hundred twenty (120) hours.
- E. Accrued compensatory time off shall be carried over for use in the next fiscal year; however, as provided in D above, accrued compensatory time off balances may not exceed one hundred twenty (120) hours.
- F. The use of accrued compensatory time off shall be by mutual agreement between the Department Head or his/her designee and the employee. Compensatory time off shall not be taken when the employee should be replaced by another employee who would be eligible to receive, for time worked, either overtime payment or compensatory time accruals as provided for in this Section. This provision may be waived at the discretion of the Department Head or his or her designee.
- G. When an employee promotes, demotes or transfers from one classification eligible for compensatory time off to another classification eligible for compensatory time off within the same department, the employee's accrued compensatory time off balance will be carried forward with the employee.

-
- H. Compensatory time accrual balances will be paid off when an employee moves from one department to another through promotion, demotion or transfer. Said payoff will be made in accordance with the provisions and salary of the class from which the employee is promoting, demoting or transferring as set forth in i below.

 - I. Since employees accrue compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of authorized overtime worked, they shall be paid their accrued hours of compensatory time at the straight time rate of pay whenever:
 - 1. The employee changes status and is no longer eligible for compensatory time off.
 - 2. The employee promotes, demotes or transfer to another department.
 - 3. The employee separates from County service.
 - 4. The employee retires.

 - J. The Office of the County Auditor-Controller will establish timekeeping procedures to administer this Section.

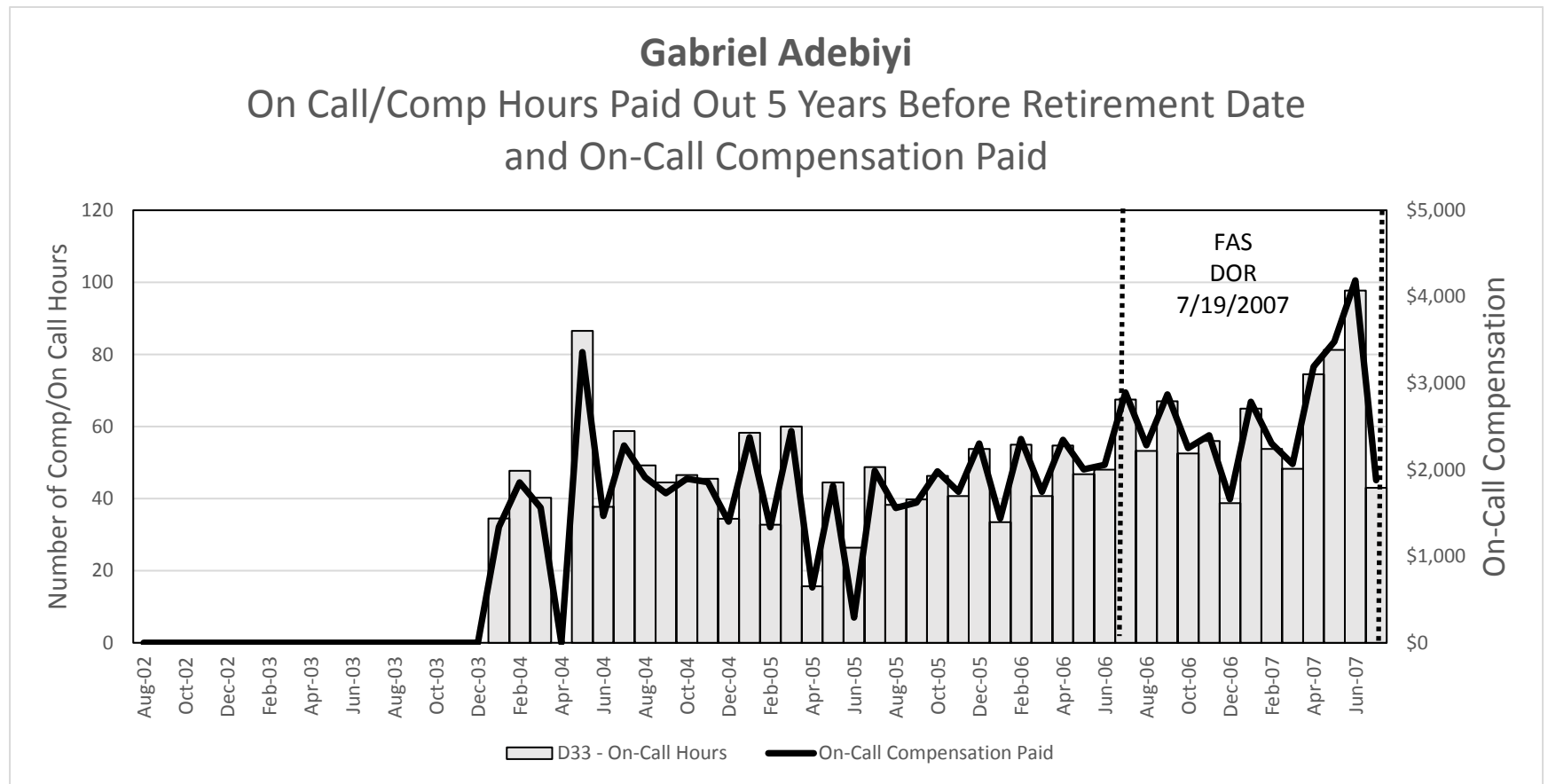
SECTION 8 - CALL BACK TIME

Any employee who is called back to duty shall be paid at the appropriate rate for the actual time worked plus one (1) hour. Such employee called back shall be paid a minimum of two (2) hours at the appropriate rate for each call back.

Attachment D

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 1:

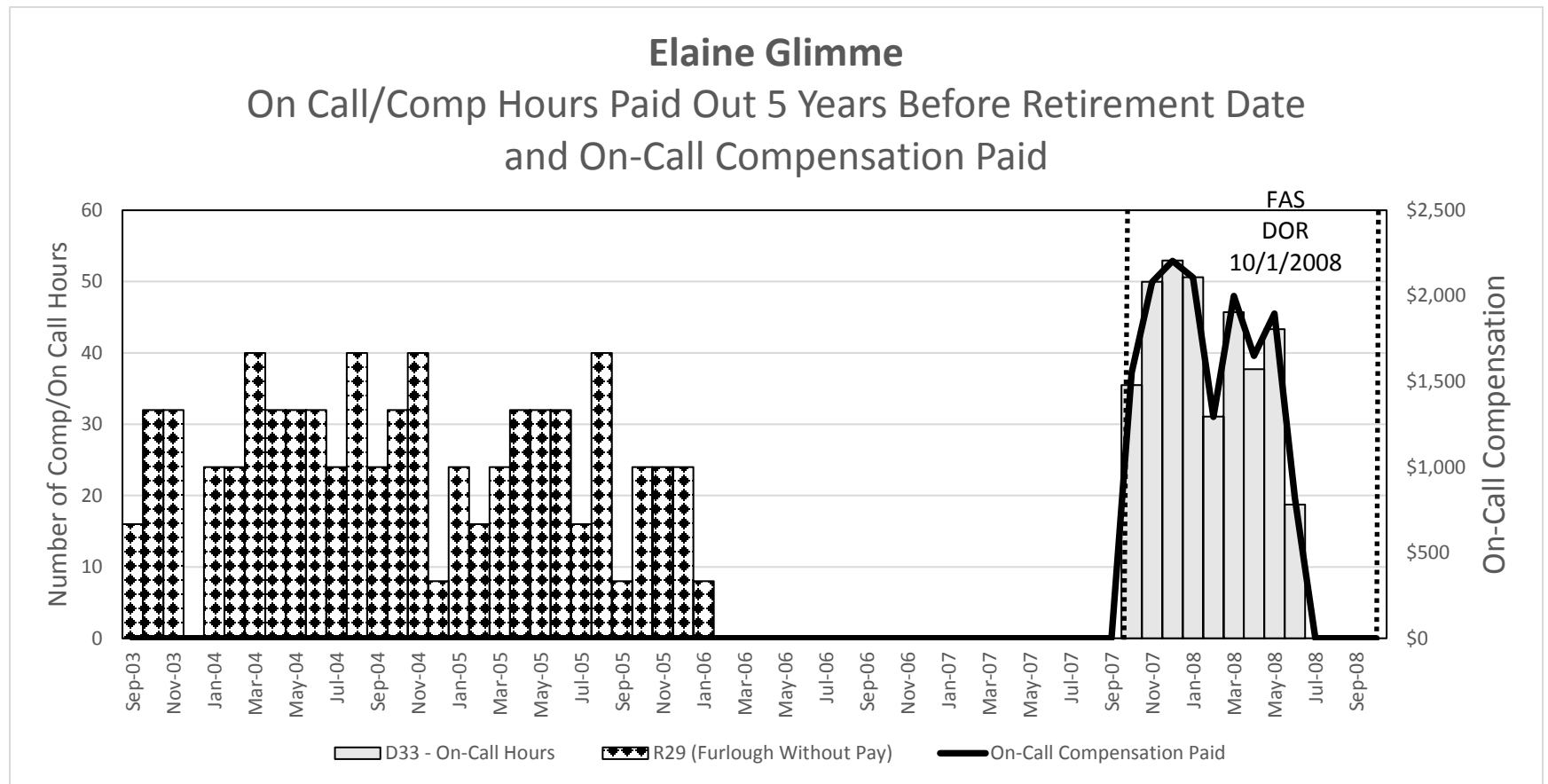


\$32,577 On-Call Pay In FAS
 \$8,523 Additional On-Call Pay In FAS over pre-FAS
 35.43% Increase Over Pre-FAS

Total FAS \$137,615
 6.6% Increase in FAS Due to Additional On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 2:

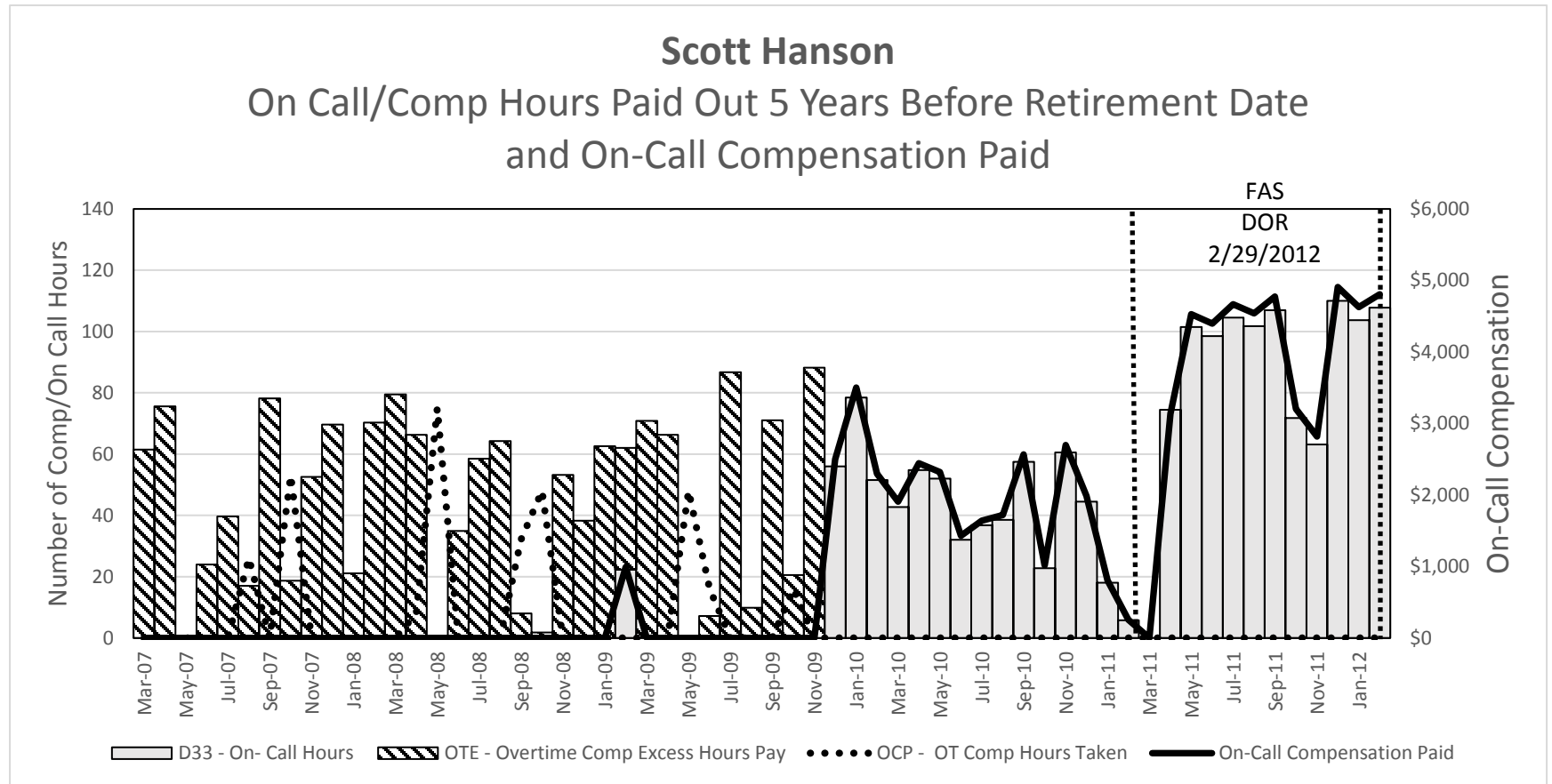


\$15,601 On-Call Pay In FAS
 \$15,601 Additional On-Call Pay In FAS over pre-FAS

Total FAS \$121,560
 14.72% Increase in FAS Due to Additional On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 3 :



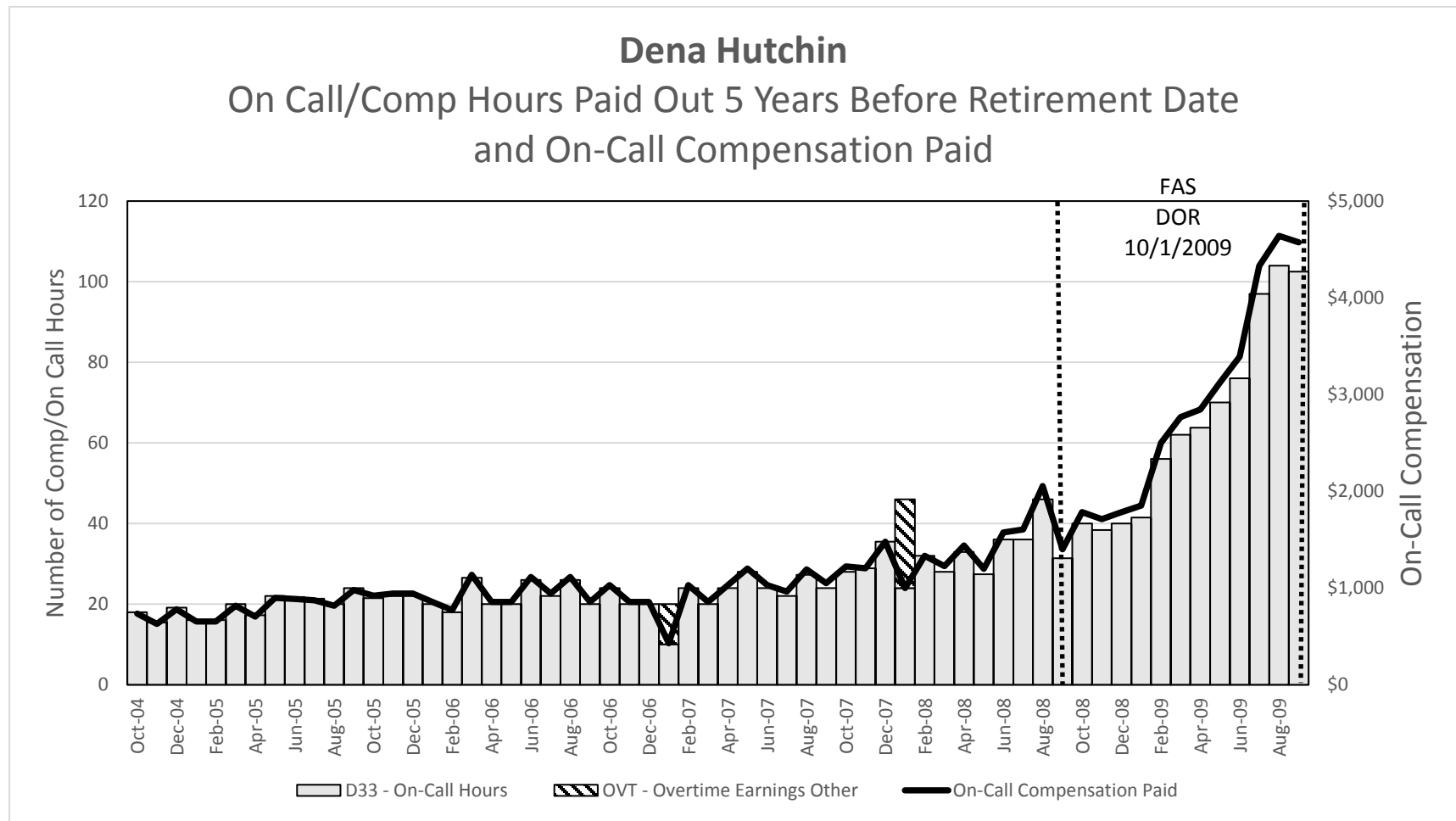
- Switch from Comp Time coding to On-Call Time coding 27 months prior to retirement date.

\$46,597 On-Call Pay In FAS
 \$23,772 Additional On-Call Pay In FAS over pre-FAS
 104.15% Increase Over Pre-FAS

Total FAS \$166,202
 16.69% Increase in FAS Due to Additional On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 4:

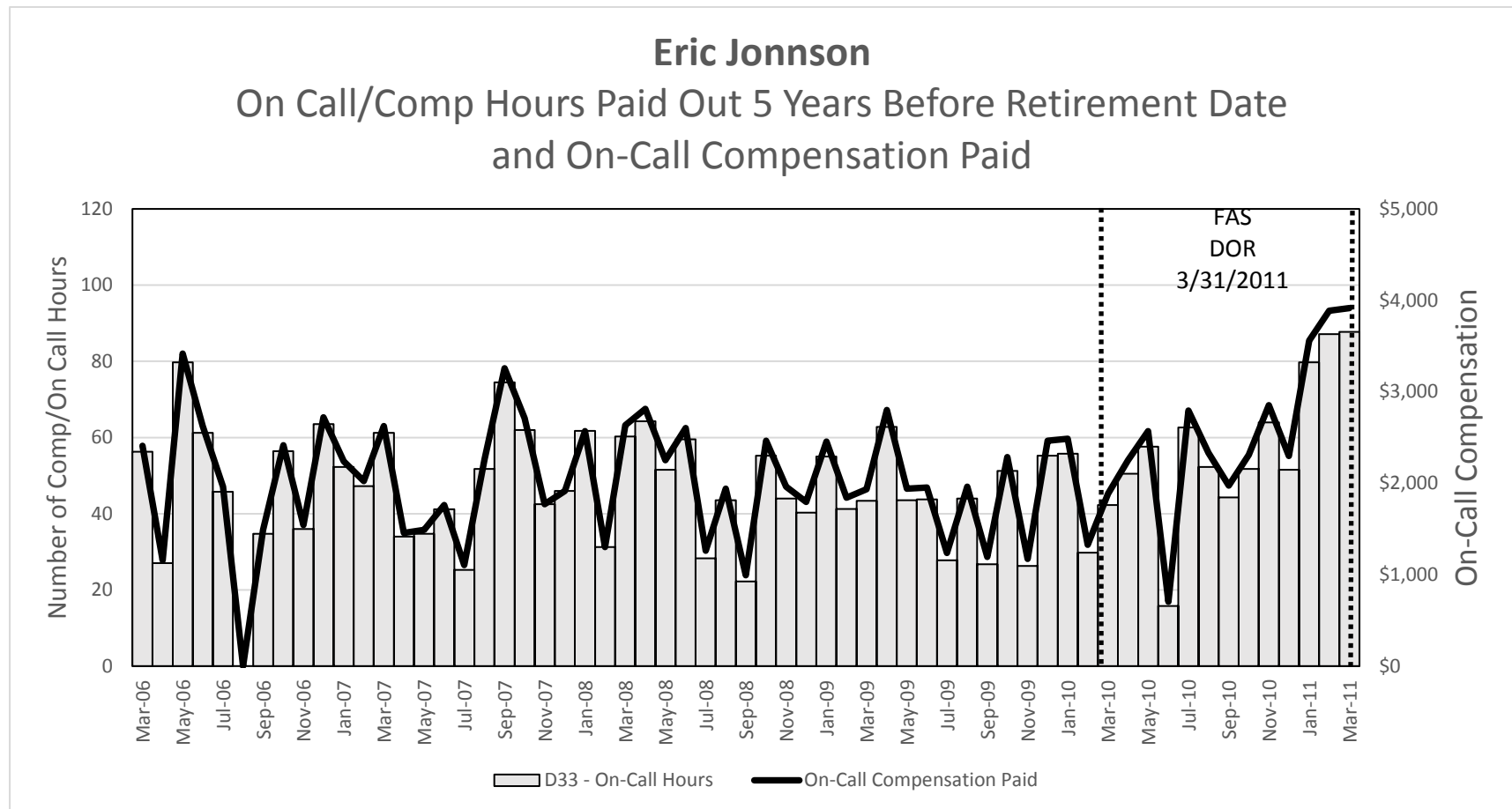


\$35,298 On-Call Pay In FAS
 \$18,567 Additional On-Call Pay In FAS over pre-FAS
 110.97% Increase Over Pre-FAS

Total FAS 13.83% Increase
 \$152,793 in FAS Due to
 Additional
 On-Call Pay

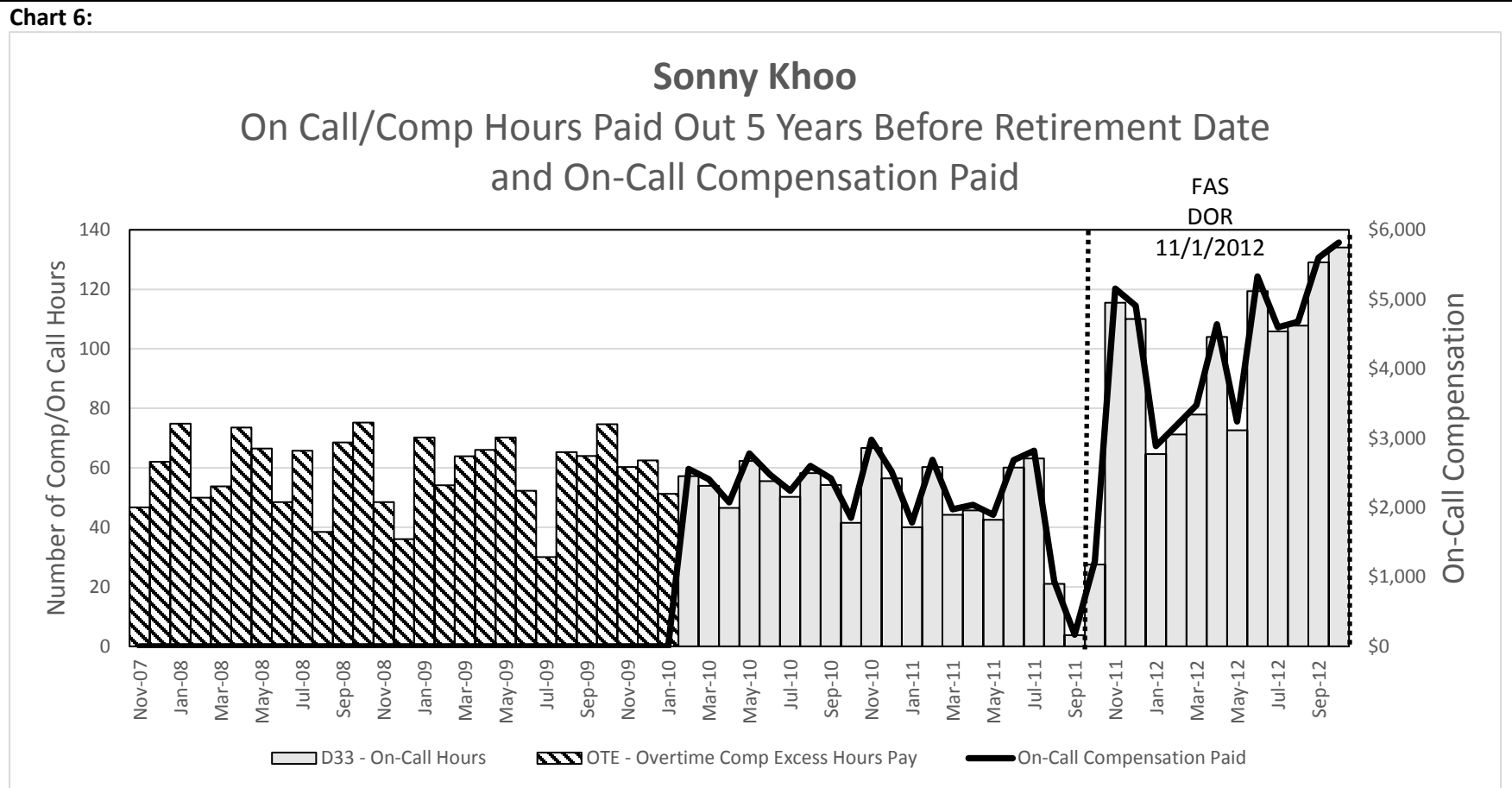
Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 5:



\$31,509 On-Call Pay In FAS
 \$8,798 Additional On-Call Pay In FAS over pre-FAS
 38.74% Increase Over Pre-FAS

Total FAS 5.82% Increase
 \$159,903 in FAS Due to
 Additional
 On-Call Pay

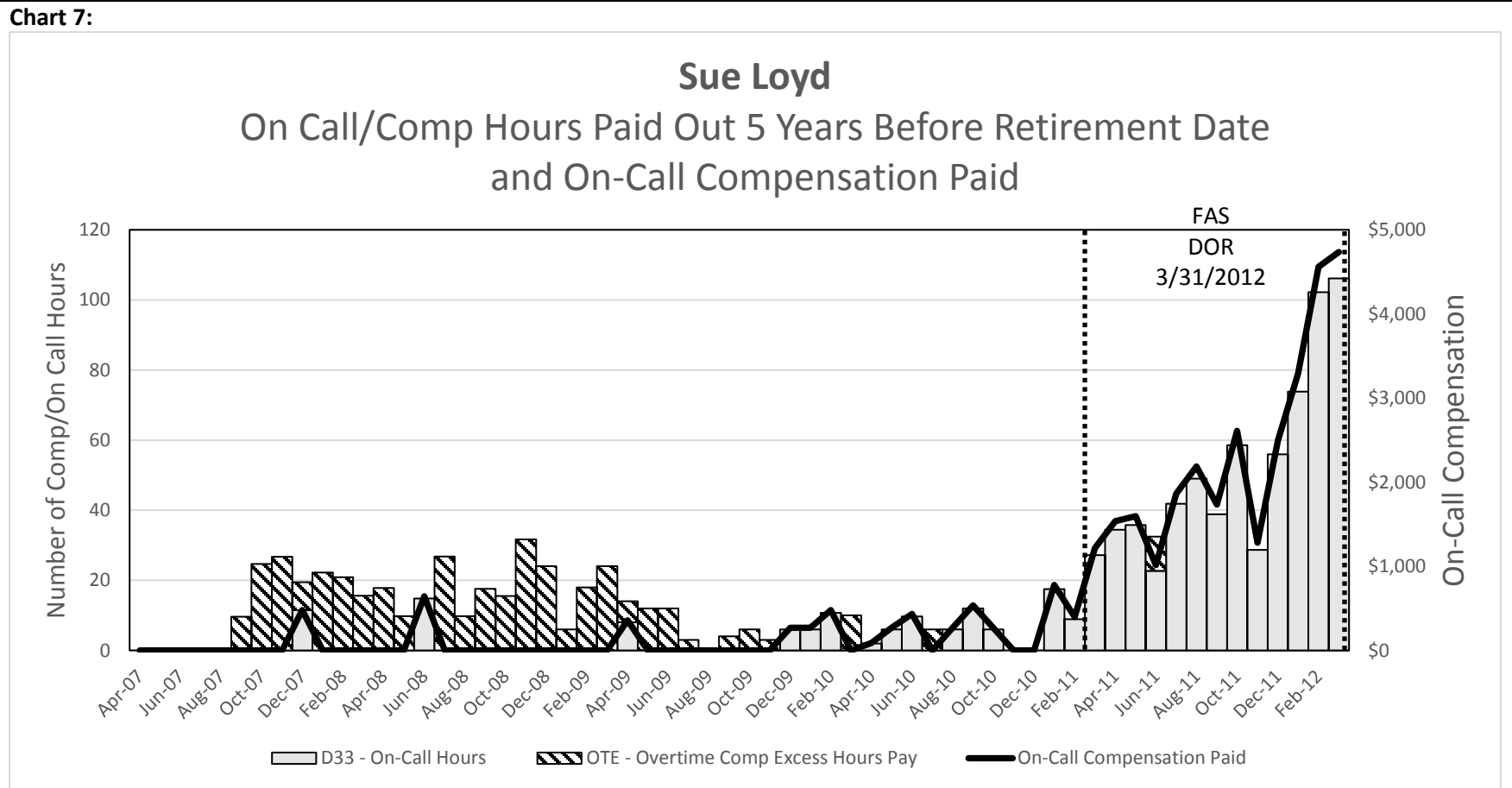


- Switch from Comp Time coding to On-Call Time coding 33 months prior to retirement date.

\$53,494 On-Call Pay In FAS
 \$29,786 Additional On-Call Pay In FAS over pre-FAS
 125.64% Increase Over Pre-FAS

Total FAS 19.41% Increase
 \$183,234 in FAS Due to
 Additional
 On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

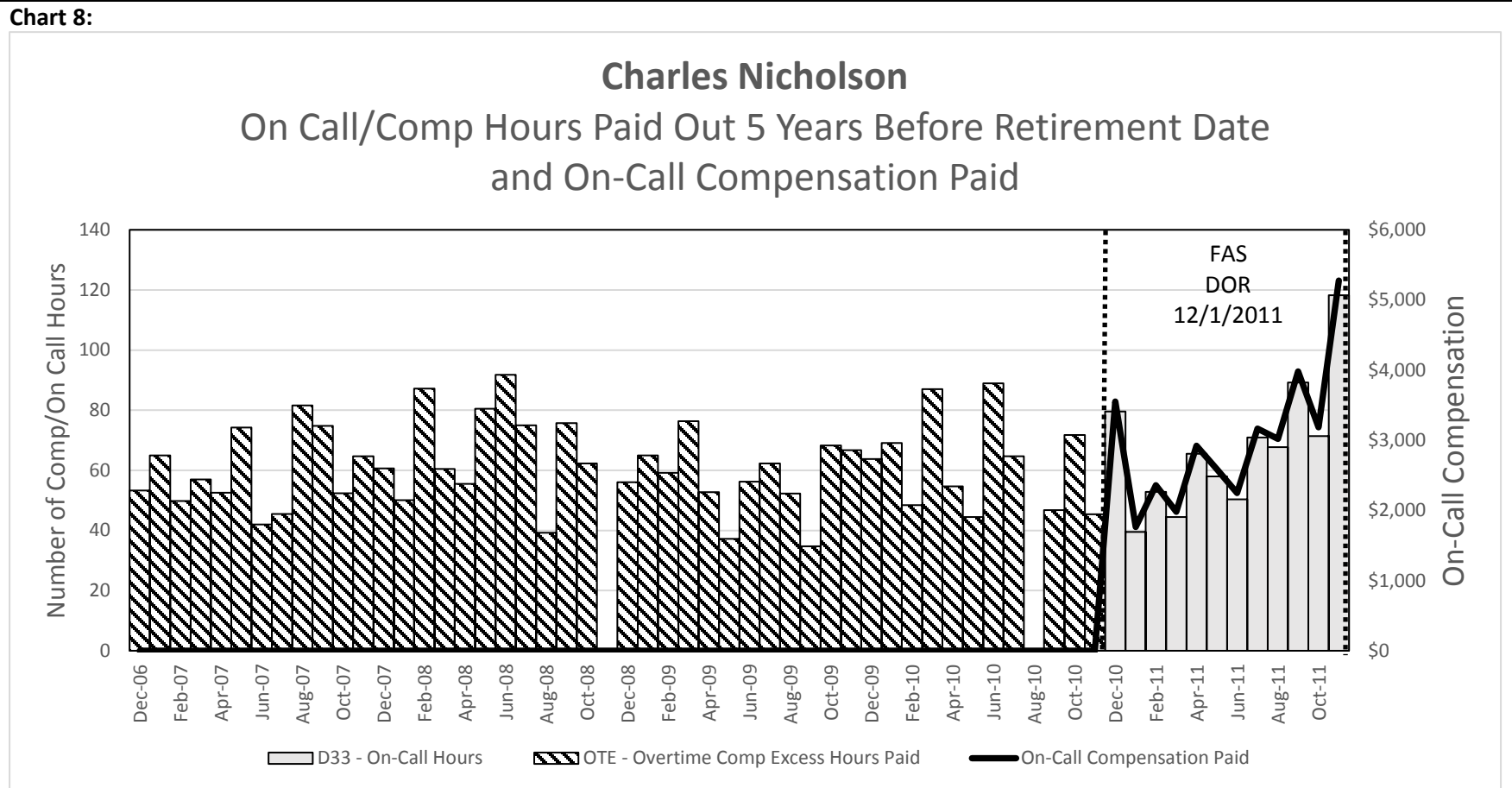


- Switch from Comp Time coding to On-Call Time coding 28 months prior to retirement date.

\$28,948 On-Call Pay In FAS
 \$24,698 Additional On-Call Pay In FAS over pre-FAS
 581.02% Increase Over Pre-FAS

Total FAS \$151,022
 19.55% Increase in FAS Due to Additional On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:



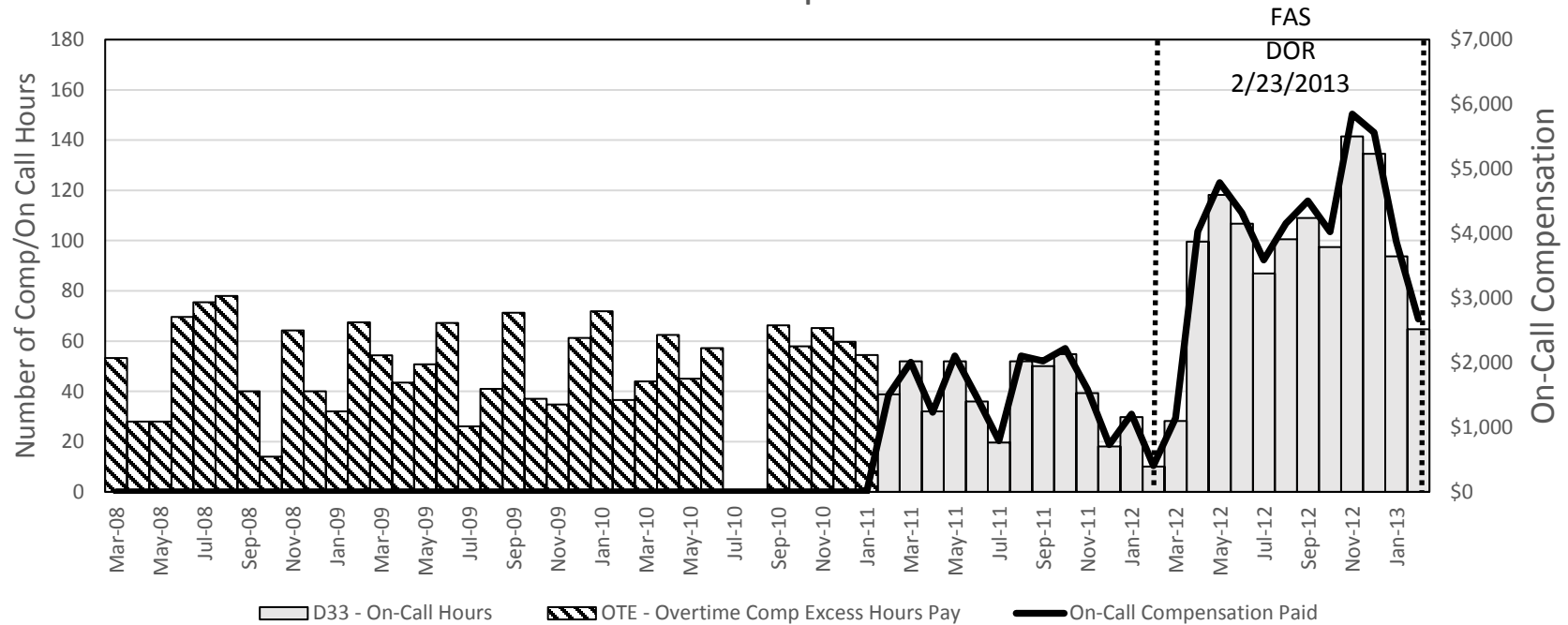
- Switch from Comp Time coding to On-Call Time coding 12 months prior to retirement date.

\$36,042 On-Call Pay In FAS
 \$36,042 Additional On-Call Pay In FAS over pre-FAS

Total FAS 28.65% Increase
 \$161,854 in FAS Due to
 Additional
 On-Call Pay

Chart 9:

Neal Price On Call/Comp Hours Paid Out 5 Years Before Retirement Date and On-Call Compensation Paid



- Switch from Comp Time coding to On-Call Time coding 25 months prior to retirement date.
 \$48,432 On-Call Pay In FAS
 \$29,474 Additional On-Call Pay In FAS over pre-FAS
 155.47% Increase Over Pre-FAS

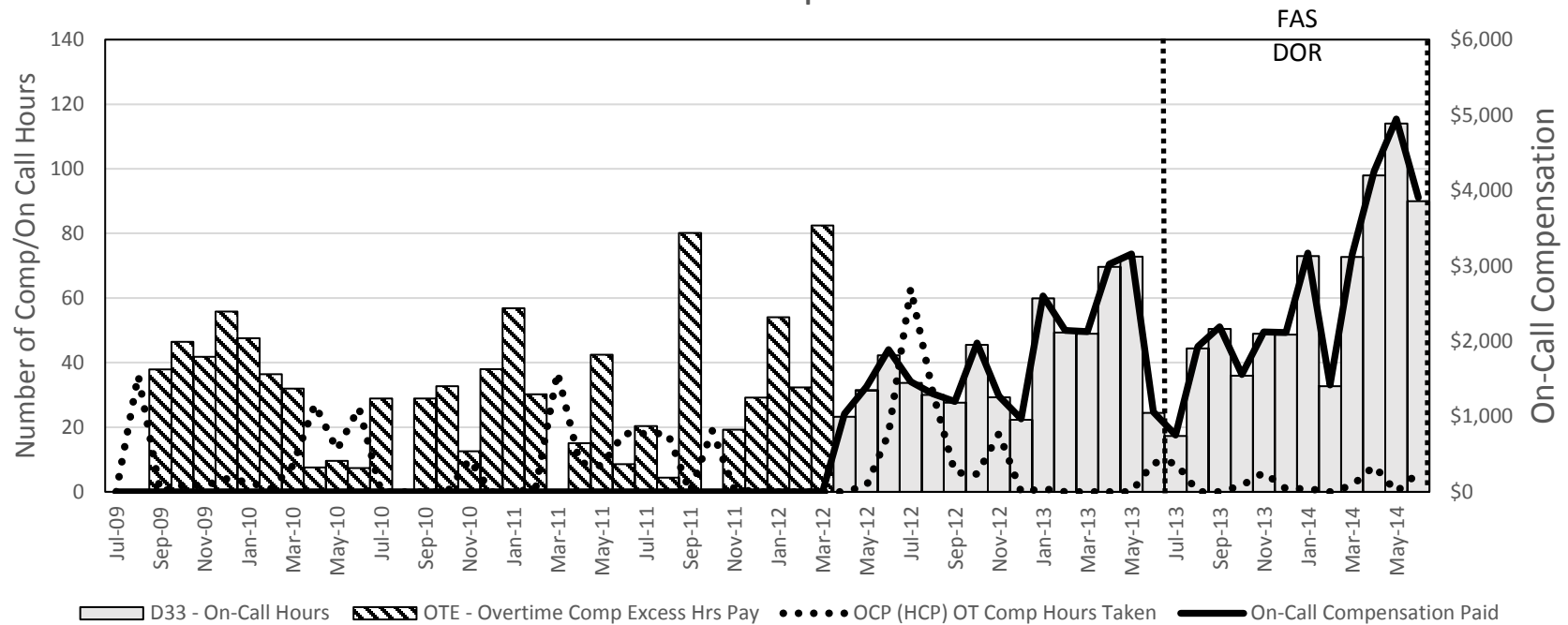
Total FAS 22.20% Increase
 \$162,274 in FAS Due to
 Additional
 On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 10:

Michael Wedl

On Call/Comp Hours Paid Out 5 Years Before Retirement Date and On-Call Compensation Paid



- Switch from Comp Time coding to On-Call Time coding 22 months prior to retirement date.

\$31,505 On-Call Pay In FAS
 \$9,223 Additional On-Call Pay In FAS over pre-FAS
 41.39% Increase Over Pre-FAS

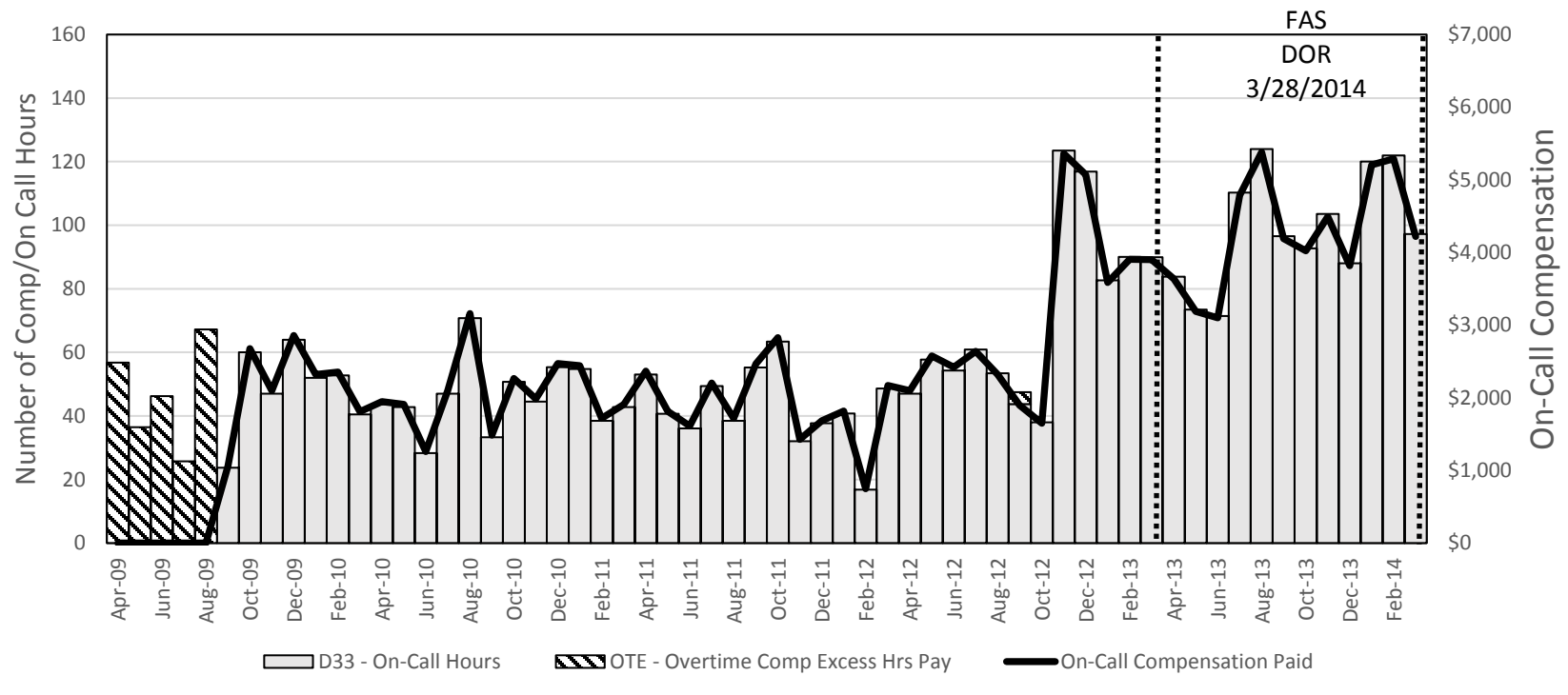
Total FAS \$147,336
 6.68% Increase in FAS Due to Additional On-Call Pay

Attachment D – Paid On-Call Hours Five Years Preceding Retirement Date:

Chart 11:

Jerry Yoshioka

On Call/Comp Hours Paid Out 5 Years Before Retirement Date and On-Call Compensation Paid




\$51,734 On-Call Pay In FAS
 \$14,307 Additional On-Call Pay In FAS over pre-FAS
 38.23% Increase Over Pre-FAS

Total FAS \$172,686
 9.03% Increase in FAS Due to Additional On-Call Pay

Attachment E

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/04/2012 05:12 PM
Subject: Re: Additional On-Call Time Distribution


sign me up 
Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.


Steve Morioka

----- Original Message -----

From: Steve Morioka
Sent: 10/04/2012 04:12 PM PDT
To: Adam Springer; Devra Lewis; Greg Lawler; Jerry Yoshioka; Lacey Friedman; Maria Duazo; Matt Kaufmann; Matt Slafkosky; Melissa Hagen; Michael Wedl; Neal Price; Paul Andrews; Sonny Khoo; Tod Hickman; Trisha Asuncion
Cc: randall.sawyer@hds.cccounty.us; Alexandra McMullen
Subject: Additional On-Call Time Distribution

A few weeks ago I asked staff if they wanted to be included on the list for additional on-call time. Those on the list were rotated through the vacant spots on the Jan - June 2012 IR schedule. 

With Jake leaving us next week, his time will be distributed among staff. If you would like to remain on the list for this additional time, please let me know by next Wednesday (10/10). This list will be updated at the beginning of next year.

 During this morning's IR meeting I was reminded of the process for handling available on-call time. Put simply, on-call time can be traded at any time; however, on-call time that is scheduled after the staff member leaves their position cannot be given away. Jake's on-call time will be distributed next Thursday.

Please let me know if you have questions.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat

Attachment F

CONTRA COSTA HEALTH SERVICES - PAYROLL TIME SHEET

Location Code
HZMT38

CHFC Code PERM Emp. Type FULL Pos. Hrs. 40.00 Period Ending Date 02/15/2010
 FWS Comp 0.00 Pers Hol. Bal. (P) 35.00 O.T. Comp. 120.00 Admin Leave 0.00 PTO Hrs. 0.00

SUMMARY

Week 1st half 2nd half	REGULAR HOURS						O.T. HOURS				NONWORK HOURS					DISTRIBUTION SECTION			
	(1) ORG. #	(2) IN	(3) OUT	(4) DAY	(5) PM	(6) NIGHT	(7) O.T.	(8) S.T O.T.	(9) On Call 1:4	(10) Call Worked	(11) VAC.	(12) Sick Time	(13) HOL. ACC.	(14) OTHER PAID TIME OFF Description	(15) Hours	(16) AWOP/ AWOL	ORG #	HOURS WORKED	OT Hrs
16		7:00	5:30	10:00				1:45	5:05 OCR								5875	32:45	1:45
17		7:00	5:30	10:00				2:28	4:55 + 1:00	2:00 202-01							5875	31:05	2:28
18		7:00	5:30	10:00				1:45											
19		4/10	OFF	-															
20		7:00	5:30	10:00				1:45											
21		WEEKEND	-					6:00											
22		WEEKEND	-					6:00											
23		7:00	5:30	10:00				3:30											
24		7:00	5:30	10:00				1:45											
25		7:00	5:30	10:00				1:45											
26		4/10	OFF	-				2:00											
27		Furlough	-							2:00 VAC			ATA		3:00 ATA				
28		WEEKEND	-																
29		WEEKEND	-																
30		HOLIDAY	-					2:52	4:00	5:30	HCR		2:00 VAC		2:30				
31													PRES. DAY		3:00 Tol				
Column als	INDICATE TOTAL COLUMNS 4 THRU 16 HERE								32:43:45	5:05	4:00			16:00					

IMPORTANT: EMPLOYEES ARE RESPONSIBLE FOR SUBMITTING TIMESHEET CORRECTION FORMS FOR ANY CHANGES TO TIMESHEET AFTER SUBMISSION

DAYS OFF/ROTATION NO.	HAZARD HOURS	STAT HOURS	COST CENTER	%
			5878	20.0
			5877	30.0
		2-10-10	5876	30.0
		2-11-10	5875	20.0

For Payroll Use Only
 R-90
 Hazardous Materials
 335-3200
 E

HEALTH SERVICES DEPARTMENT — TIME SHEET CORRECTIONS

Employee #: [REDACTED] Name: [REDACTED]
 Pay Period Ending: 2-15-2010 Location Code/Mail Drop I.D.: [REDACTED]
 Emp Type: CHECK ONE: Perm PI _____ TEMP _____ (please fill in your code)
 Class Code: V4VC Contact Phone Number: [REDACTED]

DATE	ORG #	IN INDICATE AM or PM or MILITARY TIME	OUT INDICATE AM or PM or MILITARY TIME	HOURS ACTUALLY WORKED	OVERTIME ST / OT	NON WORK HOURS	**EXPLANATION - PAY TYPE
2-15-10	5875	19:30	24:00	4:30 + 1:00			IR 100215-01
							Note to Payroll: Please put
							these hours in my
							"Hol. Comp." acct.

**List accruals to use (Vac, Sick, Personal Holiday, Comp Time, etc.) or write AWOP in this column.

Supervisor Approval:  Date: 2.22.10
 (supervisor's signature)

Please submit to Payroll at the end of pay period with all changes for that period listed on one form.

PAY1-0 (2/8/05)

WHITE - PAYROLL / CANARY - DEPT.

Attachment G

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

**POLICY GOVERNING THE OVERPAYMENT OR UNDERPAYMENT
OF MEMBER BENEFITS**

Adopted: 12/10/2014

I. INTRODUCTION

The Board of Retirement ("Board") has a fiduciary obligation to the retirement fund to conserve fund assets and protect the integrity of the fund, for the benefit of the members and beneficiaries ("Members") of the Contra Costa County Employees' Retirement Association ("CCCERA").

Members have a right to accurate pension benefit payments. Except as determined by a court of law or this Board pursuant to this Policy, no Member has the right to receive or retain retirement benefit payments that exceed the amounts to which a Member is entitled, and no Member should be deprived of any benefit payments that he or she is entitled to receive. Subject to all applicable laws, it shall be CCCERA's policy to remit to a Member the amount of any underpayment of benefits, and to make every reasonable effort to recover from a Member the amount of any overpayment of benefits consistent with this Policy and the procedures established herein by the Board.

Accordingly, after discovery of an overpayment or underpayment of benefits, and within a reasonable period of time after written notification to the affected Member, CCCERA will adjust future benefit payments to the Member to reflect the correct total amount to which the Member is entitled, as indicated below; and will pay or assess the Member for the overpayment or underpayment, as the case may be, in a lump sum, installment payments, adjustments to future monthly benefits, or a combination of these methods.

This Policy is designed for use when calculation and other errors affect an *individual* member's retirement benefits. In the event of a system-wide error that affects *multiple* members' benefits, the Board may implement a system-wide correction process that it determines is appropriate under all the circumstances.

In the event of any inconsistency between applicable law and this Policy, the law shall take precedence.

II. PURPOSE

The purpose of this Policy is to set forth procedures for handling the overpayment and underpayment of benefits to members.

III. POLICY

A. Overpayment of Benefits To Members

1. CCCERA will adjust the Member's monthly benefit going forward to the correct amount at the earliest practical time after discovering the error.
2. CCCERA shall take all reasonable steps to recover the full amount of all overpayments, with "appropriate interest," subject to the provisions of this Policy and applicable law. If the overpayment was due to fraudulent, improper or inaccurate information provided to CCCERA by the member, appropriate interest shall be CCCERA's actuarially assumed rate of return that was applicable during the period in which the overpayments were made, running until such amounts are fully repaid. If the overpayment was the result of an error by CCCERA or the member's employer, appropriate interest shall be 3% per annum during the period in which the overpayments were made, running until such amounts are fully repaid.
3. CCCERA will recover overpayments by (a) a lump sum payment from the Member, (b) periodic installment payments from the member or (c) offsetting the amount to be recovered against future benefits, over a period of time as determined by the Board, or a combination of these methods; unless the Board, in its discretion and because of legal or practical considerations, determines that another process is warranted.
4. The Board believes that considerations of cost effectiveness make it prudent and reasonable to pursue recovery of overpayments only where the cumulative total amount overpaid to the Member is \$50 or more. Accordingly, the Retirement CEO is authorized to not seek recovery of any overpayments where the total amount overpaid to the Member is less than \$50.
5. The Retirement CEO shall have authority, on the advice of legal counsel, to compromise recovery of overpayments when the total amount of overpayment, not including interest, is less than \$5,000. Only the Board may compromise claims in which the total amount of overpayment, not including interest, is \$5,000 or more. Among other things, the likelihood of collection, the cost of collection, the amount of possible recovery and extreme hardship to the member will be considered by the Retirement CEO and/or the Board when determining whether to compromise a claim. Compromising claims may include a different method of repayment than is otherwise provided by this Policy and/or a partial forgiveness of the amounts overpaid. The Retirement CEO and Board will also consider seeking recovery from the employer.
6. The Board adopts the following procedures for accomplishing the recovery of overpaid benefits:
 - A. Upon discovery of an overpayment, CCCERA shall send a letter by certified mail, return receipt requested, or by express delivery service, to the Member advising the Member of the overpayment and proposing a repayment schedule, as follows:

- i. The letter will identify the circumstances of the overpayment and the fact that adjustments will be made to all future benefit payments.
 - ii. The letter will request payment to CCCERA of the amount overpaid, subject to the provisions of this Policy.
 - iii. The letter will include an agreement to repay excess benefits and a consent form for the spouse or beneficiaries, if applicable.
 - iv. The agreement to repay excess benefits will provide three options, one of which may be selected by the Member:
 - (1) Option 1 — equal installments over the same length of time that the overpayments occurred, with appropriate interest (as that phrase is defined in No. 2 above) applied during the overpayment period and during the repayment period.
 - (2) Option 2 — lump sum payment to CCCERA for the full amount overpaid, with appropriate interest (as that phrase is defined in No. 2 above) applied during the overpayment period.
 - (3) Option 3 — reduction of monthly benefit to zero until the overpayment is paid in full, with appropriate interest (as that phrase is defined in No. 2 above) applied during the overpayment period and during the repayment period.
 - v. The letter and agreement to repay excess benefits will provide that Option 3 will go into effect by default if a written response from the Member is not received within 30 days following the date the letter was delivered.
- B. If the amount of the overpayment, not including interest, is \$5,000 or more, CCCERA staff will attempt to contact the Member by phone to schedule a meeting to discuss the contents of the letter before the letter is sent out for delivery.
- C. CCCERA may pursue all legal remedies to collect overpayments, including making a claim on an estate or trust, if appropriate.
- D. Upon the death of the Member before full repayment has been made, CCCERA shall pursue a claim or claims against the Member's estate, survivors, heirs and/or beneficiaries to recover the unpaid amounts.
- E. CCCERA will maintain a permanent record of all amounts of overpayments and the repayment to CCCERA of those overpayments.

B. Underpayment of Benefits To Members

1. When CCCERA has underpaid benefits, the Member shall be entitled to a prospective adjustment to his or her retirement benefits necessary to correct the underpayment, as well

as a lump sum payment for all past underpayments, with interest at CCCERA's actuarially assumed rate(s) of return throughout the applicable period of underpayment. Interest shall accrue on each underpayment amount from the date of the underpayment to the date of the lump sum corrective payment. The payment shall be made as soon as is reasonably practicable following CCCERA's discovery of the underpayment.

2. If a Member who was underpaid benefits has died prior to payment of the lump sum amount due, the following procedures will be followed:

A. Member With Designated Beneficiary

- If the Member has named a designated beneficiary, the payment will be made directly to the designated beneficiary. *See* CERL Section 31452.7.

B. Member Without Designated Beneficiary

- If there is an open estate (*i.e.*, no order for final distribution yet), payment will be made to the estate (through the personal representative).
- If final distribution of the estate has already been made, CCCERA staff will review the order for final distribution to determine how assets that were unknown at the time of final distribution are to be distributed under the order. Payment will then be made in compliance with the order for final distribution, if possible.
- If an estate was not established, distribution will be made in accordance with any applicable and valid Affidavit for Payment of Personal Property on file with CCCERA. *See* Prob. Code Section 13101.
- CCCERA staff shall make reasonable efforts to locate the person(s) entitled to payment by sending a letter by certified mail, return receipt requested, to the last known address of each such person, or by other means of similar intended effect. The letter shall request written confirmation that the person entitled to payment still lives at that address and will accept payment. Upon receipt of such written confirmation, the payment will be mailed to that person at that address. *See* CERL Section 31783.5(b).
- If, after taking the above steps, CCCERA staff has not been able locate a person entitled to payment, CCCERA shall hold the funds on behalf of that person for five years. If the funds are not claimed within five years, the funds may be transferred into the system's pension reserve fund. If someone later appears to claim the funds, the Board will consider such claims on a case-by-case basis. *See* CERL Section 31783.5(c).
- CCCERA will maintain a permanent record of all amounts of outstanding refunds of underpayments and any amounts that have been transferred into the pension reserve fund.

- In cases where there is no designated beneficiary and the total amount of underpayment is less than \$50, CCCERA staff need not take proactive measures to locate the person(s) entitled to such funds. All claims presented to CCCERA, however, will be considered regardless of size.
3. Underpayments of \$5 or less will only be refunded at the request of the member.

Attachment H

Member Name	Retirement Date	Current Monthly Pension a/o 01/01/2017	Adjusted Monthly Pension a/o 02/01/2017	Difference Between Current & Adjusted Prospective Monthly Pension	Cumulative Pension Overpayment Since Retirement Date (Without Interest)	Cumulative Interest Applied to Difference Between Current & Adjusted Prospective Monthly Pension	Cumulative Pension Overpayment Since Retirement Date (With Interest)
Adebiyi, Gabriel	7/19/2007	\$ 7,144.76	\$ 6,750.89	\$ 393.87	\$ 40,553.48	\$ 17,392.49	\$ 57,945.97
Glimme, Elaine	10/1/2008	\$ 6,236.59	\$ 5,432.97	\$ 803.62	\$ 78,234.22	\$ 28,771.63	\$ 107,005.85
Hanson, Scott	2/29/2012	\$ 5,596.31	\$ 4,879.61	\$ 716.70	\$ 43,400.71	\$ 8,790.41	\$ 52,191.12
Hutchin, Dena	10/1/2009	\$ 7,405.92	\$ 6,600.68	\$ 805.24	\$ 65,766.64	\$ 20,477.30	\$ 86,243.94
Jonson, Eric	3/31/2011	\$ 9,779.95	\$ 9,241.79	\$ 538.16	\$ 35,282.16	\$ 8,403.97	\$ 43,686.13
Khoo, Sonny	11/1/2012	\$ 11,009.58	\$ 9,115.24	\$ 1,894.34	\$ 109,496.28	\$ 19,551.38	\$ 129,047.66
Loyd, Sue	3/31/2012	\$ 8,529.76	\$ 7,110.22	\$ 1,419.54	\$ 83,096.54	\$ 16,399.98	\$ 99,496.52
Nicholson, Charles	12/1/2011	\$ 9,996.27	\$ 7,768.89	\$ 2,227.38	\$ 130,292.96	\$ 27,006.47	\$ 157,299.43
Price, Neal	2/23/2013	\$ 7,969.71	\$ 6,937.29	\$ 1,032.42	\$ 46,922.97	\$ 7,137.98	\$ 54,060.96
Wedl, Michael	7/1/2014	\$ 5,328.22	\$ 4,994.68	\$ 333.54	\$ 10,064.73	\$ 979.27	\$ 11,044.00
Yoshioka, Jerry	3/28/2014	\$ 7,916.23	\$7,259.99	\$ 656.24	\$ 21,745.05	\$ 2,338.78	\$ 24,083.83
Total					\$ 664,855.75	\$ 157,249.65	\$ 822,105.40

Attachment I

Contra Costa County

Salary Regulations



Human Resources Department

SECTION 8

CONDITIONS OF EMPLOYMENT – HOURS

8.1 On-Call and Call-Back Time:

(a) On-Call Time – Definition and Credit: On-call time is any period during which the employee is not actually on duty but must be ready to immediately report for duty and be reachable by his/her superior on ten minutes' notice or less. He shall get one hour of actual work time credit for each four hours of such on-call time, unless otherwise provided by board resolution.

(b) On-Call Time-Scheduling: Where the appointing authority requires on-call arrangements, he shall designate which employees have on-call responsibilities, shall schedule the hours when these employees are on-call, and may include the on-call time credit as part of the employee's normal workweek.

(c) Call-Back Time: An employee called back to duty shall be paid for the actual time on duty plus one hour (but not less than two hours total for each call-back), unless otherwise provided by board resolution. (Ords. 80-83, 79-63, 68-20, 1650, 1493, 1463; prior code §2441(g); Ords. 1334, 1285 §8-G, 793 §9-G, 759; see also §§22-2.202 and 36-6.404; prior Ord. Code §36-6.402)

8.2 Normal Workweek and Overtime:

(a) Normal Workweek: The normal workweek for County employees is forty hours between 12:01 a.m. Monday to 12:00 midnight Sunday, usually five, eight-hour days; however, where operational requirements of a department require deviations from the usual pattern of five eight-hour days per workweek, an employee's work hours may be scheduled to meet these requirements. His/her working time shall not exceed an average of forty hours per seven-day period throughout an operational cycle, and the department head shall prepare written schedules in advance to support all deviations, the schedules to encompass the complete operational cycle contemplated.

(b) Overtime: "Overtime" is any authorized service performed in excess of the normal workweek. Compensation is as provided for in Section 12. (Ords. 78-19 §1, 1707, 1650, 1493, 1463; prior code §2441(h); Ords. 1334, 1285; prior Ord. Code §36-6.404)

8.3 "4-10" Shift – Exceptions from General Salary Resolution Provisions: The provisions of Sections 8.3 through 8.7 are an exception to the general rules in this resolution; but except as otherwise provided in Sections 8.3 through 8.7, the provisions of this code apply to the employment described herein. (Ord. 72-85 §1 (part); Prior Ord. Code §36-8.2002; Res. 83/1)

8.4 "4-10" Shift – Employees: "4-10" shift employees are those employees of the Sheriff's Department who are assigned to work four ten-hour days per week. (Ord. 79-75, 72-85; prior Ord. Code §36-8.2004)

8.5 "4-10" Shift - Normal Work Schedule: The normal work schedule for "4-10" shift employees is four ten-hour working days, during a workweek consisting of any seven-day period. (Ord. 72-85 §1(part); prior Ord. Code §36-8.2006)

8.6 "4-10" Shift – Overtime: Except as otherwise provided, overtime for "4-10" shift employees shall be any authorized service exceeding their normal "4-10" shift work schedule, and shall be compensated at one and one-half times the employee's basic hourly salary rate. (Ord. 72-85 §1(part); prior Ord. Code §36-8.2008)

Notice of Meeting Letters - January 3, 2017



January 3, 2017

Mr. David Twa
Contra Costa County Administrator
651 Pine St.
10th Floor
Martinez, CA 94553

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Twa,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to the retirement allowances for the eleven retired Hazardous Materials Specialist II are warranted at its regular meeting:

February 8, 2017

9:00 a.m.

Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

This meeting is your opportunity to present to the Board your position and any information you believe is relevant to the calculation of the members' retirement allowances. You may submit written materials relevant to this issue in advance of the Board Meeting. The materials will be included with the agenda distributed to the Board and the public if received by CCCERA on or by Friday, January 27, 2017. The public meeting materials prepared by CCCERA for the purpose of the hearing are enclosed.

Note that Retirement Board meetings are open, public meetings, and any member of the public may comment or present information to the Board. Any written materials you submit will be made public.

/...2

Notice of Continuation of Retirement Board Hearing on
Includable Compensation for Retirement Purposes
January 3, 2017

If you have any questions or would like to discuss items relating to this matter, please contact me
at (925) 521-3960

Sincerely,



Wrally Dutkiewicz
Compliance Officer

Cc: Dr. William Walker, Contra Costa County Health Services Director and Health Officer
Randall Sawyer, Contra Costa County Chief Environmental Health & Hazardous Materials
Officer
Robert Campbell, Contra Costa County Auditor Controller
Dianne Dinsmore, Contra Costa County Director of Human Resources



January 3, 2017

Gabriel Adebiyi
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Adebiyi,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to your retirement allowance is warranted at its regular meeting:

February 8, 2017

9:00 a.m.

Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

This meeting is your opportunity to present to the Board your position and any information you believe is relevant to the calculation of your retirement allowance. You may submit written materials relevant to this issue in advance of the Board Meeting. The materials will be included with the agenda distributed to the Board and the public if received by CCCERA on or by Friday January 27, 2017. The public meeting materials prepared by CCCERA for the purpose of the hearing are enclosed.

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Notice of Continuation of Retirement Board Hearing on
Includable Compensation for Retirement Purposes
January 3, 2017
pg. 2

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If you have any questions or would like to discuss items relating to this matter, please contact me at (925) 521-3960

Sincerely,

A handwritten signature in blue ink, appearing to read "Wrally Dutkiewicz", with a long horizontal flourish extending to the right.

Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Elaine Glimme
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Ms. Glimme,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

As you may recall from my correspondence of March 31, 2016 materials were sent to you including the memo to the Board of Retirement to consider and take possible action on at its May 4, 2016 meeting to make pension adjustments to retired Hazardous Materials Specialist II members that had unusual increases in final average salary and specifically unusual increases in on-call compensation. Per my correspondence of April 20, 2016 which indicated that the Board of Retirement would not take any action at its May 4, 2016 meeting to adjust your pension allowance, that finding was based on the original review criteria that the Board had directed.

However, the Board chose to continue its hearing from May 4, 2016 and provided staff with further direction to review the materials and testimony that were submitted at the meeting and to make further information requests pursuant to the review of on-call compensation paid to Hazardous Materials Specialist II in their final average compensation period. This further review of on-call compensation that you received in your final average compensation period has led to the inclusion of your pension calculation within the Hazardous Materials Specialist II group of members that retired between 2004 and 2014 that the Board will be considering and taking possible action on.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to your retirement allowance is warranted at its regular meeting:

February 8, 2017

9:00 a.m.

Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

/...2

1355 Willow Way Suite 221 Concord CA 94520 925.521.3960 FAX: 925.521.3969 www.cccera.org

Ms. Elaine Glimme
Notice of Continuation of Retirement Board Hearing on
Includable Compensation for Retirement Purposes
January 3, 2017
pg. 2

This meeting is your opportunity to present to the Board your position and any information you believe is relevant to the calculation of your retirement allowance. You may submit written materials relevant to this issue in advance of the Board Meeting. The materials will be included with the agenda distributed to the Board and the public if received by CCCERA on or by Friday January 27, 2017. The public meeting materials prepared by CCCERA for the purpose of the hearing are enclosed.

Note that Retirement Board meetings are open, public meetings, and any member of the public may comment or present information to the Board. Any written materials you submit will be made public.

If you have any questions or would like to discuss items relating to this matter, please contact me at (925) 521-3960

Sincerely,

A handwritten signature in blue ink, appearing to read "Wrally Dutkiewicz", with a long horizontal flourish extending to the right.

Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Scott Hanson
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Hanson,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to your retirement allowance is warranted at its regular meeting:

February 8, 2017

9:00 a.m.

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1355 Willow Way, Suite 221
Concord, CA 94520

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Notice of Continuation of Retirement Board Hearing on
Includable Compensation for Retirement Purposes
January 3, 2017
pg. 2

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If you have any questions or would like to discuss items relating to this matter, please contact me at (925) 521-3960

Sincerely,



Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Dena Hutchin
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Ms. Hutchin,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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Notice of Continuation of Retirement Board Hearing on
Includable Compensation for Retirement Purposes
January 3, 2017
pg. 2

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Sincerely,



Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Eric Jonsson



Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Jonsson,

Pursuant to your written direction of July 18, 2016 to forward notices and correspondence relating to CCCERA pension adjustment hearings to an alternate address, please find the enclosed copy of the Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes.

The original notice along with the enclosed Board meeting material was sent to your home address on record with CCCERA as well.

If you have any questions or would like to discuss items relating to this matter, please contact me at (925) 521-3960

Sincerely,

A handwritten signature in blue ink, appearing to read "Wrally Dutkiewicz", is written over a light blue horizontal line.

Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Eric Jonsson
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Jonsson,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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February 8, 2017

9:00 a.m.

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Concord, CA 94520

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Notice of Continuation of Retirement Board Hearing on
Includable Compensation for Retirement Purposes
January 3, 2017
pg. 2

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Sincerely,

A handwritten signature in blue ink, appearing to read "Wrally Dutkiewicz", with a long horizontal flourish extending to the right.

Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Sonny Khoo
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Khoo,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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Notice of Continuation of Retirement Board Hearing on
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pg. 2

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If you have any questions or would like to discuss items relating to this matter, please contact me at (925) 521-3960

Sincerely,

A handwritten signature in blue ink, appearing to read "Wrally Dutkiewicz", with a long horizontal flourish extending to the right.

Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Sue Loyd
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Ms. Loyd,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to your retirement allowance is warranted at its regular meeting:

February 8, 2017

9:00 a.m.

Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

This meeting is your opportunity to present to the Board your position and any information you believe is relevant to the calculation of your retirement allowance. You may submit written materials relevant to this issue in advance of the Board Meeting. The materials will be included with the agenda distributed to the Board and the public if received by CCCERA on or by Friday January 27, 2017. The public meeting materials prepared by CCCERA for the purpose of the hearing are enclosed.

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January 3, 2017
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Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Charles Nicholson
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Nicholson,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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Sincerely,



Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Neal Price
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Price,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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Sincerely,



Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Michael Wedl
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Wedl,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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Sincerely,



Wrally Dutkiewicz
Compliance Officer



January 3, 2017

Jerry Yoshioka
[REDACTED]

Re: Notice of Continuation of Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Yoshioka,

This letter will serve to inform you that the Board of Retirement will continue its *Hearing on Includable Compensation for Retirement Purposes* which the Board had begun at its May 4, 2016 meeting. This is a continuation of the review of pension calculations of eleven retired Hazardous Materials Specialist II (V4VC) members that had unusual increases in final average salaries and unusual increases in on-call compensation.

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Sincerely,



Wrally Dutkiewicz
Compliance Officer

May 4, 2016 Memo to the Board of Retirement



MEMORANDUM

Date: May 4, 2016

To: CCCERA Board of Retirement

From: Wrally Dutkiewicz, Compliance Officer

Subject: Consider and Take Possible Action to Exclude Excess On-Call Pay (D33) Paid to Ten Retired Hazardous Materials Specialist II (V4VC) From Pension Calculations Pursuant To Government Code Section 31539

I. Background

In 2014 the CCCERA Board of Retirement requested the review of past incidents of unusual compensation increases at the end of employment. The Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during the careers.
2. The review will concentrate on specific, unique items of pay and not on regularly recurring vacation, sick or compensatory leave time.

The Board further announced: "Any proposed adjustments to retirement benefits will occur only after the Board has conducted a thorough examination of all applicable facts and applicable law, and only after affording any affected members the opportunity to appear before, and present their positions to, the Board before any action is taken."

As a result, CCCERA began the *CCCERA Retiree Lookback Project – Compensation Enhancement Study* (the "Study") which focused on retirement calculations performed by CCCERA during the period 2004 through 2014. The focus of the study was to examine unusual changes in final average salary (FAS) by comparing the FAS period with pre-FAS compensation levels and its individual earn code components.

On December 10, 2014, the Board considered the matter of HazMat "On-Call" scenarios outlined by CCCERA staff, and directed staff to continue the review of "On-Call" as part of the Study.

On May 6, 2015 the Board of Retirement considered and took action regarding the treatment of on-call pay for pensionable purposes for a retired Hazardous Materials Specialist II, Mr. Paul Andrews. Having afforded Mr. Andrews notice and an opportunity to appear and present arguments and evidence to the Board, the Board determined that:

- 1) the on-call pay excluded from the member's benefit calculation was not required and worked by all in the grade or class during the same time period and is excludable as non-pensionable overtime pay; and
- 2) the on-call pay be excluded from the member's pension because the member caused his final compensation to be "improperly increased" by voluntarily signing-up for on-call work at the end of his career beyond what was required of all during the same time period.

The motion was amended to include using the average of the minimum number of on-call hours that were required in the member's benefit calculation.

County Employees Retirement Law ("CERL"), Government Code Section 31539 provides the Board with the authority to adjust and correct errors made in the calculation of a member's retirement allowance or other benefits. Under section 31539(a), a board may correct calculation errors that are caused either by fraud or by a member causing his or her benefits to be improperly increased or overstated at the time of retirement.

II. Findings of Study – HazMat “On-Call”

A. On-Call Pay Practices at the County Hazardous Materials Division

The compensation in question is on-call pay, which was paid under County Pay Code D33. The circumstances under which this member earns on-call pay are outlined in Section 9 of the Memorandum of Understanding between Contra Costa County and Public Employees Union, Local One, July 1, 2013 – June 30, 2016. Under the MOU it is the department head or his designee who assigns on-call duty.

The Department Head designates and approves those permanent full-time or part-time employees who will be assigned to on-call duty.

In practice, we are told, it is the Assistant Director of the Hazardous Materials Division who maintains the on-call schedule for the Incident Response Team (IRT) which is comprised of Hazardous Materials Specialist II employees. Once the on-call schedule is issued, those assigned to on-call duty are not necessarily required to serve that duty. IRT members are allowed to trade shifts, give up shifts, or volunteer for shifts that others wish to give up.

As a result, the on-call duty is not spread equally among the Hazardous Materials Specialist II IRT members, and team members tend to work more on-call duty when the on-call pay has a greater value, that is, during the final compensation period. All assigned and voluntary on-call

duty is paid using the same pay code D33 even though the MOU only describes pay when the employee is assigned to on-call duty.

One interpretation is that the on-call duty originally assigned to the member is the on-call duty that is eligible for on-call pay under the MOU, and it is only that on-call pay that the Board determined was included for retirement purposes in its pre-AB 197 compensation policy. The Board never considered (or was even aware of) voluntary on-call duty. The voluntary on-call duty is a form of overtime, which has always been excluded from compensation earnable under CERL. Under the Board's pre-AB 197 Policy, overtime compensation is not included in compensation earnable if it was in excess of what is considered to have been paid for services during normal working hours. Whether compensation is "overtime" has never depended on its formal characterization as overtime.

Under this interpretation, the voluntary on-call duty was improperly reported as on-call duty under the terms of Section 9 of the MOU (assigned on-call duty) rather than being reported as voluntary on-call duty, which would properly be reported under an overtime (excluded for retirement purposes) pay code.

It was observed during the study that earn code D33 – On-Call, presented itself with unusual increases in the FAS of members of the Hazardous Materials Incident Response Team (IRT) whose members of which were classified as Hazardous Materials Specialists II (V4VC). There were twelve (12) retirees that were identified in the *Study* that were members of the Hazardous Materials IRT.

B. Compensation Enhancement Review of Eleven (11) Retired Members of the HazMat IRT.

Pursuant to the Board's May 6, 2015 motion, the review of D33 on-call payments for eleven (11) retired members of the IRT identified in the *CCCERA 2014 Look-Back Project – Compensation Enhancement Study* in which it was observed that the retirees had "unusual" increases when their final average salary (FAS) was compared to the twelve month period immediately preceding it, staff performed the following:

- Requested the following documents from the Hazardous Materials Department office:
 - All timesheets for each IRT retiree's FAS period.
 - All IRT schedules for the period 2001 – 2014. Due to document retention limitations, the IRT schedules provided by the Hazardous Materials department office were for the period 2006 through 2014.
- Retrieved, compiled and reviewed salary data:
 - Member Salary by Job Code – V4VC Hazardous Materials Specialists II
- Reviewed schedules, timesheets, and payroll data.

C. Exclusion Determination of On-Call Pay On the Basis that It Was Not All Required Duty Performed By Individual IRT Members.

The IRT is mandated to provide 24/7 response services when notified of an incident and the Director of Hazardous Materials Programs issues an on-call schedule for the IRT every six (6) months. The IRT is staffed with six (6) Hazardous Materials Specialist II members (5 member IRT were scheduled pre-January 2010). The schedule consisted of six (6) four hour shifts Monday through Friday and four (4) six hour shifts on both Saturday and Sunday.

The following is the baseline average number of potential on-call hours during each year:

Table 1:

	Work days	Workday On-Call hours	Weekend Days	Weekend On-Call Hours	Total Potential Annual Hours per Haz. Spec. II (V4VC) IRT Member
2014	251	6,024	104	2,496	2,912
2013	251	6,024	104	2,496	2,912
2012	251	6,024	105	2,520	2,940
2011	251	6,024	105	2,520	2,940
2010	251	6,024	104	2,496	2,912
2009	251	6,024	104	2,496	2,995
2008	252	6,048	104	2,496	2,995
2007	251	6,024	104	2,496	2,995
2006	250	6,000	105	2,520	3,024

For the first test of determining the amount of on-call pay paid for work not required, and worked by a member in the same grade or class during the same time period, a review of the IRT schedules revealed a trend in the variance between the “scheduled” shift times and “actual” shift times that the member actually worked.¹

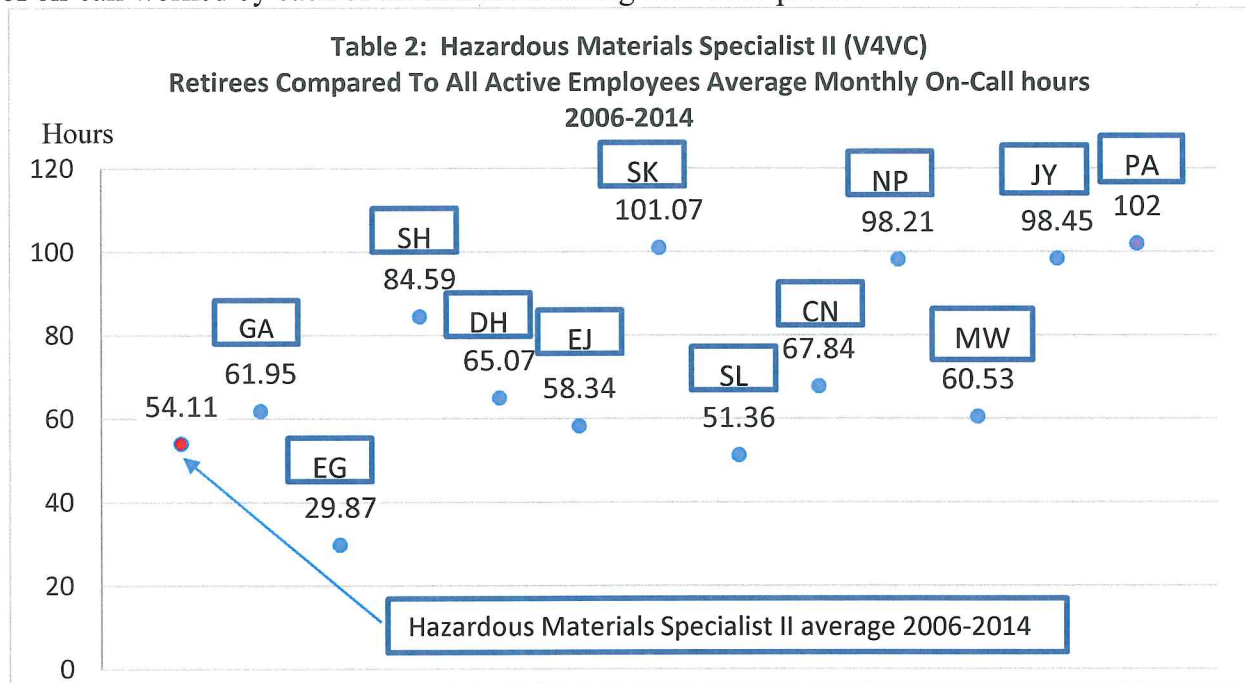
It was observed during the review of the member’s schedules and payroll data that as the members approached the beginning of their FAS periods the number of shifts that they actually worked versus that which they were scheduled for began to increase. This was facilitated by the practice within the department that allowed members of the IRT to voluntarily swap and accept shifts from each other. The voluntary aspect of how shifts could be exchanged was evident in the review of the schedules provided by the department. Staff reviewed all schedules for each member for the five years preceding their retirement date and reconciled the schedules against each member’s timesheets for their FAS period. Staff observed that all excess on-call hours

¹ See Chart B “Scheduled On-Call Shifts vs. Actual Shifts Worked Pre-FAS and FAS years” in each of the member’s attachments numbered 9 through 19 for individual member observations.

were the result of members making adjustments on their own to the department schedule. These adjustments were made in various ways, for example:

- (1) by crossing off other employee names or initials from the department schedule and adding the retiring member's name or initials to note swapping of shifts, or,
- (2) by the retiring member making notations in order to sign up for additional on-call hours.

The increase in the number of actual shifts worked translated into an increase in the number of on-call hours worked for eight of the members throughout their FAS period and in the last three months of their FAS period for two of the other members. One member had a decrease in the number of shifts pre-FAS period versus FAS period. The chart below shows the aggregate hours of on-call worked by each of the members during their FAS period.



Legend:

GA – G. Adebisi	DH – D. Hutchin	SL – S. Loyd	MW – M. Wedl
EG – E. Glimme	EJ – E. Jonsson	CN – C. Nicholson	JY – J. Yoshioka
SH – S. Hanson	SK – S. Khnoo	NP – N. Price	PA – P. Andrews

The voluntary aspect that led to the variance between “scheduled” and “actual” shifts, and the observed increase in shifts for each of the members either for part of or through their whole FAS period as compared to their pre-FAS periods, supports the conclusion that some of the on-call shifts worked by the IRT members was on a voluntary basis above and beyond that which had been scheduled by the Director, and therefore was not required work and should be excluded from pensionable compensation on this basis.

D. Exclusion Determination of On-Call Pay for Pension Calculation Purposes Based on Average IRT Experience Compared to Member's Individual Experience

For the second test, each of the member's individual on-call compensation experience during their FAS period was placed within the context of the on-call compensation experience of all rostered Hazardous Materials Specialist II that were active during each month during their FAS period. During the review, it was taken into account that the number of active members varied month to month due to vacations, leaves, and sick days when identified. Using the monthly number of active rostered Hazardous Materials Specialist II members set against the number of weekday and weekend shifts that were both available and then subsequently worked by the IRT members, an average of on-call hours worked by the IRT team as a whole could be determined for each month during the member's FAS period. It is against this average that each of the Hazardous Materials Specialist II's individual experience was calculated and where identified, the excess of on-call hours worked by each member in their FAS period was noted.

Table 3:

Retiree	FAS Monthly Average On-Call Hours	HazMat Spec. II Monthly On-Call Average in Retiree FAS Period	Difference Between Retiree Monthly Average & HazMat Spec. II Monthly On-Call Average
Adebiyi, Gabriel	61.95	42.53	19.42
Glimme, Elaine	29.87	42.47	(12.60)
Hanson, Scott	84.59	52.59	32.00
Hutchin, Dena	65.07	48.74	16.33
Jonsson, Eric	58.34	45.08	13.26
Khoo, Sonny	101.07	54.05	47.01
Loyd, Sue	51.36	53.01	(1.65)
Nicholson, Charles	67.84	49.84	18.00
Price, Neal	98.21	54.19	44.02
Wedl, Michael	60.53	65.10	(4.57)
Yoshioka, Jerry	98.45	63.69	34.76
Andrews, Paul ²	102.00	59.15	42.85

It was observed that for eight of the IRT members, the number of on-call hours worked by each of them was in excess of the average for the IRT members that were rostered and active during their FAS period. Two of the members had less than the average of the IRT team during their entire FAS period, but had a significant increase above the IRT team's average in the last three months of their FAS period. The table below indicates the monthly average of on-call worked for each member compared to the monthly IRT average during their FAS period with the excess hours (if any) noted.

² BOR action of May 6, 2015, the excess on-call above the average was excluded from Mr. Andrews final average salary.

Based on the excess on-call hours worked by each member above and the respective average of the IRT during each member's FAS period, the following table indicates the number of hours and recommended exclusion dollar amount of compensation based on each member's final hourly pay rate on the date of their retirement:

Table 4:

Member Name	Excess Hours	Excess Dollar Amount of Compensation
Adebiyi, Gabriel	233.04	\$ 9,702.43
Glimme, Elaine	0	\$ -
Hanson, Scott	384.0332	\$ 17,135.07
Hutchin, Dena	195.9866	\$ 8,744.67
Jonsson, Eric	159.1755	\$ 7,102.21
Khoo, Sonny	564.1689	\$ 24,480.26
Loyd, Sue	119	\$ 5,309.63
Nicholson, Charles	216.018	\$ 9,638.45
Price, Neal	528.2488	\$ 21,830.12
Wedl, Michael	94	\$ 4,078.82
Yoshioka, Jerry	417.1372	\$ 18,100.30

The following table displays the prospective adjusted monthly pensions for each of the affected members reflecting the exclusion of the excess on call compensation in each of the pension calculations at the date of their retirement and then brought forward including COLA if earned:

Table 5:

Member Name	Retirement Date	Current Monthly Pension a/o 5/1/2016	Adjusted Prospective Monthly Pension a/o 6/1/2016	Difference Between Current & Adjusted Prospective Month Pension	Cumulative Pension Overpayment Since Retirement Date (Without Interest)
Adebiyi, Gabriel	7/19/2007	\$6,946.51	\$6,518.03	\$ 428.48	\$36,163.68
Hanson, Scott	2/29/2012	\$5,694.05	\$5,107.01	\$ 587.04	\$27,506.87
Hutchin, Dena	10/1/2009	\$7,405.93	\$7,063.09	\$ 342.84	\$24,686.40
Jonsson, Eric	3/31/2011	\$9,779.95	\$9,345.56	\$ 434.39	\$24,557.03
Khoo, Sonny	11/1/2012	\$11,009.58	\$9,452.71	\$1,556.87	\$61,707.42
Loyd, Sue	3/31/2012	\$8,529.76	\$8,224.60	\$ 305.16	\$14,299.19
Nicholson, Charles	12/1/2011	\$9,996.27	\$9,400.62	\$ 595.65	\$29,482.29
Price, Neal	2/23/2013	\$7,969.71	\$7,312.73	\$ 656.98	\$24,381.54
Wedl, Michael	7/1/2014	\$5,328.22	\$5,180.72	\$ 147.50	\$ 3,123.29
Yoshioka, Jerry	3/28/2014	\$7,916.23	\$7,085.89	\$ 830.34	\$20,808.20

III. Recommendation:

- 1) Consider and take possible action to determine that the excess on-call compensation paid to the eight Hazardous Materials Specialists IIs listed below was:
 - a. For voluntary non-required work that was beyond the average on-call hours performed by other Hazardous Materials Specialists IIs during the same pay period;
 - b. An improper increase of the members' final compensation *caused by the members*;
 - c. Obtained by signing up or trading for additional on-call hours in the last year or months prior to retirement, in order to boost up the members' final compensation.

And therefore should be excluded from their respective final average salary for pension compensation purposes pursuant to Government Code Section 31539.

The eight members are:

- | | |
|-------------------|---------------------|
| ▪ Gabriel Adebisi | ▪ Sonny Khoo |
| ▪ Scott Hanson | ▪ Charles Nicholson |
| ▪ Dena Hutchin | ▪ Neal Price |
| ▪ Eric Jonsson | ▪ Jerry Yoshioka |

- 2) Consider and take possible action to determine that the excess hours of on-call compensation paid to the two Hazardous Materials Specialists IIs listed below during the last three months of their final average salary period was:
 - a. For voluntary non-required work that was beyond the average on-call hours performed by other Hazardous Materials Specialists IIs during the same pay period;
 - b. An improper increase of the members' final compensation *caused by the members*;
 - c. Obtained by signing up or trading for additional on-call hours in the last months prior to retirement, in order to boost up the members' final compensation.

And therefore should be excluded from their respective final average salary for pension compensation purposes pursuant to Government Code Section 31539.

The two members are: Sue Ann Loyd and Michael Wedl

- 3) If the Board determines under Number 1) and 2) above that the excess On-Call Pay was an improper increase caused by the members, the Board should consider and take possible action to:
 - a. Recover all past overpayments, with interest, in a manner consistent with the Board's overpayment of benefits policy; and
 - b. Adjust future benefit payments accordingly, effective June 1, 2016.

HazMat IRT Compensation Enhancement Review Attachment List

Attachment #	Description
1.	<ul style="list-style-type: none"> • Board of Retirement Letter of Intent To Review Past Incidents Of Unusual Compensation Increases At End Of Employment Dated 5/8/2014 • Board of Retirement Supplemental Direction Regarding Review Of Past Incidents Of Unusual Compensation Increases At End Of Employment Dated 7/31/2014
2.	May 6, 2015 BOR Meeting Agenda #9 – Consider and Take Possible Action Regarding Whether On-Call Pay Should Be Treated As Pensionable For Retired Hazardous Materials Specialist Paul Andrews
3.	Minutes – Item #9 BOR Meeting Agenda – Motion – Board Action
4.	BOR Policy Governing The Overpayment Or Under Payment of Member Contributions [Adopted 12/10/2014]
5.	Hazardous Materials Specialist II (V4VC) Job Description
6.	MOU Between Contra Costa County and PEU Local One October 1, 2008 – June 30, 2011 <i>Page 37 Section 9 – On-Call Duty, Page 205-206</i> On Call and Duty Pay
7.	MOU Between Contra Costa County and PEU Local One July 1, 2011 – June 30, 2013 <i>Page 39 Section 9 – On-Call Duty, Pages 205-206</i> <u>On Call Duty and Pay</u>
8.	MOU Between Contra Costa County and PEU Local One July 1, 2013 – June 30, 2016 <i>Page 24 Section 9 – On-Call Duty, Page 136</i> On Call Duty and Pay
9.	G. Adebisi – Compensation & On-Call Charts
10.	S. Hanson – Compensation & On-Call Charts
11.	D. Hutchin - – Compensation & On-Call Charts
12.	E. Jonsson – Compensation & On-Call Charts
13.	S. Khoo - – Compensation & On-Call Charts
14.	C. Nicholson – Compensation & On-Call Charts
15.	N. Price – Compensation & On-Call Charts
16.	J. Yoshioka – Compensation & On-Call Charts
17.	S. Loyd – Compensation & On-Call Charts
18.	M. Wedl – Compensation & On-Call Charts
19.	E. Glimme – Compensation & On-Call Charts

Attachment #1

May 8, 2014

To: CCCERA Employers
Employee Groups
Retiree Groups

This is to inform you that the Retirement Board for the Contra Costa County Employees' Retirement Association (CCCERA) voted on May 7, 2014 to adopt the following public statement to be disseminated to all interested parties:

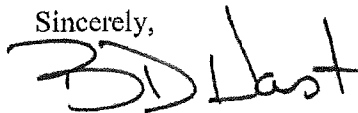
**STATEMENT OF BOARD INTENT TO REVIEW PAST INCIDENTS OF
UNUSUAL COMPENSATION INCREASES AT END OF EMPLOYMENT**

The CCCERA Board of Retirement has a fiduciary obligation to pay only the legally correct benefits earned by its members. Having recently been granted additional auditing authority and responsibility by the State Legislature, the Board announces its intention to review past retirement calculations to determine whether any retired CCCERA members may be receiving benefits that were calculated on amounts that should not have been included in their pensionable compensation. As a first step, the Board will conduct an analysis of data pertaining to all unusual increases in the final average salary year for all CCCERA members who retired during the past several years.

The Board assures all CCCERA members that any proposed adjustments to retirement benefits will occur only after the Board has conducted a thorough examination of all applicable facts and applicable law, and only after affording any affected members the opportunity to appear before, and present their positions to, the Board before any action is taken.

Thank you for your attention to this matter.

Sincerely,



Brian Hast
Retirement Board Chair

CONTRA
COSTA
COUNTY
Employees' Retirement Association

CCCERA

July 31, 2014

To: CCCERA Employers
Employee Groups
Retiree Groups

This is to inform you that the Retirement Board for the Contra Costa County Employees' Retirement Association (CCCERA) has provided supplemental direction regarding the review of past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
2. The review will concentrate on specific, unique items of pay and not on regularly recurring vacation, sick or compensatory leave time.

As previously stated, any proposed adjustments to retirement benefits will occur only after the Board has conducted a thorough examination of all applicable facts and applicable law, and only after affording any affected members the opportunity to appear before, and present their positions to, the Board before any action is taken.

Thank you for your attention to this matter.

Sincerely,



Brian Hast
Retirement Board Chair

Attachment #2

MEMORANDUM

Date: May 6, 2015
To: CCCERA Board of Retirement
From: Kurt Schneider, Deputy Retirement Chief Executive Officer
Subject: Consider and Take Possible Action Regarding Whether On-Call Pay Should Be Treated As Pensionable For Retired Hazardous Materials Specialist Paul Andrews

Executive Summary

Paul Andrews retired from county service as a Hazardous Materials Specialist II on March 27, 2014. At the time of his retirement, significant amounts of on-call pay in the final average salary period were noted. Mr. Andrews' retirement allowance calculation was made including only the amount of on-call pay that appeared to be the average on-call pay for the Incident Response Team for that period of time, and excluding amounts in excess of that amount. The exclusion was made pending the Board's final determination of whether and to what extent any on-call pay should be included in Mr. Andrews's pension calculation. CCCERA proceeded to gather information and records regarding on-call pay in general and, in particular, how on-call pay was assigned, scheduled and handled by the department and the extent to which it was required, scheduled and spread among the grade or class of Hazardous Materials Specialists. This memorandum summarizes staff's findings.

After considering all information available to the Board pertaining to Mr. Andrews's on-call pay, including information provided by Mr. Andrews, his employer, and CCCERA, the Board may consider the best approach to addressing this matter. Possible approaches include:

- (a) Final determination by the Board based on the information before the Board regarding whether and to what extent the on call pay should be excluded from Mr. Andrews's benefit calculation. The information shows as follows:
 - (i) The on-call pay excluded from Mr. Andrews' benefit calculation was for work not required and worked by *all* in the grade or class (i.e., all Hazardous Materials Specialists) during the same time period. Therefore, it is non-pensionable overtime pay. On that basis, the Board may determine that the on-call pay at issue should be excluded from Mr. Andrews's benefit calculation. Pensionable on-call pay would be limited to pay for on-call work that was required and worked by all Hazardous Materials Specialist IIs during the same time period, regardless of whether or not they were part of the Incident Response Team.

(ii) This particular County department did not require on call work equally of all hazardous materials specialists. Individuals were allowed to sign up or swap voluntarily for additional on call hours. Mr. Andrews volunteered for substantially more hours than was average. The variable nature of on call scheduling and sign up practices in this particular department led to significant on call pay to the retiring member in the final average salary year. Therefore, on a separate and independent basis, the Board may determine that the on call pay at issue should be excluded from the member's pension because the member caused his final compensation to be "improperly increased" (the language in the CERL statute) by voluntarily signing up for on call work at the end of his career beyond what was required of all during the same time period;

(b) further hearings to develop any additional facts the Board may determine are needed;
or

(c) further hearings before a hearing officer, as authorized under Government Code Section 31533.

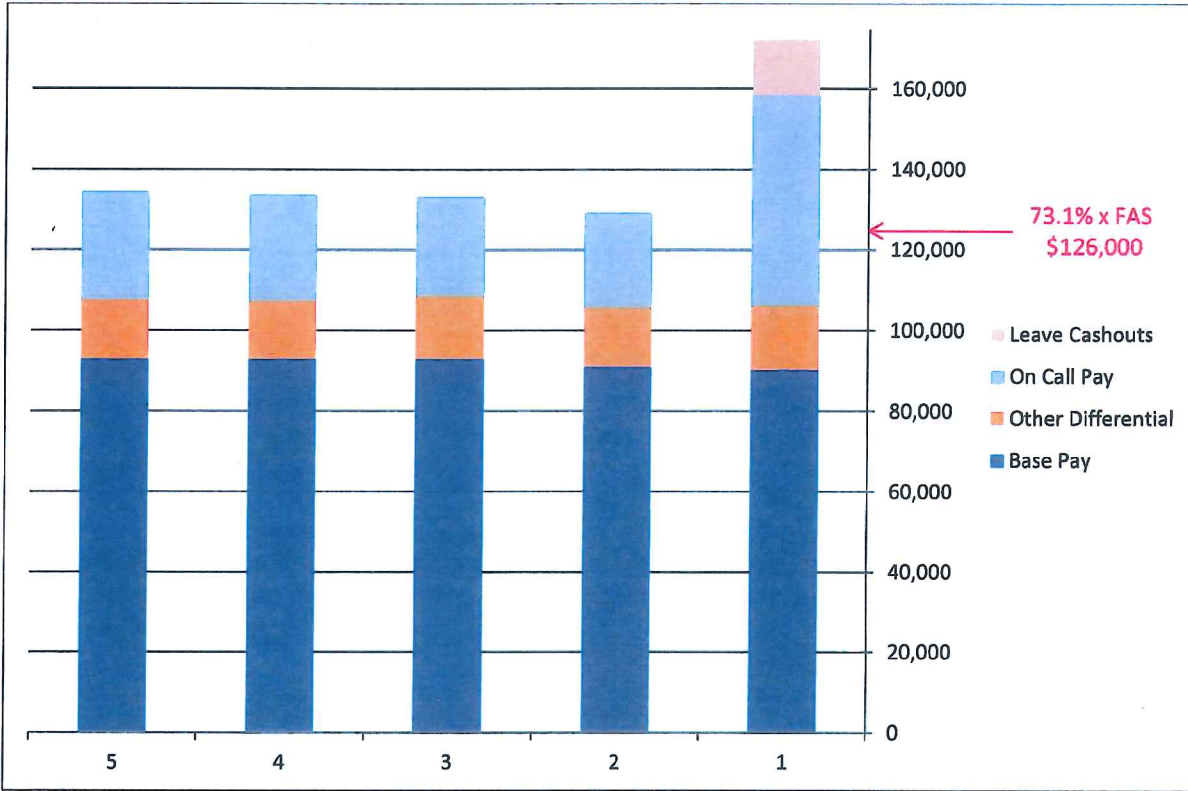
Background

On March 27, 2014, Paul Andrews retired from Contra Costa County Health Services. The Member was hired by Contra Costa County Health Services on March 19, 1990, as a Hazardous Materials Specialist and became a CCCERA member on April 1, 1990. The Member was promoted to Hazardous Materials Specialist II (County Job Code V4VC), effective May 1, 1992, a position that was held until retirement. The Member retired with over 24 years of Safety service, which means the initial unmodified retirement allowance is 73.1% of Final Average Salary or about \$126,000 per year.

In July of 2002 the Member began receiving pay under Pay Code B95, which is a bonus for assignment to the Hazardous Materials Incident Response Team (IRT), as well as pay under Pay Code D33 – On Call Pay, which is pay that IRT members receive for serving on call duty. Between July 2002 and March 2013 the Member received the IRT bonus every month and earned an average of 48 hours of On Call Pay per month. Between April 2013 and March 2014, the Member's final 12 months of employment, the average On Call Pay increased to 102 hours per month.

The following chart shows the Member's compensation for each of the five 12-month periods preceding retirement broken out by four pay categories. The initial retirement allowance is shown in red as a point of reference.

Chart 1
Member's Annual Compensation during Final Five Years of Employment

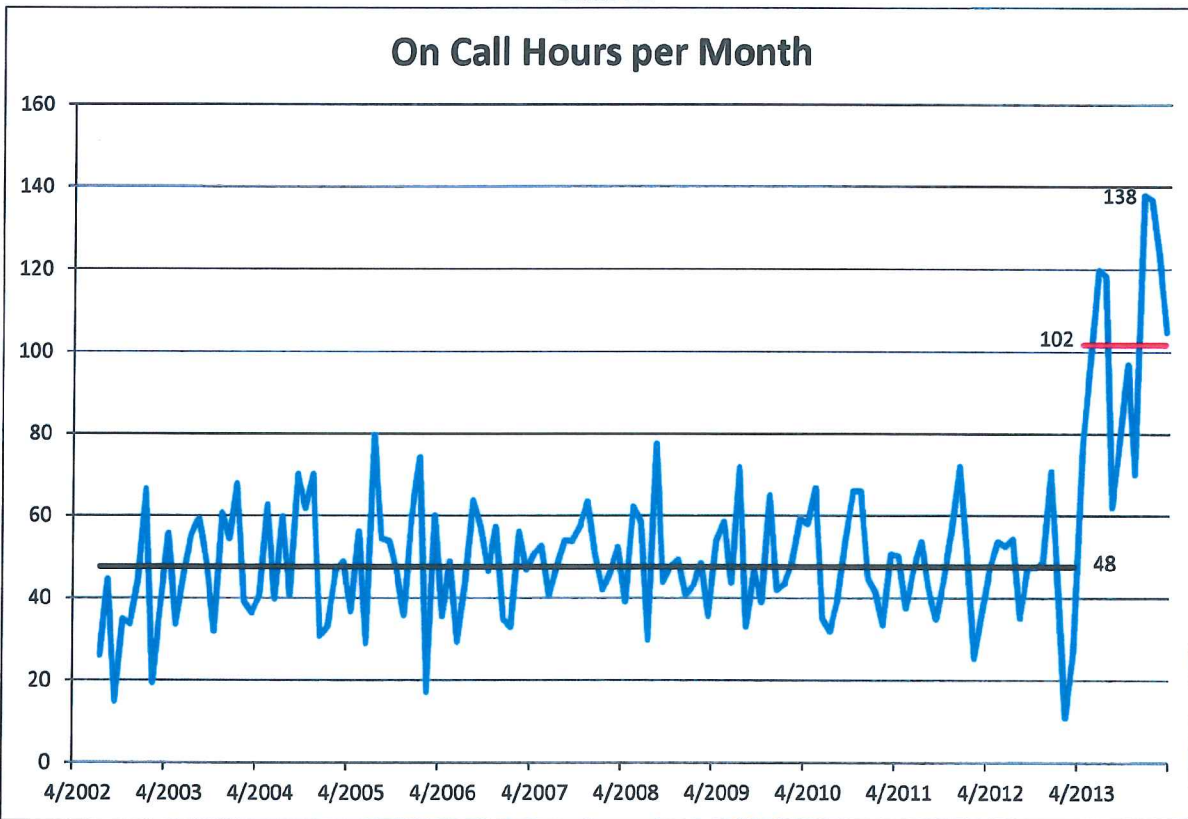


Hazardous Materials Incident Response Team On Call Pay

The following information was provided to CCCERA by the Assistant Director of the County's Health Services Hazardous Materials Division. On any given day, six Hazardous Materials Specialists who are assigned to the IRT are on call. While on call, the team members are subject to being called back to duty should an emergency arise. While team members are on duty, either during their normal shift or while being called back to duty, they receive no on call pay. While team members are on call (and off duty) they receive one hour of pay for each four hours of on call time served. This means that on a weekend or holiday a team member could earn up to six hours of on call pay, assuming they are not called back to duty, and on a workday they could earn up to four hours of on call pay.

The following chart shows the number of hours of on call pay the Member received each month since first being assigned to the IRT in 2002.

Chart 2



The data shows that the average number of on call hours for this retiree more than doubled in the final year of employment from 48 hours to 102 hours. The department has confirmed that during December 2013 and January 2014 the Member was either on duty or on call the entire two-month period except for 48 hours.

This is not the first time CCCERA staff has analyzed the on call pay of a Hazardous Materials IRT member. In February 2013 another IRT member retired with a similar pattern. Staff contacted the employer to learn how the on call duty was assigned. We were told that the Hazardous Materials Specialists have had more on call pay in recent years due to staffing issues which requires each Specialist to work more on call duty than was required in past years. This supposedly explains why recent retirees appear to have a “spike” in their on call pay late in their careers.

This explanation, however, is not supported by the data that was collected. An analysis of all Hazardous Materials Specialist retirements since on call pay began being included in Compensation Earnable showed that for all but two individuals, the amount of on call pay received increased prior to retirement regardless of how recently they retired. Although the average amount of on call pay for Hazardous Materials Specialists has increased in recent years, in any given time period, those with the highest amount of on call pay are those individuals who are within one year of retirement.

The department's explanation is not only at odds with the historical data, it is also not supported by the compensation data of the current retiree being analyzed. If the department's explanation in 2013 was correct, the current retiree should also show an increase in on call pay during the period from March 2012 through February 2013. This was not the case, and in fact, the current retiree had a personal all-time low for on call duty in February 2013 (the same month the previous IRT member retired) and did not show an increase until April 2013, exactly 12 months prior to his retirement in late March of 2014. This particular IRT member was not working additional on call duty, relative to his own work history, prior to April 2013.

The attached charts illustrate the numbers of on call hours served per month for each IRT member during the period from January 1, 2013, through May 31, 2014. The charts include data for 15 individuals of which either 12 or 13 were active each month. In order to analyze the data it has been split into four charts dividing the members into the following categories:

- Legacy Members who actually retired during the period
- Legacy Members eligible to retire (or within one year of eligibility)
- Legacy Members ineligible to retire
- PEPRA Members

The data shows a correlation between the amount of on call duty a members serves and whether the member is near retirement. Note that this does not prove that members increase their on call duty because they are approaching retirement. Another plausible explanation is that the members near retirement are also the members with the most service and experience, and it may be beneficial to the department (and the public) to have those members on call as much as possible. Regardless of the explanation, the plan is not designed or funded to account for this. The reason for basing a member's retirement allowance on the final compensation is to ensure the retirement allowance reflects all salary increases due to inflation, merit, and promotion that occur throughout the member's career, not to allow members to work additional hours near retirement to increase their retirement allowances.

Impact on CCCERA

When a member's compensation increases (due to an increase in on call duty or for any other reason) the employee and employer contributions to CCCERA also increase. The increase in contributions, however, does not cover the increased cost of the retirement allowance. The increase in contributions, in this case, is only for one year, but the retirement allowance is based on the increased compensation multiplied by more than 24 years of service.

The amount of on call pay the retiree was receiving increased from approximately \$25,000 per year to \$52,000 per year. This results in an increase in the unmodified retirement allowance of over \$19,700 per year ($\$27,000 \times 73.1\%$). The present value of the \$19,700 increase in the annual retirement allowance is approximately \$306,000, while the contribution increase was only about \$23,000, causing an increase the County's Unfunded Actuarial Accrued Liability of \$283,000, to be paid with interest over an 18 year period, primarily by the Sheriff's Department, since the member is a County Safety member.

Exclusions from Compensation for Retirement Purposes

This member retired in March 2014, during the period CCCERA was under a court ordered stay and prevented from implementing Assembly Bill 197 or changing its Compensation Policy. In this unique situation, therefore, due to the date of retirement, CCCERA must apply the rules in effect at the time. These include, but are not limited to, CERL Sections 31461 and 31539. While CCCERA had established and implemented a procedure to identify compensation paid to “enhance” a member’s retirement benefit as required by Section 31542 (added in 2012 as part of AB 340), CCCERA was precluded by the Stay Order from implementing the portion of AB 197 that authorizes the Board to exclude such “enhancements.” Although requested by CCCERA, the Superior Court did not modify the Stay Order to allow such exclusion.

The law applicable to Mr. Andrews’s pension calculation includes CERL Section 31461. It defines “compensation earnable” as “the average compensation as determined by the [retirement] board, for the period under consideration upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay.” The Policy in effect then and applicable to Mr. Andrews’s pension calculation designated “standby pay” as pensionable, but excluded overtime pay. While it was understood that on-call pay is similar to standby pay and generally treated as pensionable, it was not known to the Retirement Board until fairly recently that on-call pay resulted in irregular spikes in compensation during the final average salary for some members and was not spread equally among all members in the same grade or class of positions during the period. In light of that, the Board is now called upon to determine whether and to what extent on-call pay qualifies as “compensation earnable.”

Additionally, Government Code Section 31539 is also applicable here. The section was in effect before the enactment of AB 197 and the ensuing litigation and stay. It allows the Board to exclude compensation if: “The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of retirement.” In order to for the Board to make this determination, it will need to review the circumstances under which on-call work was scheduled for this member as well as other Hazardous Materials Specialists during the same period at the County Hazardous Materials Division, a division within the County Department of Health Services.

On-Call Pay Practices at the County Hazardous Materials Division

The compensation in question is on call pay, which was paid under County Pay Code D33. The circumstances under which this member earns on call pay are outlined in Section 9 of the Memorandum of Understanding between Contra Costa County and Public Employees Union, Local One, July 1, 2013 – June 30, 2016. Under the MOU it is the department head or his designee who assigns on-call duty.

The Department Head designates and approves those permanent full-time or part-time employees who will be assigned to on-call duty.

In practice, we are told, it is the Assistant Director of the Hazardous Materials Division who maintains the on-call schedule for the Incident Response Team. Once the on-call schedule is issued, those assigned to on-call duty are not necessarily required to serve that duty. Team members are allowed to trade shifts, give up shifts, or volunteer for shifts that others wish to give up.

As a result, the on-call duty is not spread equally among the team members, and team members tend to work more on-call duty when the on-call pay has a greater value, that is, during the final compensation period. All assigned and voluntary on-call duty is paid using the same pay code even though the MOU only describes pay when the employee is assigned to on-call duty.

One interpretation is that the on call duty originally assigned to the member is the on call duty that is eligible for on call pay under the MOU, and it is only that on call pay that the Board determined was included for retirement purposes in its pre-AB 197 compensation policy. The Board never considered (or was even aware of) voluntary on call duty. The voluntary on call duty is a form of overtime, which has always been excluded from Compensation Earnable under CERL. Under the Board's pre-AB 197 Policy, overtime compensation is not included in compensation earnable if it was in excess of what is considered to have been paid for services during normal working hours. Whether compensation is "overtime" has never depended on its formal characterization as overtime.

Under this interpretation, the voluntary on call duty was improperly reported as on call duty under the terms of Section 9 of the MOU (assigned on call duty) rather than being reported as voluntary on call duty, which would properly be reported under an overtime (excluded for retirement purposes) pay code.

Differentiating Assigned On Call Duty from Voluntary On Call Duty

It may not be possible to determine precisely how much on call duty was assigned to the member and how much the member volunteered for in order to provide coverage. Once created, the on call schedule is continually updated to ensure there is sufficient coverage. Since both forms of on call duty were being reported under the same pay code and both forms were believed to be pensionable, there was no reason to differentiate them on the timesheets, department schedules or anywhere else. We do know, however, that a portion of the on call duty was assigned and a portion of it was voluntary.

A good example of this is summarized in Attachment 2, which shows Mr. Andrews was initially assigned on call duty for 11 days during the month of June 2013. His June timesheet shows that he was on call and paid for 25 days. The IRT on call schedule shows that in some cases shifts are swapped. The on call duty Mr. Andrews served on June 14-16 was in exchange for giving up shifts February 15-17 to member that retired February 23. Also, the timesheet makes no distinction between duty that was assigned versus that which was voluntary. This practice is different from other CCCERA employers who do make the distinction between required on-call duty and voluntary on-call duty. The Central Sanitary District, for example, assigns its Maintenance Crew Members to two separate weeks of on-call duty per year. Only pay for those

two weeks can be counted towards retirement. Pay for any voluntary on-call duty beyond the two assigned weeks does not count toward retirement.

At its December 10, 2014 meeting, the Board received information about the assignment of on call duty from the Director of the Hazardous Materials Division, Randall Sawyer. According to the Director, the assignment of on call duty is initially uniform among everyone on the Incident Response Team. Based on this practice, we can calculate the approximate amount of on call duty that was assigned to each employee. This is the total amount of on call duty worked by everyone on the Incident Response Team divided by the number of individuals on the Team. We have performed this calculation for this member during his final compensation period.

During the member's final compensation period there were either 12 or 13 Hazardous Materials Specialists on the Incident Response Team eligible for on call duty at any given time. They were paid on average for approximately 64 hours per month under pay code D33, which represents 256 hours of on-call duty. The average then for the entire 12-month final compensation period is 768.92 hours under pay code D33. At this member's compensation rate of \$43.391712 per hour this would be a total of \$33,364.76 of on call pay during the final year of employment. While this still represents a 41% increase over the prior year for this retiree, this can be explained by the fact that there were fewer available department members over which to distribute the on-call duty during the member's final compensation period compared to previous periods.

Recommendation

After considering all information available to the Board pertaining to Mr. Andrews's on-call pay, including information provided by Mr. Andrews, his employer, and CCCERA, the Board can proceed to determine whether some or all of the on call pay excluded from Mr. Andrews's pension calculation is pensionable. ***First***, since the on-call pay at issue here was for work not required and worked by ***all*** in the same grade or class during the same time period, the Board may determine that it is non-pensionable overtime pay. ***Second***, if the Board determines that the on-call pay was an ***improper increase*** caused by the member's behavior, it is non-pensionable pay and it is within the Board's discretion to exclude it from the pension calculation. Alternatively, should the Board determine that additional facts are necessary, the Board may set a future hearing regarding this matter. Lastly, the Board may also determine that a further hearing before a hearing officer is warranted, as authorized under Government Code Section 31533.

Attachment #3

It was M/S/C to approve the routine items of the May 6, 2015 meeting. (Yes: Andersen, Gordon, Hast, Holcombe, Phillips, Pigeon, Smithey, Telles and Watts)

It was the consensus of the Board to move into Closed Session, Item 6.

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54957.6.

The Board moved into open session.

6. There was no reportable action related to Govt. Code Section 54957.6.

It was the consensus of the Board to move to Item 9.

9. Consider and take possible action regarding whether on-call pay should be treated as pensionable for retired hazardous materials specialist Paul Andrews

Schneider reviewed his memo on staff's findings regarding on-call pay in the final average salary period for retired hazardous materials specialist Paul Andrews. He stated the amount of on-call pay was steady throughout his career and doubled in his final year. He noted the employer stated it was due to less people on staff.

Paul Andrews, retired hazardous materials specialist, presented a slide show and reviewed his background as a County employee noting he is also a state certified hazardous materials instructor. He reported hazardous material operates 24/7. He reviewed typical incidents including drug labs, fixed facilities, railroads, spills, and abandonments. He also reviewed how on-call works in the hazardous material department. He discussed the reason for the increase in his on-call time during the last year of his employment. He stated he never volunteered to be on-call and that it was required.

Louis Pascalli, former hazardous materials director from 1993-2004, stated there were a number of incidents during the time he was director that needed to be worked, which were mostly at refineries. He noted the union and management have been working together to ensure staffing levels are met.

Randy Sawyer, Chief Environmental Health and Hazardous Materials Officer for Contra Costa County, reviewed the staffing levels on the hazardous materials team, how on-call work is assigned, and how the positions are filled. He reported that currently someone is on-call an average of every other day. He noted they still are not fully staffed. He stated on-call is not voluntary and they are required to have some of the team members on the team with a higher level of experience. There were a lot of retirements which caused them to have less team members that had the higher level of experience to staff teams.

Gordon complimented Schneider and staff on their report and analysis.

It was M/S that 1) the on-call pay excluded from the member's benefit calculation was not required and worked by all in the grade or class during the same time period and is excludable as non-pensionable overtime pay and 2) the on-call pay be excluded from the member's pension because the member caused his final compensation to be "improperly increased" by voluntarily signing up for on-call work at the end of his career beyond what was required of all during the same time period.

The motion was amended to include using the average of the minimum number of on-call hours that were required and worked in the member's benefit calculation.

In public comment, Eric Jonsson, retired hazardous materials specialist, stated he appreciated the work CCCERA did and he noted he was told that currently the team is working 80 hours of on-call per

month and they do not anticipate any other retirements. He discussed the time to train new hazard material specialists noting that it is important to have experienced staff on each team.

After a lengthy discussion, the motion with the amendment was M/S/C. (Yes: Andersen, Gordon, Hast, Holcombe, Phillips, Smithey, Telles and Watts. No: Pigeon)

It was noted Mr. Andrews can provide any additional information he has to Schneider.

10. Organizational and portfolio update from PIMCO – Stephanie King, Jay Jacobs

King thanked the Board for inviting them to give an update.

Jacobs gave an update on personnel and the performance of PIMCO. He reported they have been adding talent in the past 7 months, including three team members that left and then came back. They had one departure in January where he was taking a year off. He noted they have not had a single person leave to follow Bill Gross.

Jacobs reported the Total Return fund is at \$110 billion and the fund has been a top quartile performer. He noted their overall assets were up in April which speaks to the stability of the company.

King noted not a single client that visited their office to do due diligence has taken their assets out.

Jacobs reported they will be focusing on the stability of staff. He also reported they have an ongoing SEC investigation from 2012 when Gross was still there and that no allegations have been made against PIMCO. He noted no investor lost money in the fund.

11. Introduction to Board interviews and update on consultant transition from Wurts – Edward Hoffman

Hoffman reported they have changed their name from Wurts and Associates to Verus Consulting Group noting Wurts, the founder of the firm, was not involved.

He reported they have been working a lot behind the scenes with CCCERA's custodian bank and on the quarterly report. He stated the report will have a different format. He noted there has been a lot of interaction with investment managers and CCCERA staff. He reported they have started working on the asset liability model. Part of the process is interviews with the Board and staff. They will conduct an Investment Strategy Development workshop (ISD) which is a two-day workshop covering targeted education, asset/liability study and governance best practices. They will also have an asset allocation workshop. He reviewed a preliminary timeline noting the timeline is very aggressive.

12. Consider and take possible action to terminate Milliman contract

Price noted this is a housekeeping item. He reported the data has been transferred from Milliman to Wurts and needs a motion to terminate the contract and staff will issue a letter.

It was M/S/C to terminate the Milliman contract. (Yes: Andersen, Gordon, Hast, Holcombe, Phillips, Pigeon, Smithey, Telles and Watts)

13. Consider and take possible action to grant a 3% increase in base pay and a \$500 lump sum payment for all unrepresented staff, except for the Chief Executive Officer position

Strohl noted there were 4 individuals that were part of Local 21 that would have received a lump-sum of \$750 to be paid on July 10, 2015. In order to retain parity with all employees, she is recommending the Board:

Attachment #4

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT

**POLICY GOVERNING THE OVERPAYMENT OR UNDERPAYMENT OF MEMBER
CONTRIBUTIONS**

Adopted: 12/10/2014

I. INTRODUCTION

The Board of Retirement ("Board") has a fiduciary obligation to conserve retirement fund assets and protect the integrity of the fund, for the benefit of the members and beneficiaries of the Contra Costa County Employees' Retirement Association ("CCCERA").

The Board determines the required member contributions in accordance with law and in consultation with its actuary. Subject to all applicable laws, it shall be CCCERA's policy to make every reasonable effort to recover from a member the amount of any underpayment of contributions, and to remit to a member the amount of any overpayment of contributions, consistent with this Policy and the procedures established by the Board.

Accordingly, after discovery of an overpayment or underpayment of member contributions, and within a reasonable period of time after written notification to the affected member, CCCERA will correct any overpayment or underpayment of member contributions.

This Policy is designed for use when errors affect an *individual* member's contributions. In the event of a system-wide error that affects *multiple* members' contributions, the Board may implement a system-wide correction process that it determines is appropriate under all the circumstances.

In the event of any inconsistency between applicable law and this Policy, the law shall take precedence.

Notwithstanding this Policy, if an overpayment results from provisions of federal tax law, any correction procedures specified by the IRS will be followed to the extent feasible.

II. PURPOSE

The purpose of this Policy is to set forth procedures for handling the overpayment and underpayment of retirement contributions.

III. POLICY

A. Overpayments of Contributions By Members

1. When a Member has overpaid contributions, the Member shall be entitled to a prospective adjustment to his or her contributions necessary to correct the overpayment, as well as a lump sum payment for all past overpayments, with appropriate interest. Appropriate interest shall be the rate set forth in the Board's Interest Crediting Policy (currently the actuarially assumed rate of return) for each applicable pay period. The adjustment shall be made in the Member's pay from their CCCERA participating employer as soon as is reasonably practicable following CCCERA's discovery of the overpayment.
2. If a Member who overpaid contributions has died prior to payment of the lump sum amount due, the following procedures will be followed:
 - A. Member With Designated Beneficiary
 - If the Member has named a designated beneficiary, the payment will be made directly to the designated beneficiary. *See* County Employees Retirement Law of 1937 ("CERL"), Government Code Section 31452.7.
 - B. Member Without Designated Beneficiary
 - If there is an open estate (*i.e.*, no order for final distribution yet), payment will be made to the estate (through the personal representative).
 - If final distribution of the estate has already been made, CCCERA staff will review the order for final distribution to determine how assets that were unknown at the time of final distribution are to be distributed under the order. Payment will then be made in compliance with the order for final distribution, if possible.
 - If an estate was not established, distribution will be made in accordance with any applicable and valid Affidavit for Payment of Personal Property on file with CCCERA. *See* Prob. Code Section 13101.
 - CCCERA staff shall make reasonable efforts to locate the person(s) entitled to payment by sending a letter by certified mail, return receipt requested, to the last known address of each such person, or by other means of similar intended effect. The letter shall request written confirmation that the person entitled to payment still lives at that address and will accept payment. Upon receipt of such written confirmation, the payment will be mailed to that person at that address. *See* CERL Section 31783.5(b).
 - If, after taking the above steps, CCCERA staff has not been able locate a person entitled to payment, CCCERA shall hold the funds on behalf of that person for five years. If the funds are not claimed within five years, the funds

may be transferred into the system's pension reserve fund. If someone later claims the funds, the Board will consider such claims on a case-by-case basis. See CERL Section 31783.5(c).

- CCCERA will maintain a permanent record of all amounts of outstanding refunds of overpayments and any amounts that have been transferred into the pension reserve fund.
 - In cases where there is no designated beneficiary and the total amount of overpayment is less than \$50, CCCERA staff need not take proactive measures to locate the person(s) entitled to such funds. All claims presented to CCCERA, however, will be considered regardless of size.
3. Overpayments of \$5 or less will only be refunded at the request of the Member.

B. Underpayment of Retirement Contributions By Members

1. Whenever an underpayment of contributions is discovered, CCCERA shall make a prospective adjustment to the member's contributions and take all reasonable steps to recover the full amount of all past underpayments, with "appropriate interest," subject to the provisions of this Policy and applicable law. If the underpayment was due to fraud, dishonest or improper conduct by the member, or by the member providing inaccurate information to CCCERA or the member's employer, appropriate interest shall be CCCERA's actuarially assumed rate of return that was applicable for the period in which the underpayments were made, applied to the outstanding amount due until such amount is fully repaid. If the underpayment was the result of an error by CCCERA or the member's employer, appropriate interest shall be 3% per annum for the period in which the underpayments were made, applied to the outstanding amount due until such amount is fully repaid.
2. CCCERA will recover underpayments by (a) a lump sum payment from the member, (b) installment payments from the member, (c) additional amounts added to the member's future contributions, over a period of time as determined by the Board, (d) offsets to future benefit payments to the member, over a period of time as determined by the Board or (e) a combination of the foregoing, unless the Board, in its discretion and because of legal or practical considerations, determines that another process is warranted.
3. The Board believes that considerations of cost effectiveness make it prudent and reasonable to pursue recovery of underpayments only where the cumulative total amount underpaid by the member is \$50 or more. Accordingly, the Retirement CEO is authorized to not seek recovery of any underpayments where the total amount underpaid by the member is less than \$50.
4. The Retirement CEO shall have authority, on the advice of legal counsel, to compromise recovery of underpayments when the total amount of underpayment, not including interest, is less than \$5,000. Only the Board may compromise claims in which the total amount of underpayment, not including interest, is \$5,000 or more. Among other things, the likelihood of collection, the cost of collection, the amount of possible recovery and

extreme hardship to the member will be considered by the Retirement CEO and/or the Board when determining whether to compromise a claim. Compromising claims may include a different method of repayment than is otherwise provided by this Policy and/or a partial forgiveness of the amounts underpaid.

5. The Board adopts the following procedures for accomplishing the recovery of underpaid contributions:

A. Upon discovery of an underpayment, CCCERA shall send a letter by certified mail, return receipt requested, or by express delivery service, to the member advising the member of the underpayment and proposing a repayment schedule, as follows:

i. The letter will identify the circumstances of the underpayment and the fact that adjustments will be made to all future contribution amounts.

ii. The letter will request payment to CCCERA of the past amount underpaid, subject to the provisions of this Policy.

iii. The letter will include an agreement to pay the amounts underpaid and a consent form for the spouse or beneficiaries, if applicable.

iv. The agreement to pay the amounts underpaid will provide two options, one of which may be selected by the Member:

(1) Option 1 — equal installments deducted from the Member's pay (in addition to the contributions otherwise required of the member), or benefit payments (if the Member is retired), over the same length of time that the underpayments occurred, with appropriate interest (as that phrase is defined in No. 1 above) applied for the underpayment period and the payment period. If the Member's employment terminates during the payment period, the Member shall be liable for all remaining unpaid amounts, which may be deducted from any amounts CCCERA owes the Member (in retirement benefits or otherwise), if the member does not make a lump sum payment.

(2) Option 2 — lump sum payment to CCCERA for the full amount underpaid, with appropriate interest (as that phrase is defined in No. 1 above) applied during the underpayment period.

(3) Option 3 — installment payments to CCCERA for the full amount underpaid, with appropriate interest (as that phrase is defined in No. 1 above) applied during the underpayment period.

v. The letter and agreement to pay underpaid amounts will provide that Option 1 will go into effect by default if a written response from the member is not received within 30 days following the date the letter was delivered.

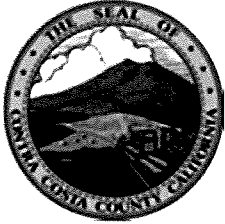
B. If the amount of the underpayment, not including interest, is \$5,000 or more, CCCERA staff will attempt to contact the Member by phone to discuss the contents of the letter before the letter is sent out for delivery.

C. CCCERA may pursue, all legal remedies to collect underpayments, including making a claim on an estate or trust, if appropriate.

D. Upon the death of the Member before full repayment has been made, CCCERA shall pursue a claim or claims against the Member's estate, survivors, heirs and/or beneficiaries to recover the unpaid amounts.

CCCERA will maintain a permanent record of all amounts of underpayments and the payment to CCCERA of those underpayments.

Attachment #5



HAZARDOUS MATERIALS SPECIALIST II

Class Code:
V4VC

Bargaining Unit: Local 1 - Health Services
Unit

COUNTY OF CONTRA COSTA
Established Date: Mar 1, 1981
Revision Date: Feb 1, 2008

SALARY RANGE

\$36.77 - \$44.69 Hourly
\$2,941.56 - \$3,575.48 Biweekly
\$6,373.37 - \$7,746.87 Monthly
\$76,480.44 - \$92,962.44 Annually

DEFINITION:

Bargaining Unit: Local 1 - Health Services Unit

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Class specifications are not intended to reflect all duties performed within the job.

Under direction, performs a variety of difficult, complex and responsible hazardous materials/hazardous waste inspection and regulatory enforcement activities; may serve as a member of the Incident Response (IR) Team responding to emergency hazardous materials/hazardous waste releases; and performs related work as required.

DISTINGUISHING CHARACTERISTICS:

The Hazardous Materials Specialist II class performs a number of duties associated with the enforcement of laws and regulations which regulate the production, storage, handling, treatment and disposal of hazardous materials/hazardous wastes.

This class is distinguished from Hazardous Materials Specialist I in that incumbents of the latter class perform a more limited range of hazardous materials investigation, compliance and regulatory enforcement duties under close management supervision and/or the work direction of Hazardous Materials Specialists II. Hazardous Materials Specialists II may be assigned to coordinate specific hazardous materials/hazardous waste projects and may provide direction and guidance to other incumbents of the Hazardous Materials Specialist series.

MINIMUM QUALIFICATIONS:

License Required: Valid California Motor Vehicle Operator's License.

Education: Possession of a baccalaureate degree from an accredited college or university with a major in public health, chemistry, industrial engineering, industrial

hygiene, toxicology, physical sciences, biological sciences, or a closely related field.

Experience: Two years of full-time or its equivalent experience either: 1) performing hazardous materials/hazardous waste inspections; 2) developing environmental regulatory programs; 3) directing the technical operations of a facility which generates, stores, handles, treats, or disposes of hazardous materials; or 4) performing industrial hygiene or occupational health duties.

Substitution: Possession of a master's degree from an accredited college or university in public health, chemistry, industrial engineering, industrial hygiene, toxicology, physical sciences, biological sciences or a closely related field may be substituted for one year of the required experience.

Certification Requirement: Within 6 months of employment, must obtain and hold a certificate of completion of coursework that meets the requirements of the California Occupational Health and Safety Administration's (OSHA) Hazardous Waste Operation and Emergency Response standard (CCR Title 5192) et seq). Also within 6 months of employment or other timeframe set forth by regulation, must possess all certifications required to perform Unified Program inspections as defined by CCR.

Special Requirements: Incident Response (IR) Team will be required to take and pass an annual physical which includes respirator authorization.

KNOWLEDGES, SKILLS, AND ABILITIES:

Knowledge of:

- State and federal laws, rules and regulations pertaining to hazardous waste management and environmental and occupational health
- Public health and industrial hygiene, environmental sanitation and engineering principles and practices
- Methods, techniques and practices used in the determination and elimination of environmental health hazards in industry and in the community
- Principles of evaluation and control of air, water and noise quality
- Industrial hygiene instruments and test equipment
- Practices followed in generating, transporting and disposing of hazardous materials/waste and toxic substances
- Statistical methods and their applications

Ability to:

- Conduct investigations, evaluate findings and prepare recommendations for the elimination and control of hazardous materials/wastes and occupational health conditions
- Provide work direction, education and instruction to other staff
- Write clear and concise reports
- Troubleshoot and field calibrate equipment
- Analyze and interpret statistical data relating to hazardous materials/wastes and occupational health issues

- Provide direction to and deal effectively with other employees, members of the business community, other public agencies and the general public

TYPICAL TASKS:

- Conducts surveys and inspections of facilities which generate, store, handle, treat, or dispose of hazardous materials/hazardous wastes
- Reviews and approves hazardous materials business plans and inventories
- Reviews and approves hazardous materials risk management and prevention plans
- Collects material samples and takes photographs
- Conducts inspections of and issues and approves permits for the installation and removal of underground storage tanks
- Monitors underground storage tank tests and the collection of soil and groundwater samples
- Reviews and approves work plans for sites contaminated with hazardous materials/hazardous wastes and oversees ongoing mitigation efforts
- Issues notices of violation and/or initiates regulatory enforcement actions against individuals, agencies and businesses violating hazardous materials, laws, regulations
- Assists in the preparation of court cases and testifies in court proceedings
- Conducts industrial hygiene surveys and environmental monitoring to identify, evaluate and control exposures to chemical and physical hazards in industry and the community
- Participates as an emergency response team member during chemical spills and other hazardous materials/hazardous wastes incidents
- Makes immediate assessments of the environmental and public health impacts posed by the release of hazardous materials/hazardous wastes
- Conducts specialized tests to identify and categorize suspected hazardous materials/hazardous waste releases
- May implement containment procedures for gas, liquid and solid hazardous materials/hazardous waste releases
- Participates in and/or provides technical oversight for hazardous material/hazardous waste clean-up operations
- Obtains and analyzes air, water and soil samples to determine levels of contamination
- Operates, maintains and field calibrates a variety of monitoring equipment
- Implements community notification procedures
- Acts as a liaison for the Department with other agencies including law enforcement, fire, ambulance services, public works and medical personnel
- Coordinates household hazardous waste collection events
- Assists in the education and instruction of staff members
- Reviews and makes recommendations concerning the impacts of hazardous materials and wastes such as in Environmental Impact Reports
- May provide work direction, education and instruction to other staff, the business community, other public agencies and the general public
- May coordinate or lead a specific hazardous material or hazardous waste, project, or program as assigned
- Makes presentations to community groups, businesses and public agencies

- Responds to questions from the public and to citizen complaints involving hazardous materials/hazardous waste issues
- Attends training sessions in order to maintain competency in assigned areas
- Prepares written reports and correspondence

SPEC HISTORY:

Formerly: Occupational Health Specialist

Established: March 1981

Revised and Retitled: December 1996

Revised: May 2007 (TKO)

Revised: July 2007 (TKO)

Revised: February 2008 (VRH)

Attachment #6

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
PUBLIC EMPLOYEES UNION, LOCAL ONE

OCTOBER 1, 2008 – JUNE 30, 2011

SECTION 8 - CALL BACK TIME

SECTION 8 - CALL BACK TIME

Any employee who is called back to duty shall be paid at the appropriate rate for the actual time worked plus one (1) hour. Such employee called back shall be paid a minimum of two (2) hours at the appropriate rate for each call back.

SECTION 9 - ON-CALL DUTY



On-call duty is any time other than time when the employee is actually on duty during which an employee is not required to be on County premises, but stand ready to immediately report for duty and must arrange so that his/her supervisor can reach him/her on ten (10) minutes notice or less. An employee assigned to on-call time shall be paid one (1) hour of straight time credit for each four (4) hours of such on-call time unless otherwise provided in the supplemental sections of this Agreement. Where on-call arrangements exist, the Department Head shall designate which employees are on-call unless otherwise provided in the supplemental sections of this Agreement.

SECTION 10 - SHIFT DIFFERENTIAL

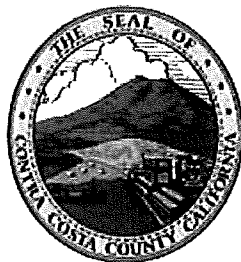
In the hours which qualify for shift differential, employees shall receive five percent (5%) above their base salary rate.

To qualify for shift differential, an employee must have a regularly assigned daily work schedule which requires:

- A. Completion of more than one and one-half (1-1/2) hours over the normal actual working time; or
- B. At least four (4) hours of actual working time from 5:00 p.m. through 9:00 a.m. inclusive. However, employees who have been regularly working a shift qualifying for shift differential immediately preceding the commencement of a vacation, paid sick leave period, paid disability or other paid leave, will have shift differential included in computing

Attachment #7

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
PUBLIC EMPLOYEES UNION, LOCAL ONE



JULY 1, 2011 – JUNE 30, 2013

SECTION 10 - SHIFT DIFFERENTIAL

SECTION 9 - ON-CALL DUTY

On-call duty is any time other than time when the employee is actually on duty during which an employee is not required to be on County premises, but stand ready to immediately report for duty and must arrange so that his/her supervisor can reach him/her on ten (10) minutes notice or less. An employee assigned to on-call time shall be paid one (1) hour of straight time credit for each four (4)

hours of such on-call time unless otherwise provided in the supplemental sections of this Agreement. Where on-call arrangements exist, the Department

Head shall designate which employees are on-call unless otherwise provided in the supplemental sections of this Agreement.

SECTION 10 - SHIFT DIFFERENTIAL

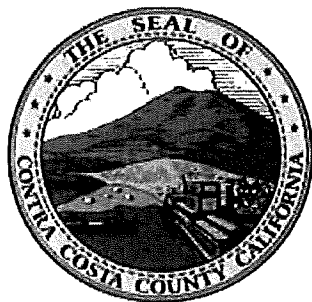
In the hours which qualify for shift differential, employees shall receive five percent (5%) above their base salary rate.

To qualify for shift differential, an employee must have a regularly assigned daily work schedule which requires:

- A. Completion of more than one and one-half (1-1/2) hours over the normal actual working time; or
- B. At least four (4) hours of actual working time from 5:00 p.m. through 9:00 a.m. inclusive. However, employees who have been regularly working a shift qualifying for shift differential immediately preceding the commencement of a vacation, paid sick leave period, paid disability or other paid leave, will have shift differential included in computing the pay for their leave. The paid leave of an employee who is on a rotating shift schedule shall include the shift differential that would have been received had the

Attachment #8

MEMORANDUM OF UNDERSTANDING
BETWEEN
CONTRA COSTA COUNTY
AND
PUBLIC EMPLOYEES UNION, LOCAL ONE



JULY 1, 2013 – JUNE 30, 2016

SECTION 8 - CALL BACK TIME PAY

SECTION 8 - CALL BACK TIME PAY

A permanent full-time and permanent part-time employee who is called back to duty will be paid for Call Back Time. Call Back Time occurs when an employee is not scheduled to work and is not on County premises, but is called back to work on County premises or for a County work assignment. An employee called back to work will be paid Call Back Time Pay at the rate of one and one-half (1.5) times his/her base rate of pay (not including differentials) for the actual Call Back Time hours worked plus one (1) hour. An employee called back to work will be paid a minimum of two (2) hours for each Call Back Time event.

SECTION 9 - ON-CALL DUTY



A permanent full-time or part-time employee assigned to On-Call Duty is paid one (1) hour of straight time pay for each four (4) hours designated as on-call duty. If an employee's on-call duty hours are not in increments of four (4) hours, the on-call duty hours will be pro-rated. For example, if the employee is assigned to on-call duty for six (6) hours, the employee would receive one and one-half (1.5) hours of straight time pay for the six (6) hours of designated on-call duty (6 hours ÷ 4 hours=1.5 hrs.). If an employee is called back to work while assigned to on-call duty, the employee will be paid for the total assigned on-call duty hours regardless of when the employee returns to work. An employee is considered assigned to on-call duty if all of the following criteria are met:

- a. A permanent full-time or part-time employee is not scheduled to work on County premises, but is required to report to work immediately if called. The employee must provide his/her supervisor with current contact information so that the supervisor can reach the employee with ten (10) minutes or less notice.
- b. The Department Head designates and approves those permanent full-time or part-time employees who will be assigned to on-call duty.

SECTION 10 - SHIFT DIFFERENTIAL

- A. Permanent full-time and permanent part-time employees:
 1. Permanent full-time and permanent part-time employees will receive a shift differential of five percent (5%) for the employee's entire scheduled shift when the employee is scheduled to work for four (4) or more hours between 5:00p.m. and 9:00a.m.
 2. In order to receive the shift differential, the employee must start work between the hours of midnight and 5:00 a.m. or 11:00 a.m. and midnight on the day the shift is scheduled to begin. Hours worked in excess of the employee's scheduled workday will count towards qualifying for the shift differential, but the employee will not be paid the shift differential on any excess hours worked.

Attachment #9

Chart A:

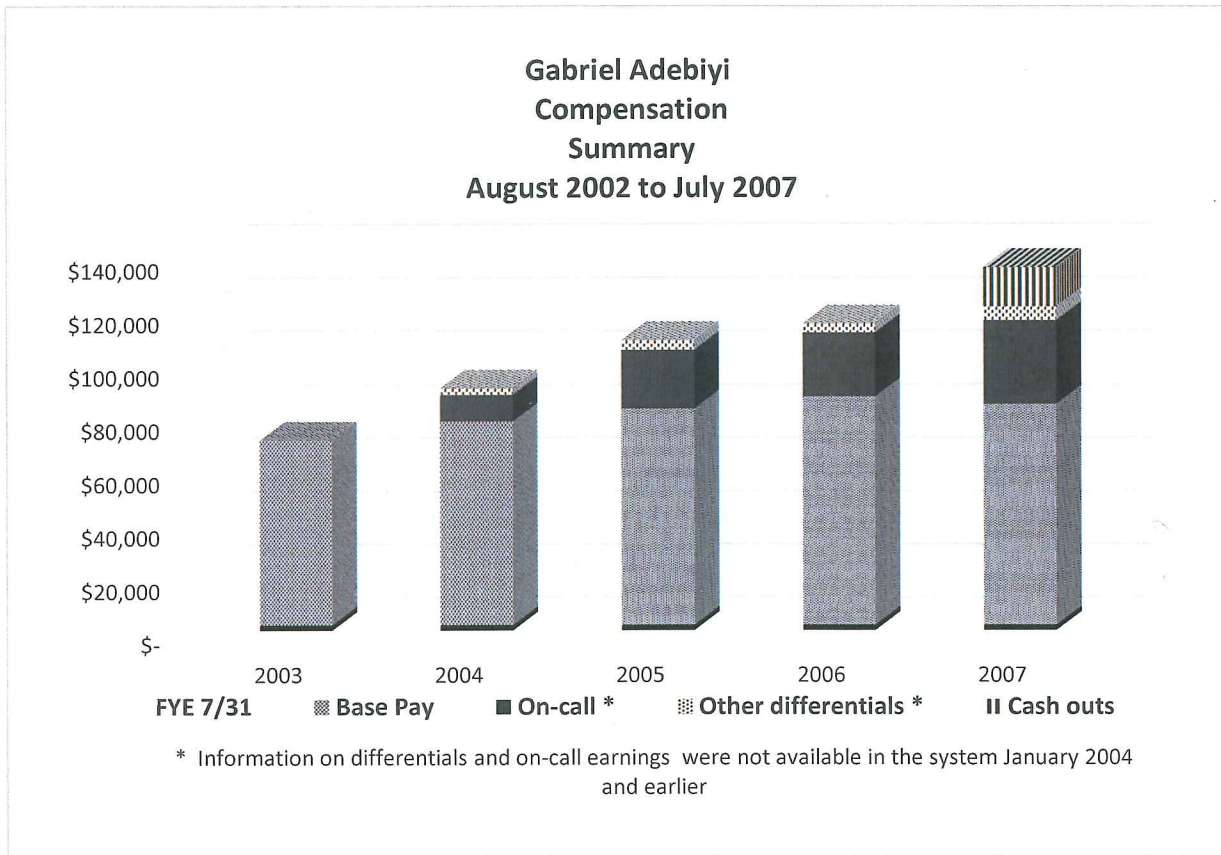


Chart B:

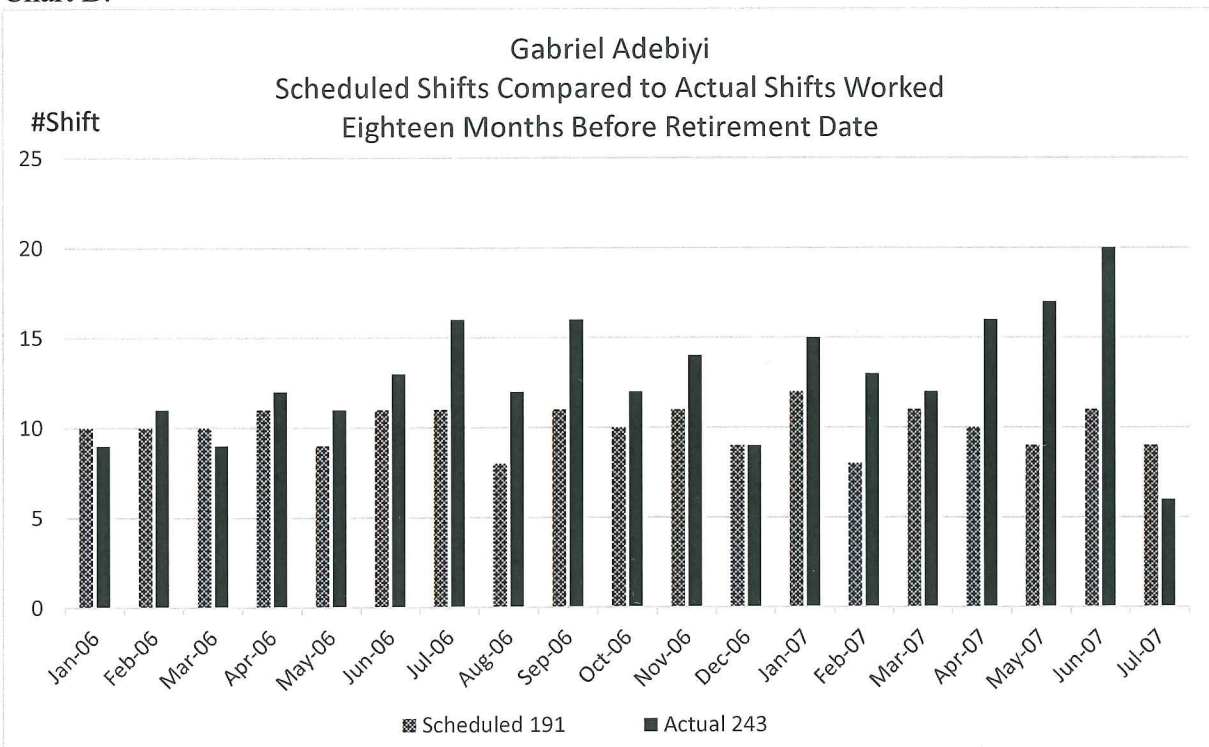
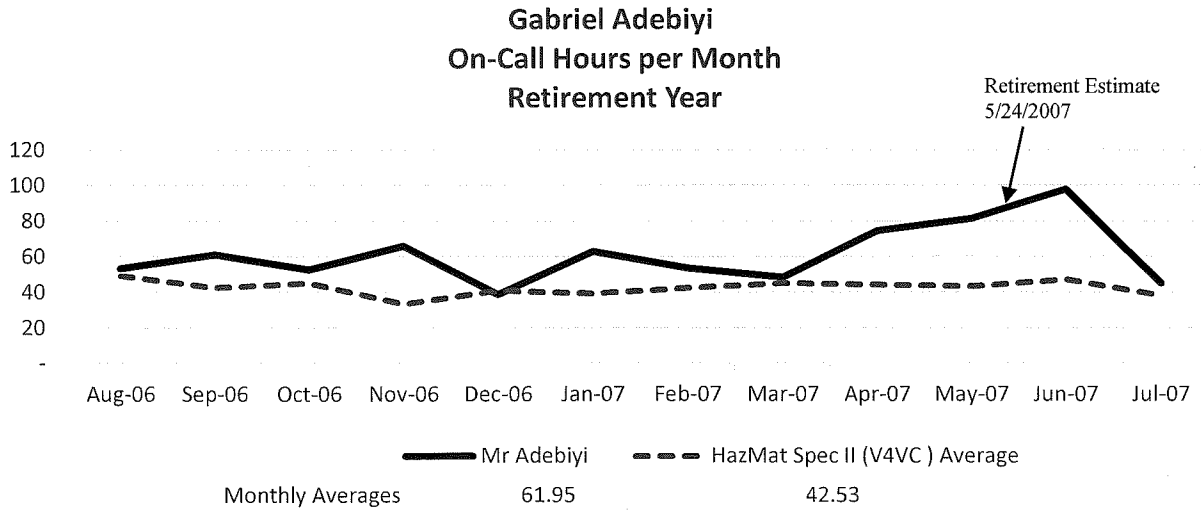


Chart C:



Diff	19.42
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Exclusion Amount	Hours	233.04	\$Amount	\$9402.43
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Ret Date	7/19/2007	On-Call In FAS	\$32,577.24	Adjusted On-Call in FAS	\$22,874.81
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Attachment #10

Chart A:

**Scott Hanson
Compensation Summary
March 2007 - Feb 2012**

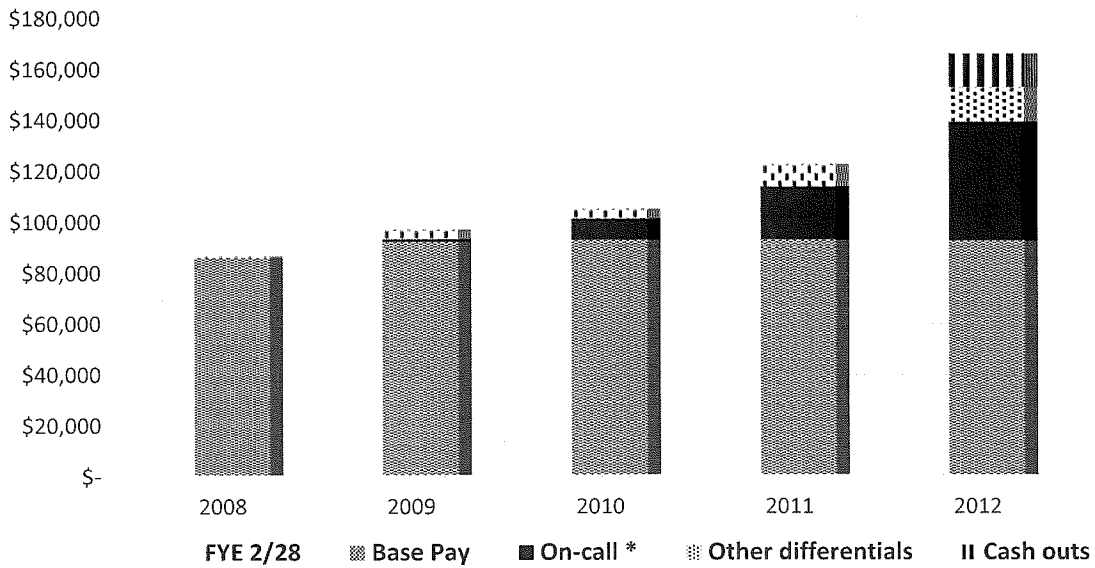


Chart B:

**Scott Hanson
Scheduled Shifts Compared to Actual Shifts Worked Eighteen Months
Before Retirement Date**

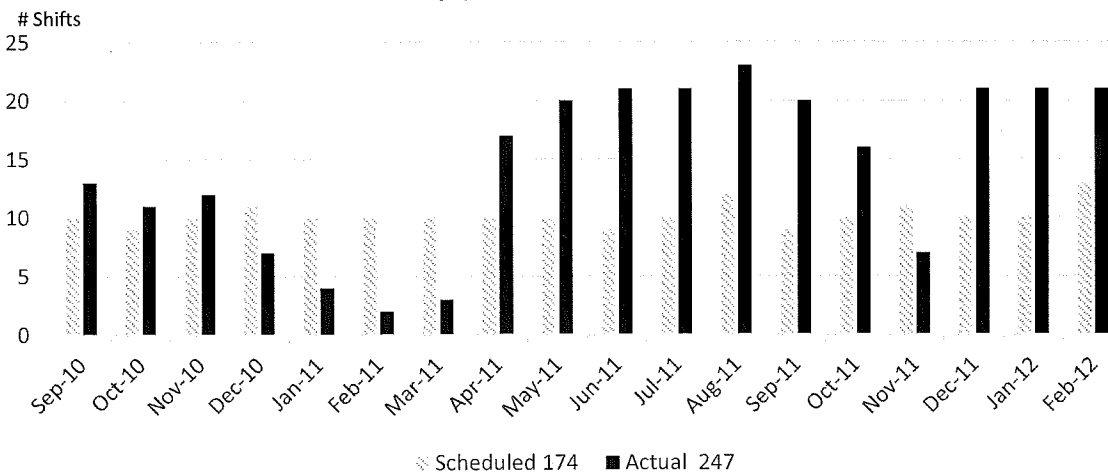
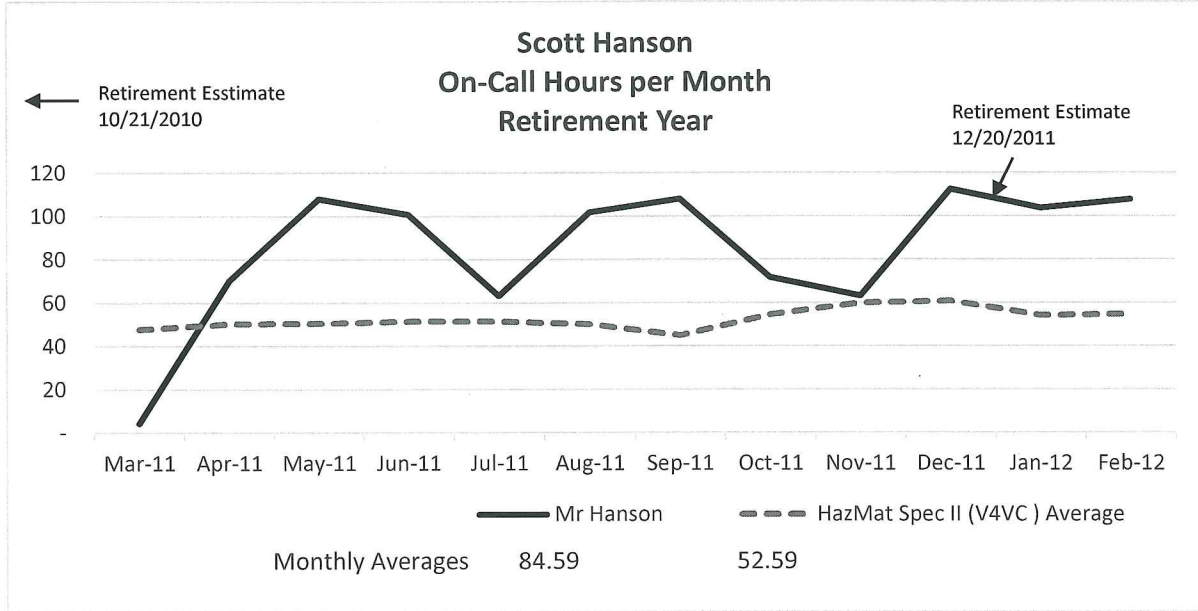


Chart C:



Diff 32.00

Exclusion Amount Hours 384.033155 \$Amount \$17,135.07

Ret Date	2/29/2012	On-Call In FAS	\$46,597.49	Adjusted On-Call In FAS	\$38,630.26
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Attachment #11

Chart A:

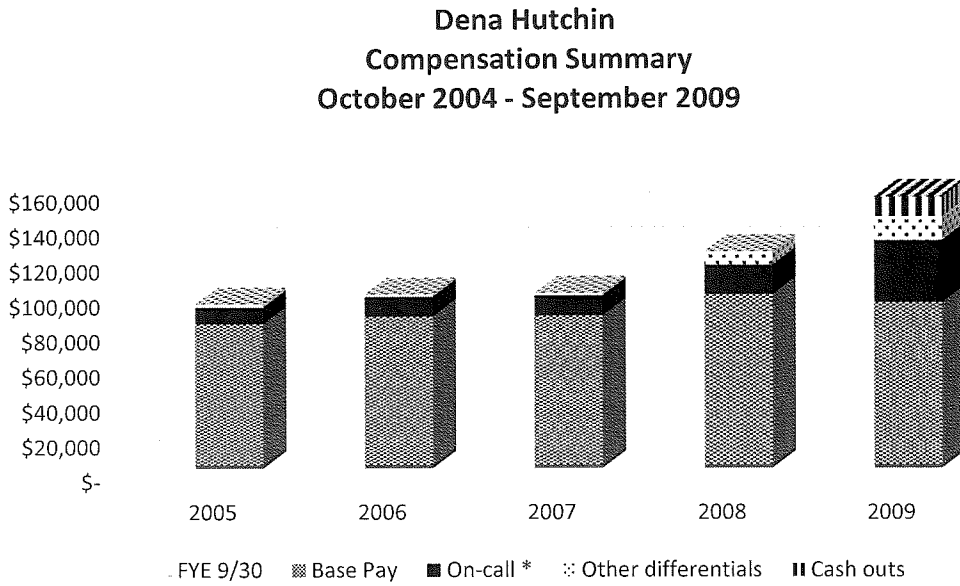


Chart B:

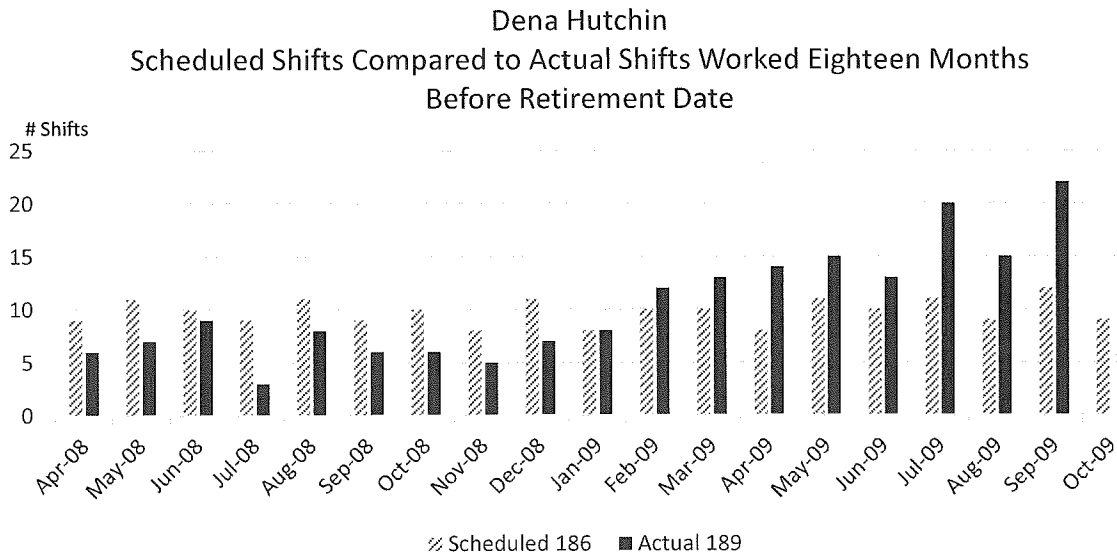
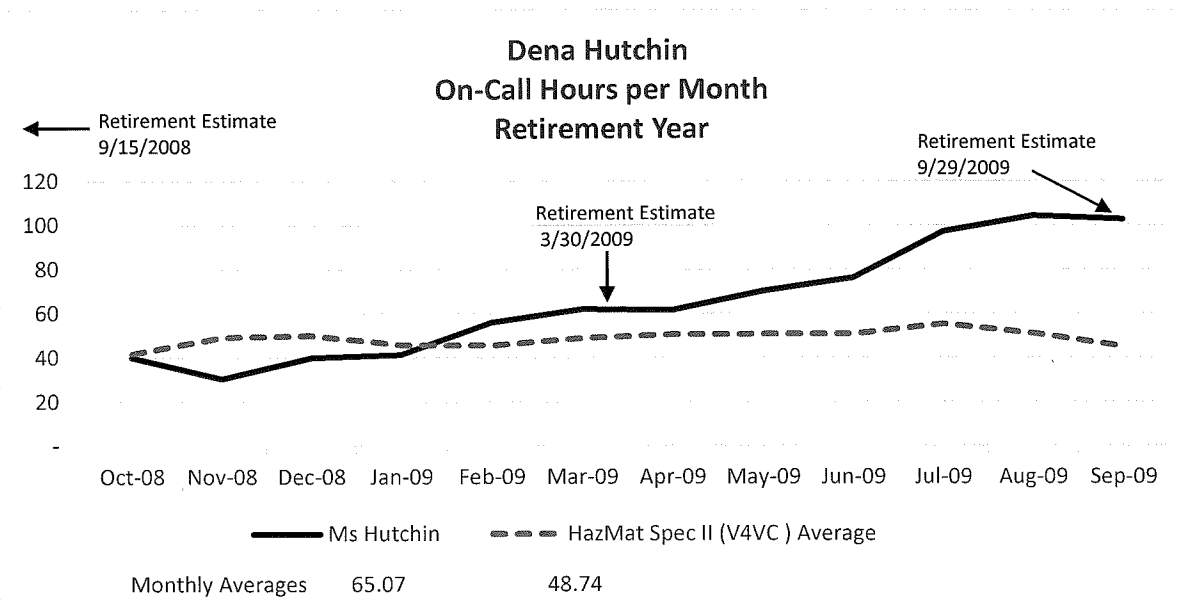


Chart C:



	Diff	16.33		
Exclusion Amount	Hours	195.9866	\$Amount	\$8,744.67

Ret Date	10/1/2009	On-Call In FAS	\$35,298.77	Adjusted On-Call In FAS	\$26,554.10
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Attachment #12

Chart A:

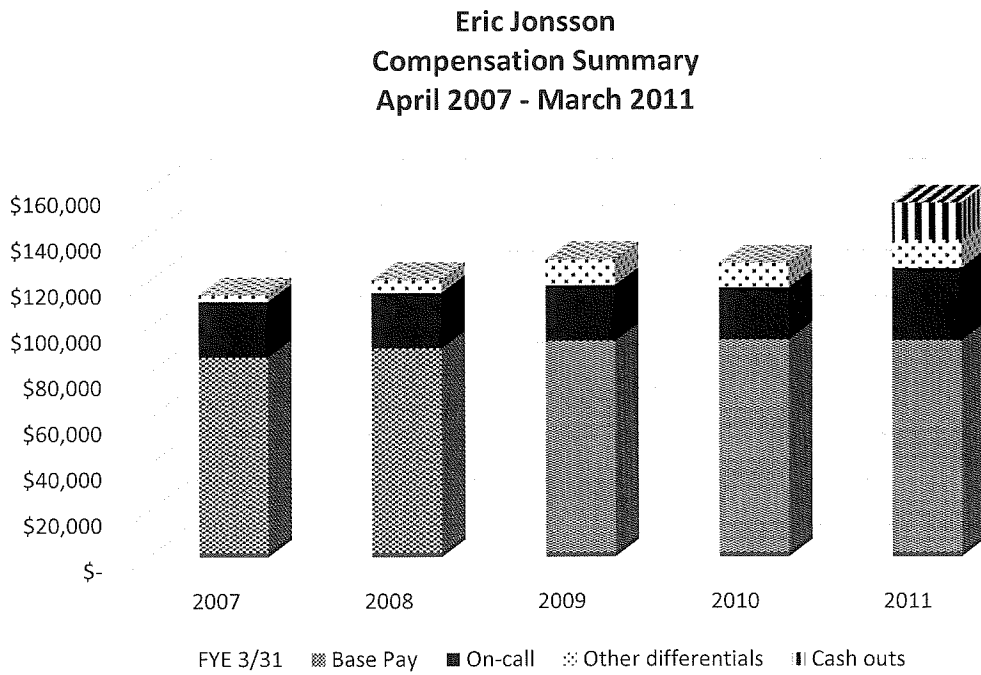


Chart B:

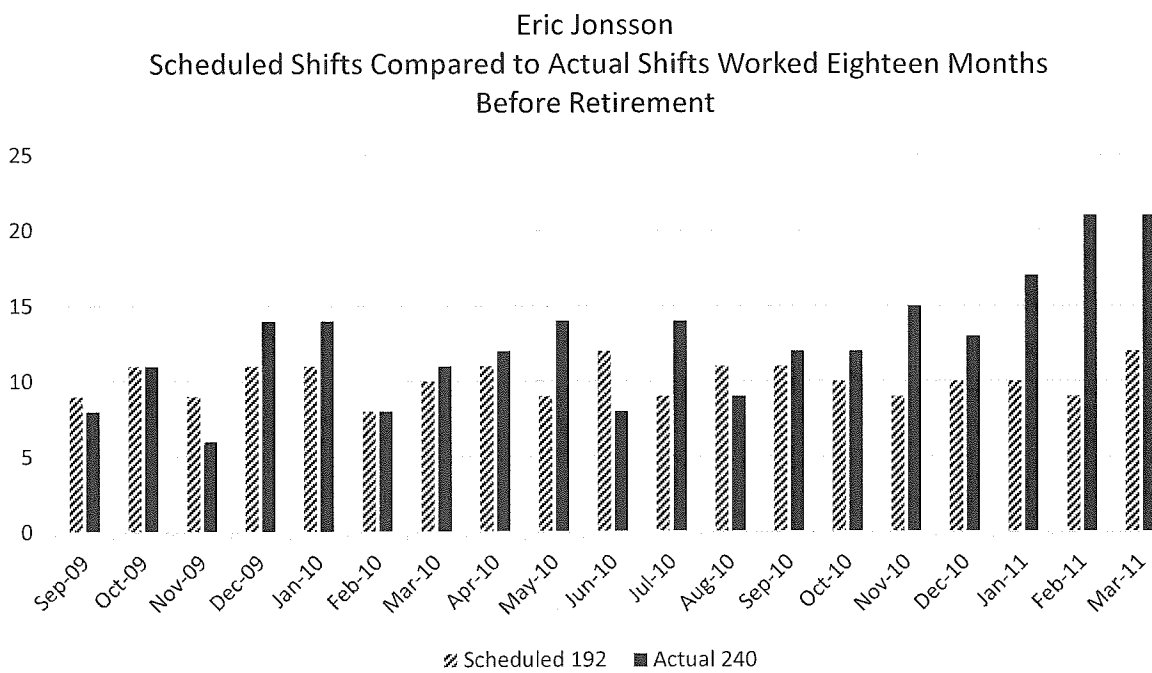
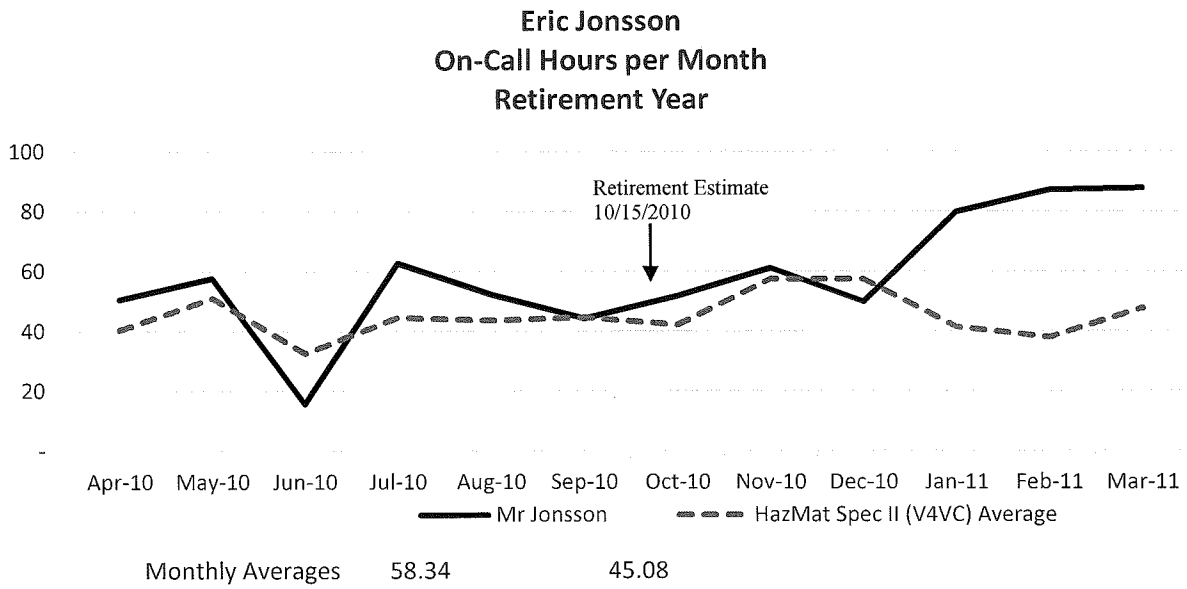


Chart C:



	Diff	13.26		
Exclusion Amount	Hours	159.1755	\$Amount	\$7,102.21

Ret Date	3/31/2011	On-Call In FAS	\$31,509.87	Adjusted On-Call in FAS	\$24,407.66
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Attachment #13

Chart A:

**Sonny Khoo
Compensation Summary
November 2007 - October 2011**

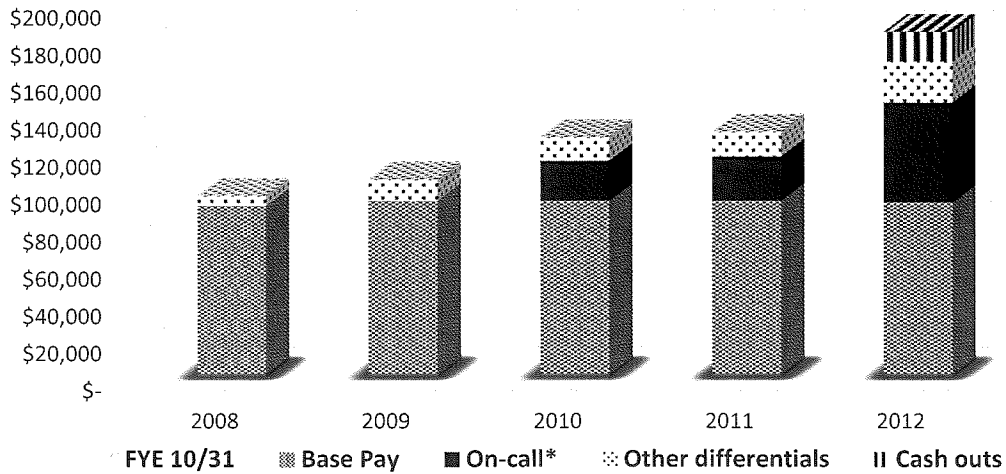


Chart B:

**Sonny Khoo
Scheduled Shifts Compared to Actual Shifts Worked Eighteen Months
Before Retirement Date**

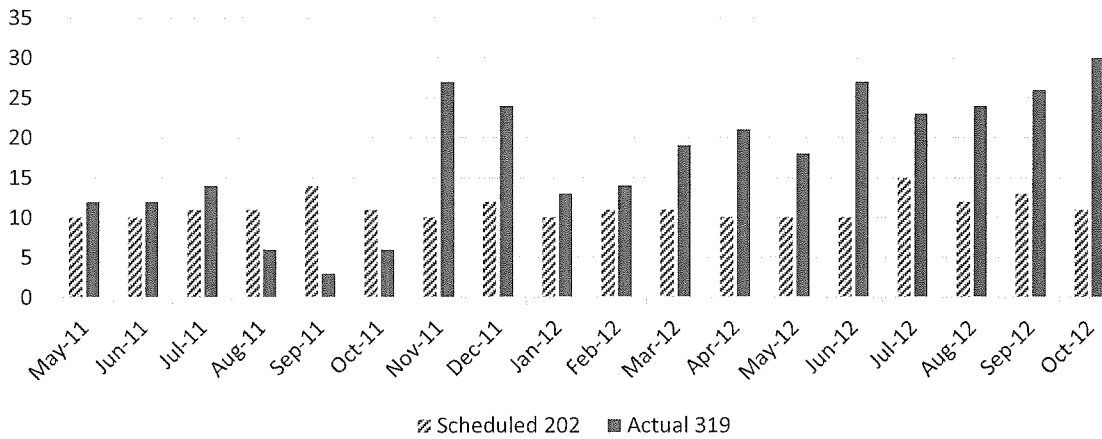
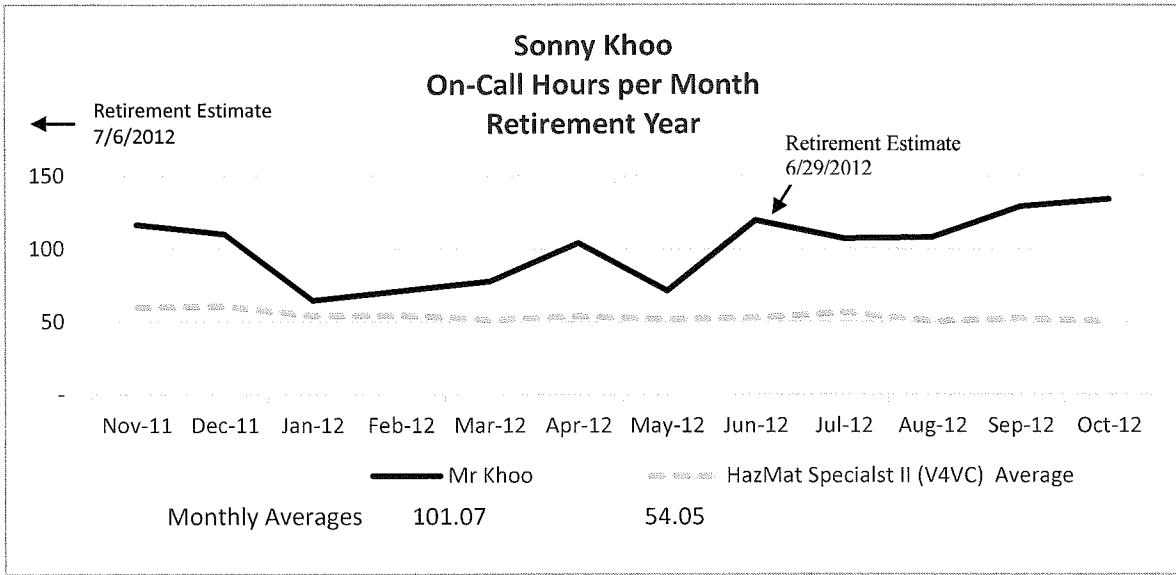


Chart C:



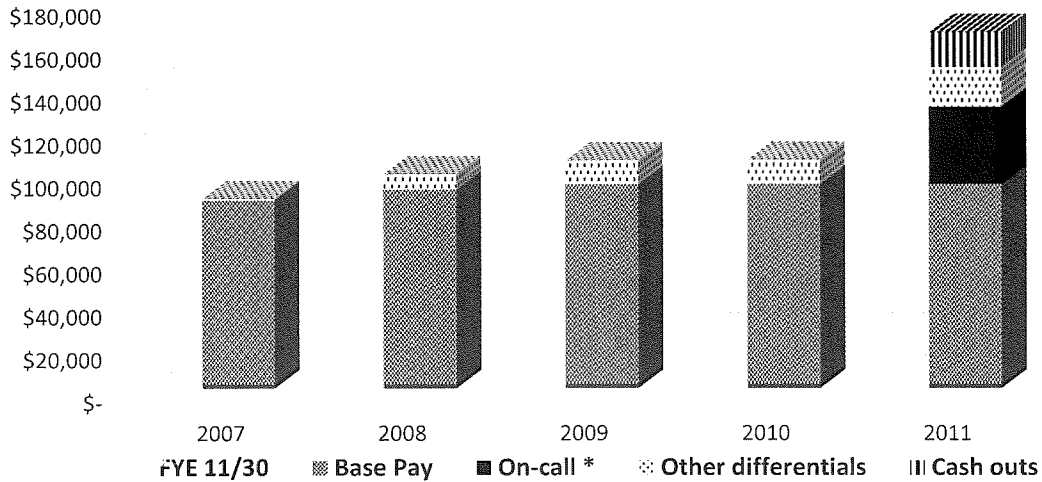
Diff	47.01			
Exclusion Amount	Hours	564.1689	\$Amount	\$24,480.26

Ret Date	11/1/2012	On-Call In FAS	\$53,494.70	Adjusted On-Call In FAS	\$29,014.44
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Attachment #14

Chart A:

**Charles Nicholson
Compensation Summary
December 2006 - November 2011**



* NOTE: No D33 earnings in Peoplesoft from Mar-06 to Dec-10. The schedule shows that he worked.

Chart B:

**Charles Nicholson
Scheduled Shifts Compared to Actual Shifts Worked Eighteen Months
Before Retirement Date**

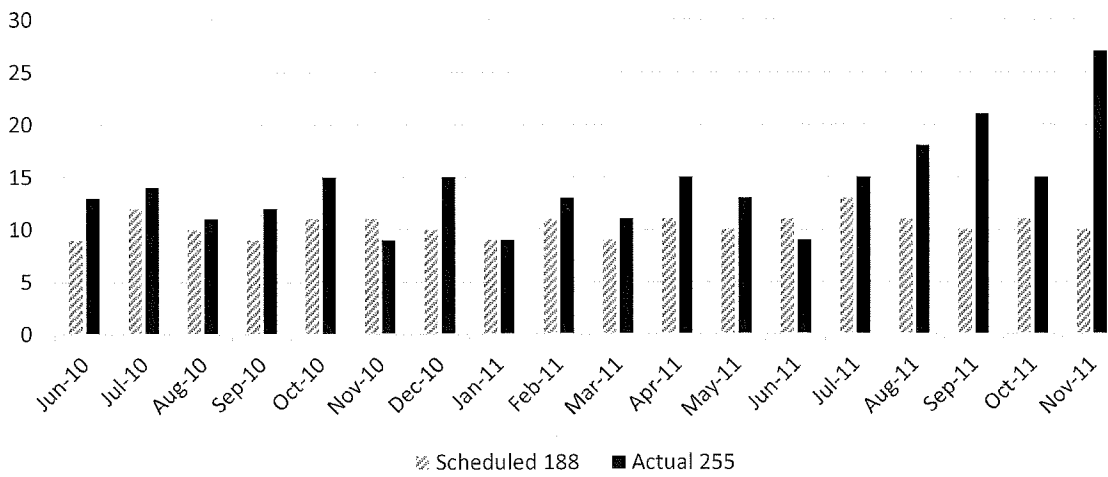
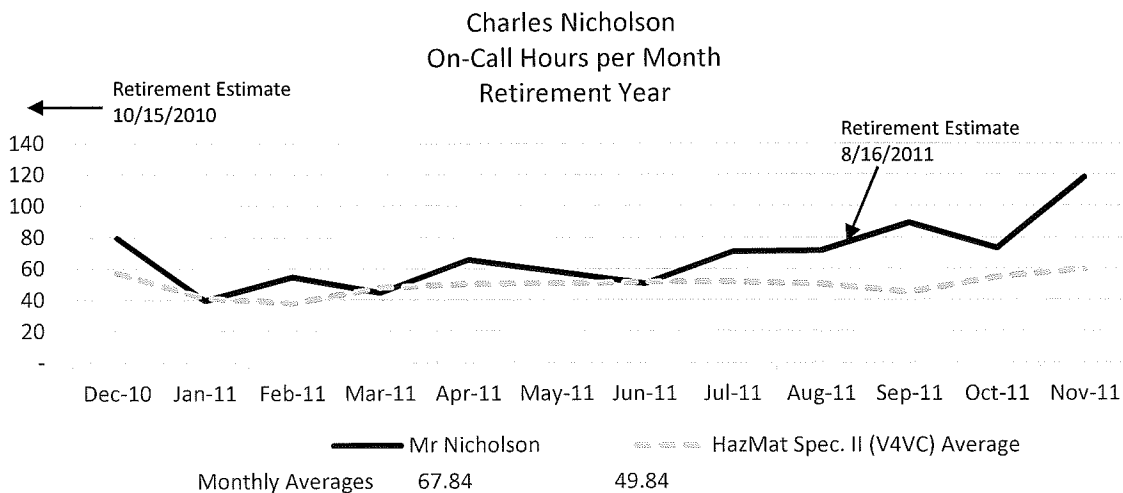


Chart C:



	Diff	18.00			
Exclusion Amount	Hours	216.01799	\$Amount	\$9,638.45	

Ret Date	12/1/2011	On-Call In FAS	\$36,042.58	Adjusted On-Call In FAS	\$26,404.13
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Attachment #15

Chart A:

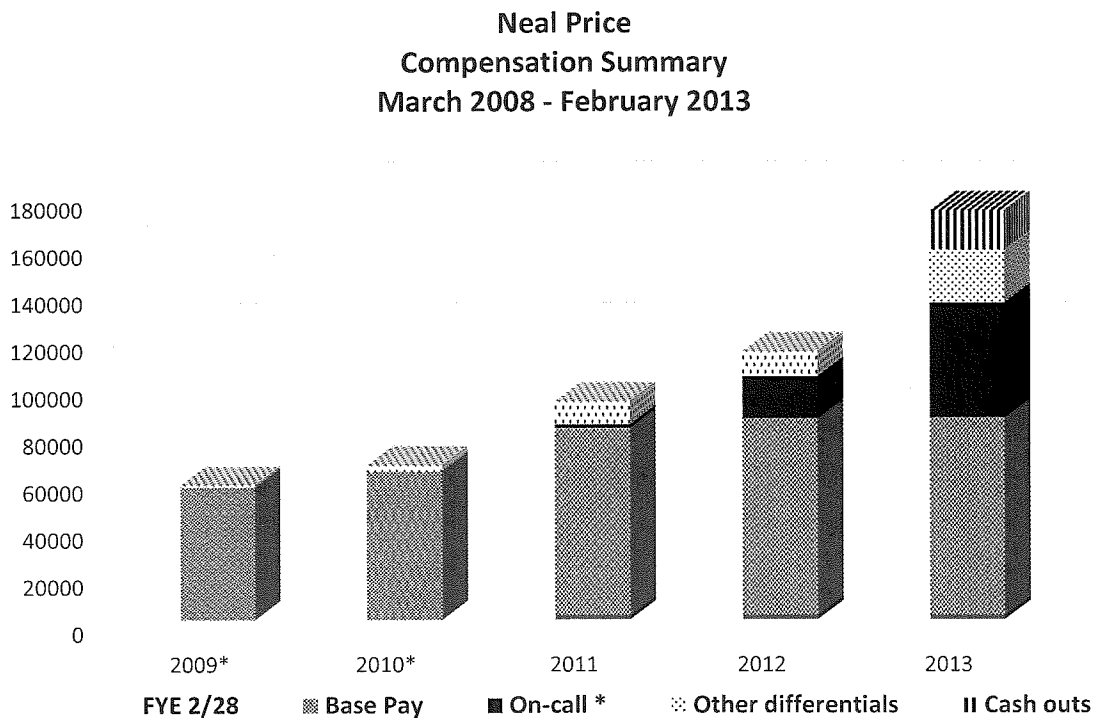


Chart B:

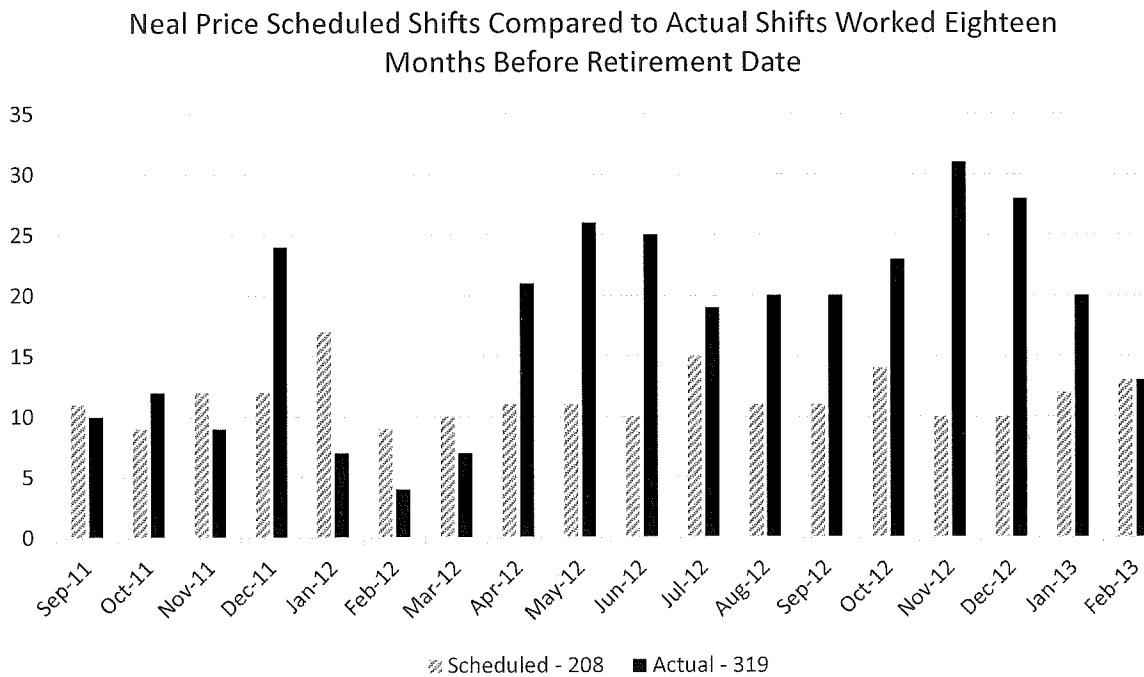
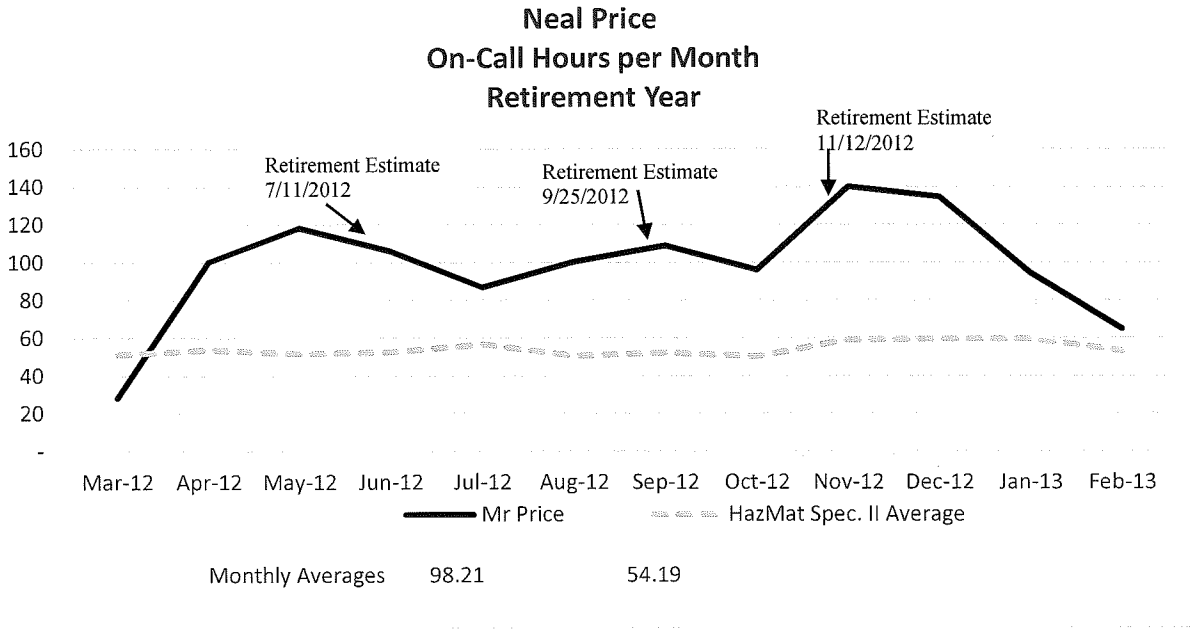


Chart C:



	Diff	44.02
Exclusion Amount	Hours	528.2488 \$Amount \$21,830.12

Ret Date	2/23/2013	On-Call In FAS	\$48,432.92	Adjusted On-Call in FAS	\$26,602.80
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Attachment #16

Chart A:

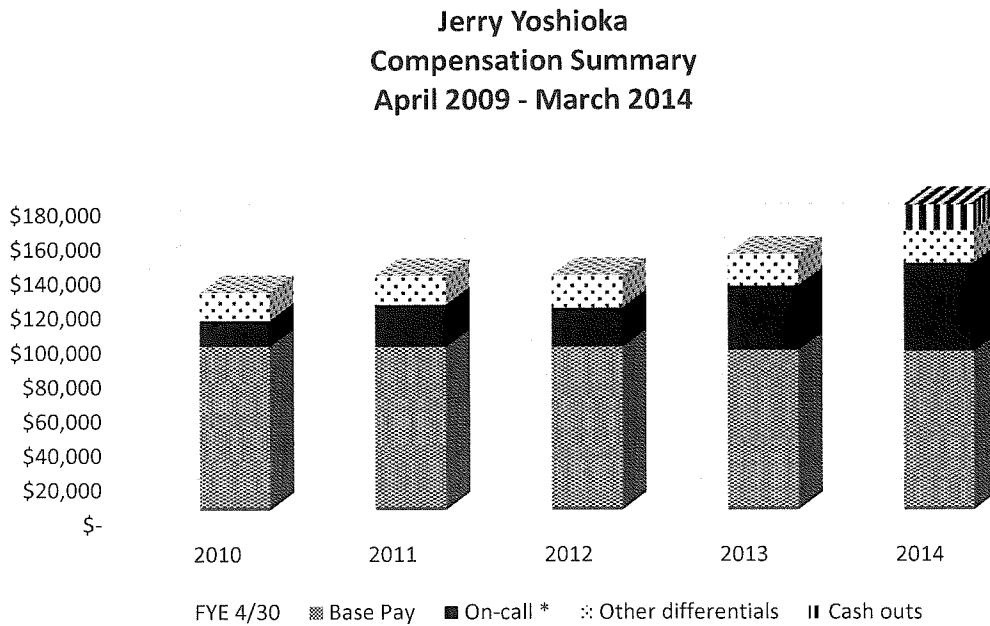


Chart B:

Jerry Yoshioka Scheduled Shifts Compared to Actual Shifts Eighteen Months Before Retirement Date

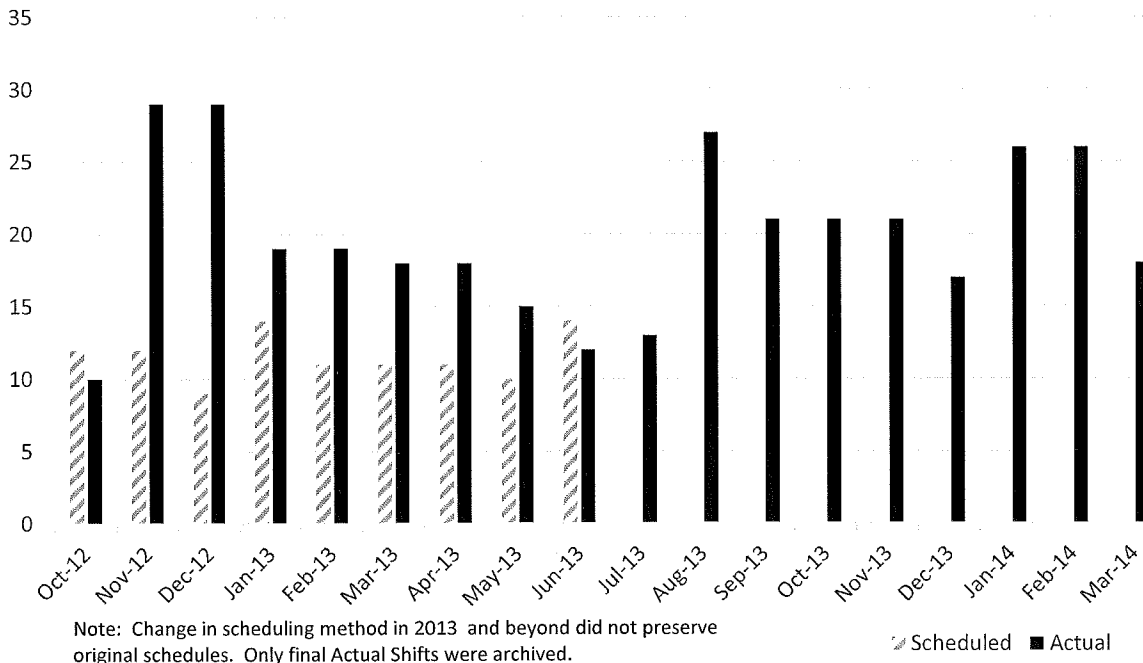
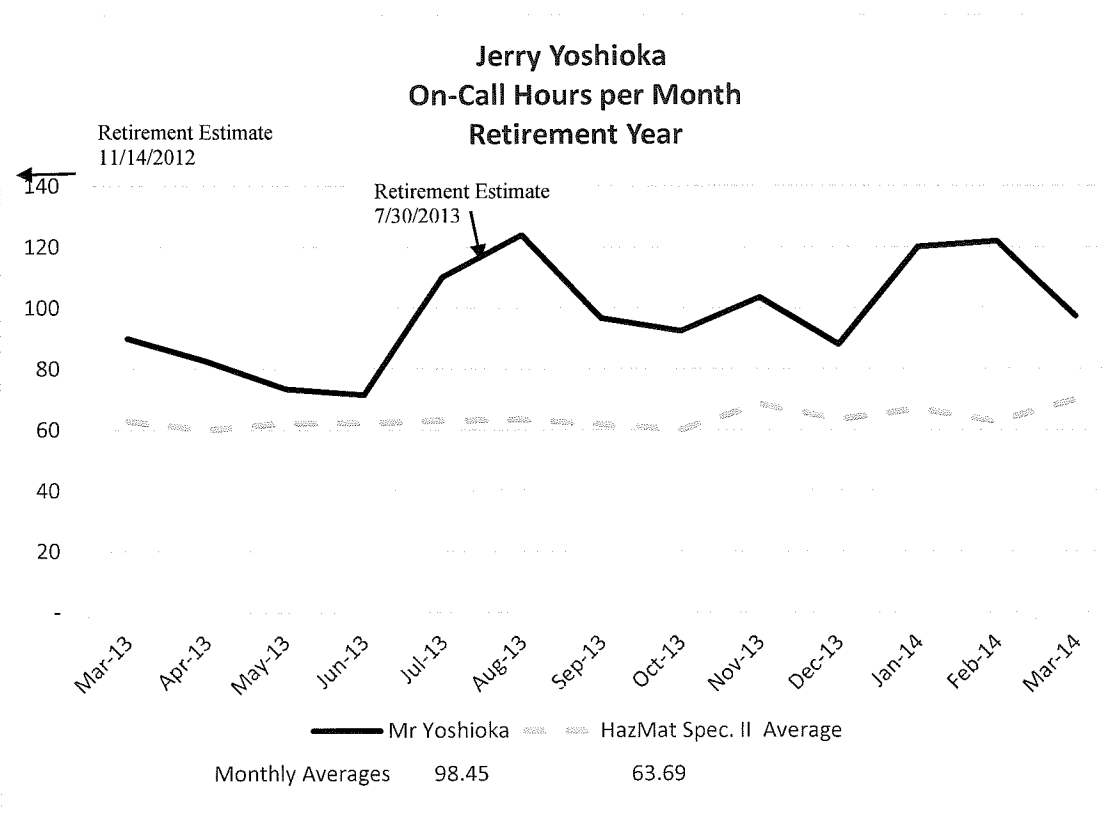


Chart C:



Diff	34.76
Exclusion Amount	Hours: 417.137 \$Amount: \$18,100.30

Ret Date	3/28/2014	On-Call In FAS	\$51,734.54	Adjusted On-Call In FAS	\$33,634.24
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Attachment #17

Chart A:

**Sue Ann Loyd
Compensation Summary
April 2007 - March 2012**

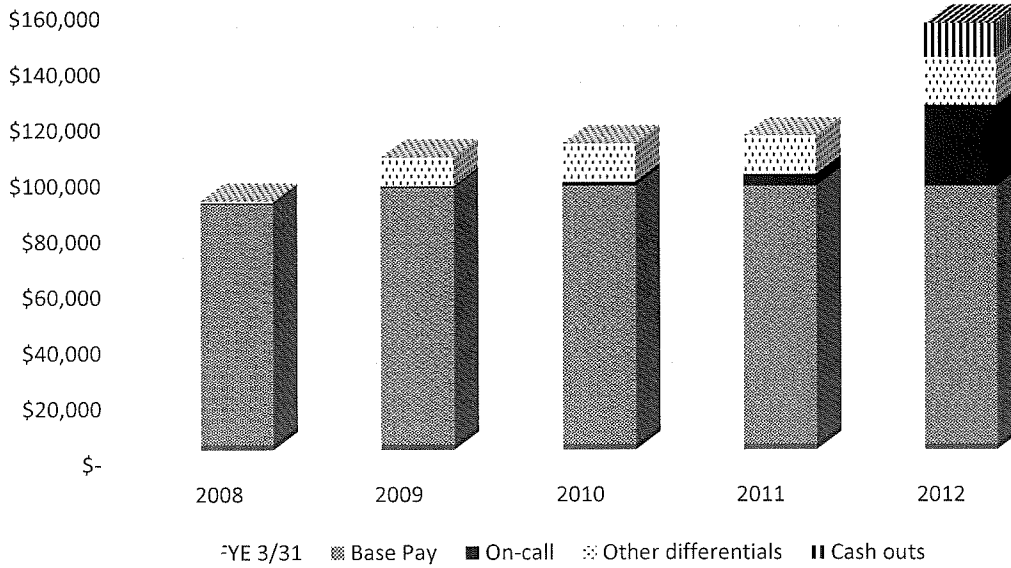


Chart B:

**Sue Anne Loyd Scheduled Shifts Compared to Actual Shifts
Eighteen Months Before Retirement Date**

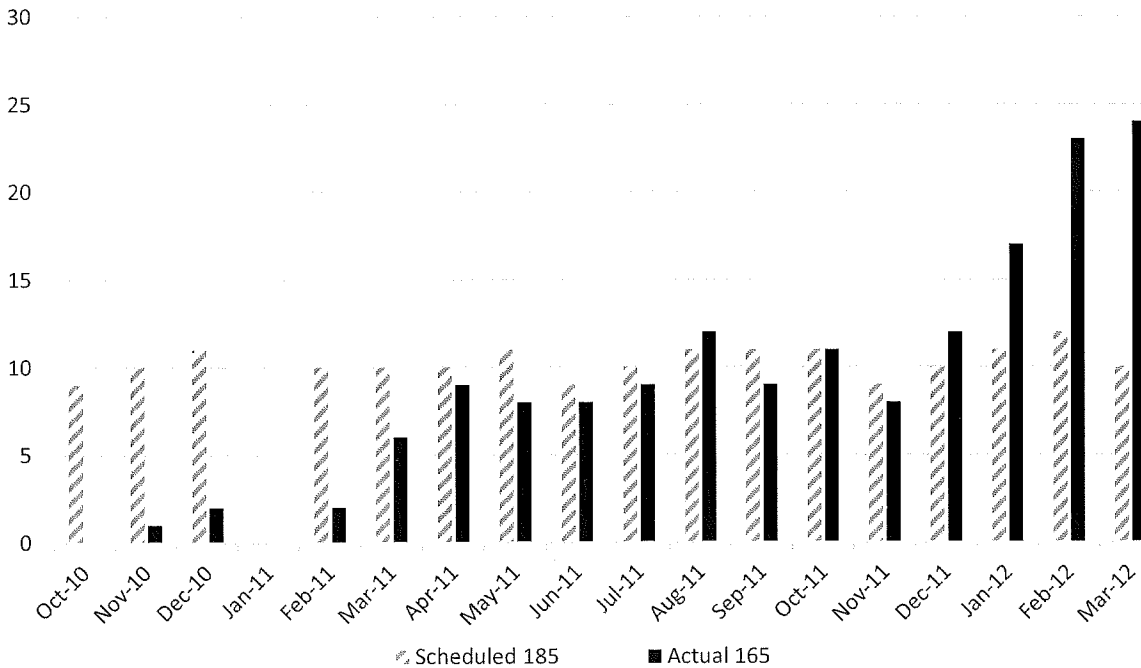
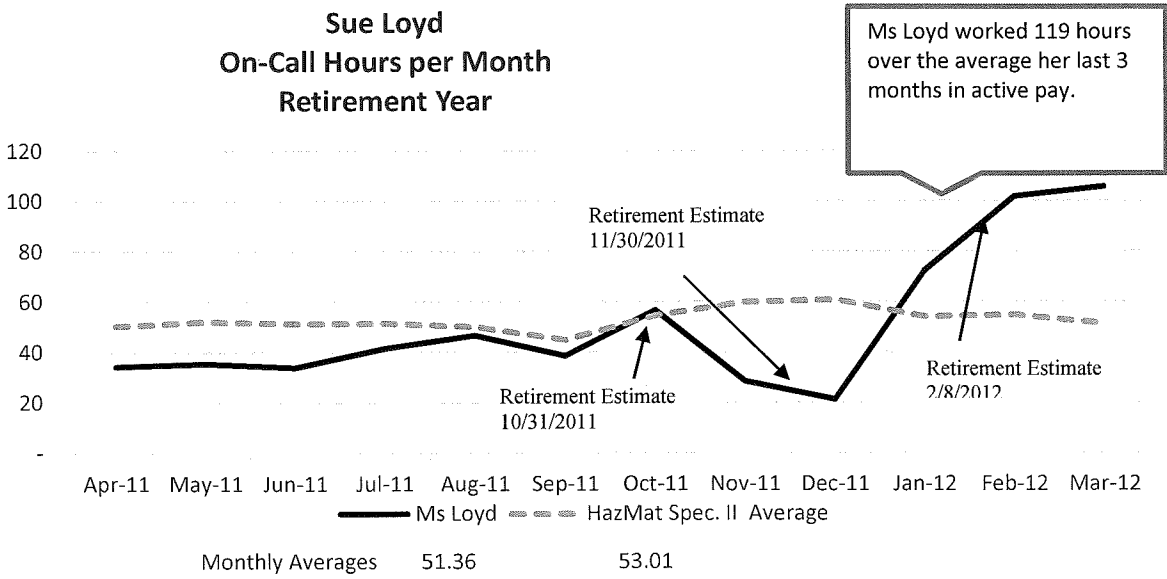


Chart C:



	Diff	-1.65
Exclusion Amount	Hours	119
	\$Amount	\$5,309.63

NOTE: Exclusion Amount is the amount over the department average in the last three months.

		On-Call In		Adjusted On-Call In	
Ret Date	3/31/2012	FAS	\$28,948.90	FAS	\$23,639.27

Attachment #18

Chart A:

Mike Wedl Compensation Summary July 2009 - June 2014

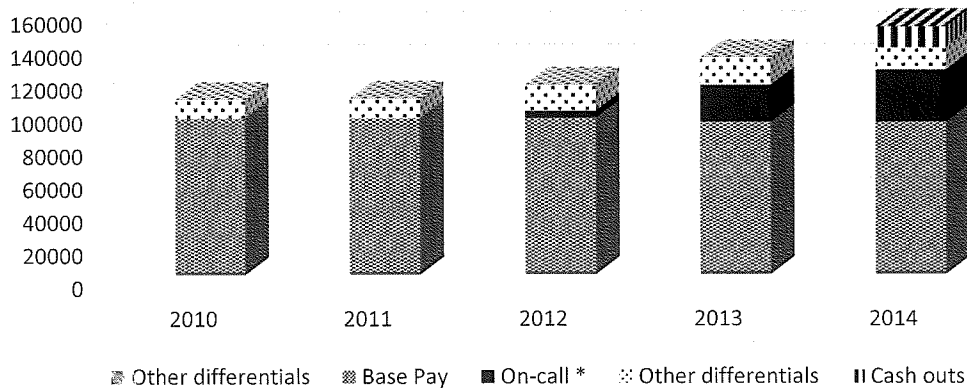


Chart B:

Mike Wedl Scheduled Shifts Compared to Actual Shifts Eighteen Months Before Retirement

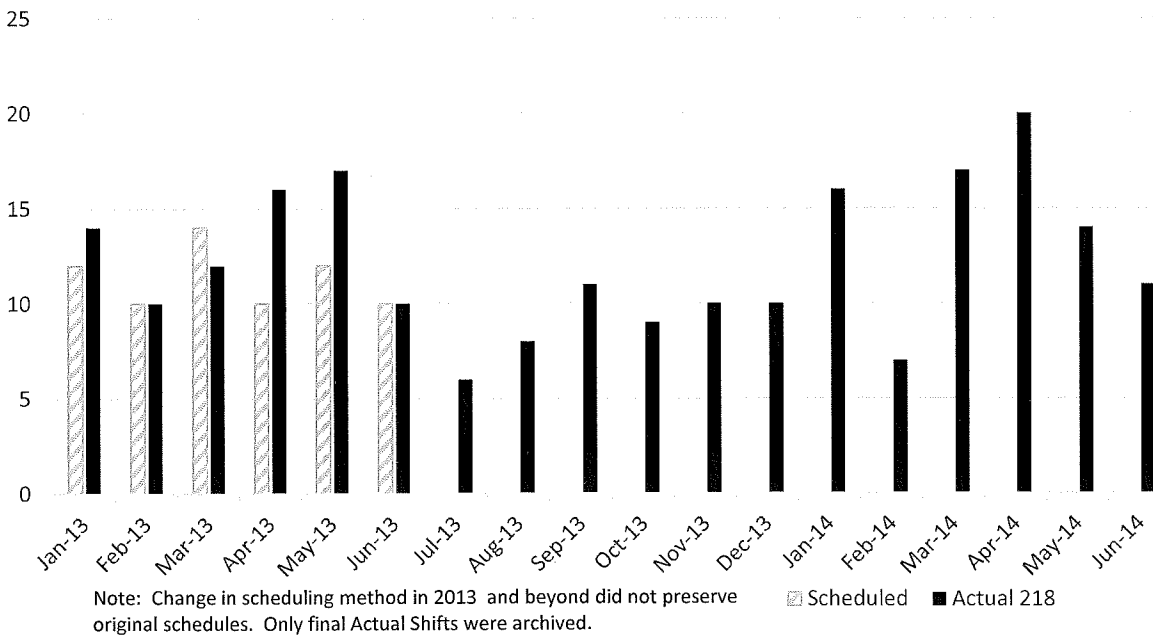
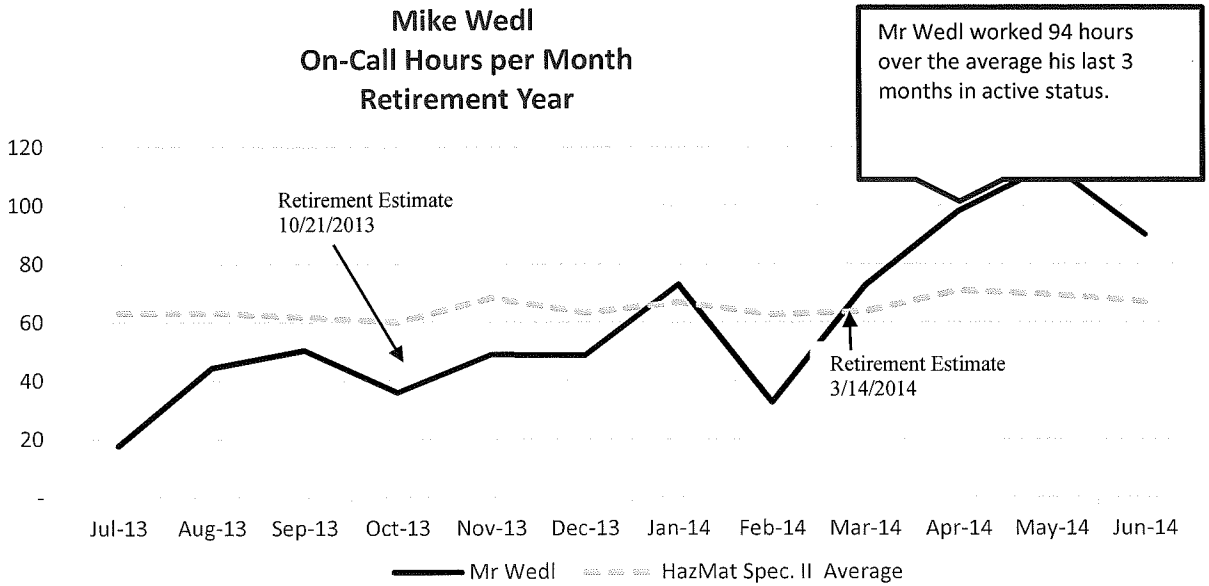


Chart C:



Monthly Averages 60.53 65.10

Diff	-4.57
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Exclusion Amount	Hours	94	\$Amount	\$4,078.82
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NOTE: Exclusion Amount is the amount over the department average in the last three months.

Ret Date	7/1/2014	On-Call In FAS	\$31,504.56	Adjusted On-Call In FAS	\$27,425.74
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Attachment #19

Chart A:

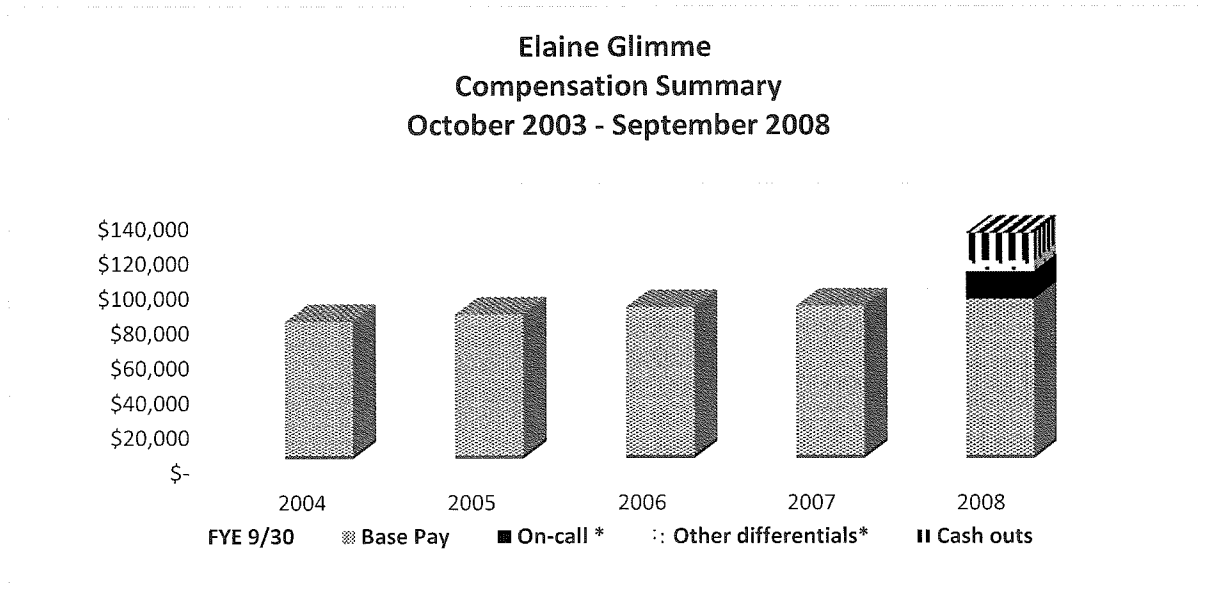


Chart B:

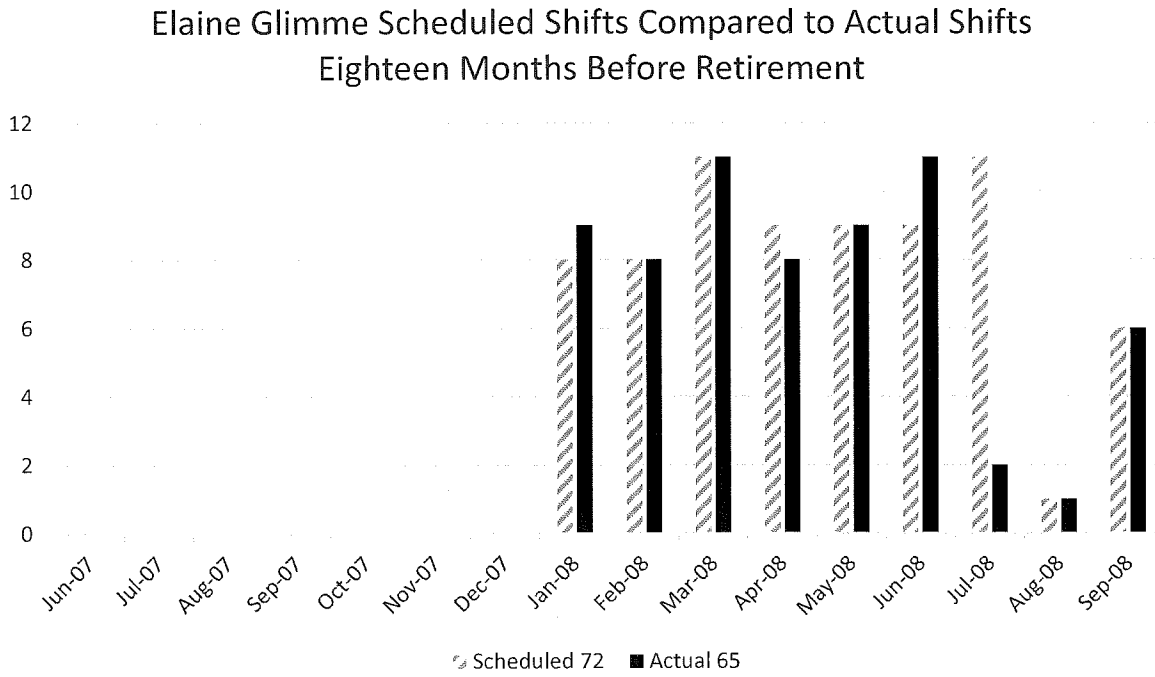
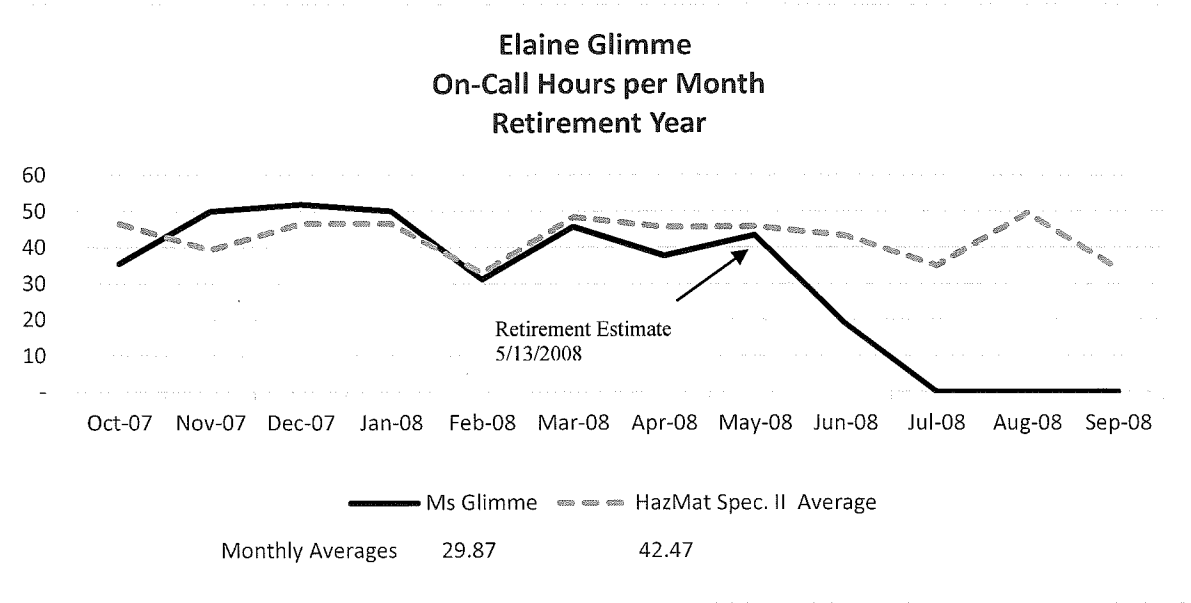


Chart C:



	Diff	-12.60		
Exclusion Amount	Hours	(151.2208)	\$Amount	\$0.00

CONTRA
COSTA
COUNTY **CCCERA**
Employees' Retirement Association

March 31, 2016

Gabriel Adebisi



VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Adebisi,

You retired from CCCERA effective July 19, 2007. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
2. The review will concentrate on specific, unique items of pay and not on regularly recurring vacation, sick or compensatory leave time.

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NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to your retirement allowance are warranted at its regular meeting:

May 4, 2016

9:00 a.m.

Contra Costa County Employees' Retirement Association

1355 Willow Way, Suite 221

Concord, California 94520

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March 31, 2016
Gabriel Adebisi
Page 2

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If you have any questions, please contact the undersigned at (925) 521-3960.

Sincerely,

A handwritten signature in black ink, appearing to read "Wally Dutkiewicz", with a long horizontal flourish extending to the right.

Wally Dutkiewicz
Compliance Officer

Encl.



March 31, 2016

Scott A. Hanson


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Hanson,

You retired from CCCERA effective February 29, 2012. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
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March 31, 2016
Scott A. Hanson
Page 2

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Sincerely,

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Wrally Dutkiewicz
Compliance Officer

Encl.

CONTRA
COSTA
COUNTY **CCCERA**
Employees' Retirement Association

March 31, 2016

Dena Hutchin


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Ms. Hutchin,

You retired from CCCERA effective October 1, 2009. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
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March 31, 2016
Dena Hutchin
Page 2

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Sincerely,



Wally Dutkiewicz
Compliance Officer

Encl.

CONTRA
COSTA
COUNTY **CCCERA**
Employees' Retirement Association

March 31, 2016

Eric Jonsson


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Jonsson,

You retired from CCCERA effective March 31, 2011. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
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March 31, 2016
Eric Jonsson
Page 2

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Sincerely,

A handwritten signature in black ink, appearing to read "Wrally Dutkiewicz", with a long horizontal flourish extending to the right.

Wrally Dutkiewicz
Compliance Officer

Encl.



March 31, 2016

Sonny Khoo


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Khoo,

You retired from CCCERA effective November 1, 2012. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
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March 31, 2016
Sonny Khoo
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If you have any questions, please contact the undersigned at (925) 521-3960.

Sincerely,



Wally Dutkiewicz
Compliance Officer

Encl.



March 31, 2016

Charles Nicholson



VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Nicholson,

You retired from CCCERA effective December 1, 2011. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

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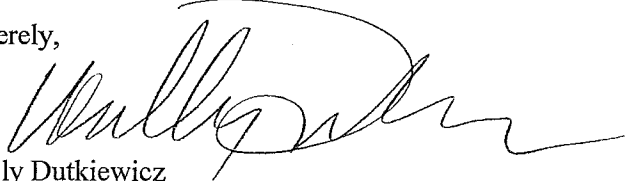
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March 31, 2016
Charles Nicholson
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If you have any questions, please contact the undersigned at (925) 521-3960.

Sincerely,

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Wrally Dutkiewicz
Compliance Officer

Encl.

CONTRA
COSTA
COUNTY **CCCERA**
Employees' Retirement Association

March 31, 2016

Neal Price


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Price,

You retired from CCCERA effective February 23, 2013. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

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March 31, 2016
Neal Price
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Sincerely,


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Wally Dutkiewicz
Compliance Officer

Encl.

CONTRA
COSTA
COUNTY **CCCERA**
Employees' Retirement Association

March 31, 2016

Jerry Yoshioka


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Yoshioka,

You retired from CCCERA effective March 28, 2014. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

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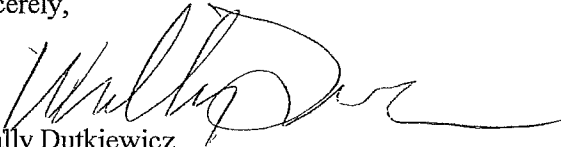
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March 31, 2016
Jerry Yoshioka
Page 2

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Sincerely,




Wally Dutkiewicz
Compliance Officer

Encl.



March 31, 2016

Sue A. Loyd


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Ms. Loyd,

You retired from CCCERA effective March 31, 2012. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

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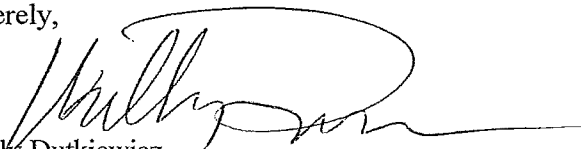
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March 31, 2016
Sue A. Loyd
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Sincerely,



Wrally Dutkiewicz
Compliance Officer

Encl.



March 31, 2016

Michael Wedl


VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Wedl,

You retired from CCCERA effective July 1, 2014. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

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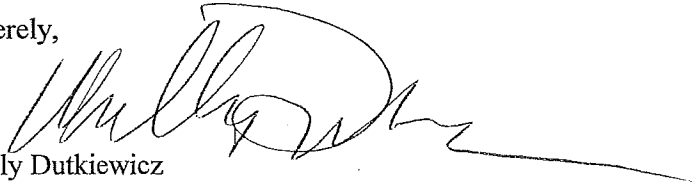
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March 31, 2016
Michael Wedl
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Sincerely,

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Wally Dutkiewicz
Compliance Officer

Encl.



March 31, 2016

Elaine Glimme
[REDACTED]

VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Ms. Glimme,

You retired from CCCERA effective October 1, 2008. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

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Concord, California 94520

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March 31, 2016
Elaine Glimme
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Sincerely,

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Wally Dutkiewicz
Compliance Officer

Encl.



April 11, 2016

Dr. William Walker
Director
Contra Costa Health Services Department
50 Douglas Drive
Martinez, CA 94553

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes
For Ten Retired Hazardous Materials Specialist II (V4VC) Members

Dear Dr. Walker,

In 2014 the CCCERA Board of Retirement requested the review of past incidents of unusual compensation increases at the end of employment. Pursuant to this request CCCERA staff undertook the review of pension calculations for retirees that had retired between 2004 and 2014, of which eleven Hazardous Materials Specialist II (V4VC) retirees appeared to have unusual increases in their final average salary (FAS) as compared to their pre-FAS salary. In May of 2015 the Board of Retirement considered and took action to exclude excess on-call pay from the FAS of one retiring Hazardous Materials Specialist II member that was above the average on-call pay for all active Hazardous Materials Specialist II during the member's FAS period. A further ten (10) Hazardous Materials Specialist II retired members were identified in the study that had unusual increases in their FAS as compared to their pre-FAS compensation. The retirees by name and employee ID are:

- Adebisi, Gabriel (40208)
- Hanson, Scott (64180)
- Hutchin, Dena (43303)
- Jonsson, Eric (46771)
- Khoo, Sonny (46770)
- Loyd, Sue (3780)
- Nicholson, Eric (46898)
- Price, Neal (49513)
- Wedl, Michael (64015)
- Yoshioka, Jerry (55631)

CCCERA staff has completed its research and is prepared to present its findings to the Board.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear this matter at its regular meeting:

May 4, 2016

9:00a.m.

Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

Representatives from the employer entity are invited to attend this meeting and provide any information the employer believes is relevant to the Board's determination of how much on-call pay should be included in calculating the retirement allowance of the retired members listed

Employer Notice HazMat Pension Review
Board of Retirement Meeting May 4, 2016
April 11, 2016
Page 2 of 2

above. The employer may submit written materials relevant to this issue in advance of the Board meeting. The materials will be included with the agenda distributed to the Board and the public if received by CCCERA on or by Monday April 25th, 2016. Any public meeting materials prepared by CCCERA for the purpose of the hearing will be provided to you in advance of the meeting.

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If you have any questions, please contact the undersigned at (925) 521-3960.

Sincerely,



Wrally Dutkiewicz
Compliance Officer

Cc: Randall Sawyer, Chief Environmental Health & Hazardous Materials Officer

Member Responses from May 4, 2016 meeting

APR 22 2016

To: Wrally Dutkiewicz

From: Neal Price

Re: Retirement Contributions for On-Call (D-33) and Call-Back (D-19)

Date: April 21, 2016

On April 1, 2016, I received notification from CCCERA on the reduction of my pension due to the reduction of my on-call emergency response hours. At this time, I would like clarification regarding these items:

1. What formula was used to determine the amount of on-call hours that applied to my retirement for my last year of service?
2. Will I be compensated for my on-call retirement contributions that I contributed to over this set amount?

This document also does not delineate between pay grades:

1. This document mentioned that it took into account Hazardous Materials Specialist II in the same class or pay grade. At the time of my retirement I was at pay grade 4, not pay grade 5 as other Hazardous Materials Specialist II. When I retired, I was the only Hazardous Materials Specialist II, pay grade 4. To maximize my retirement as a Hazardous Materials Specialist II pay step 5, I should have worked an additional 15 months before retiring.

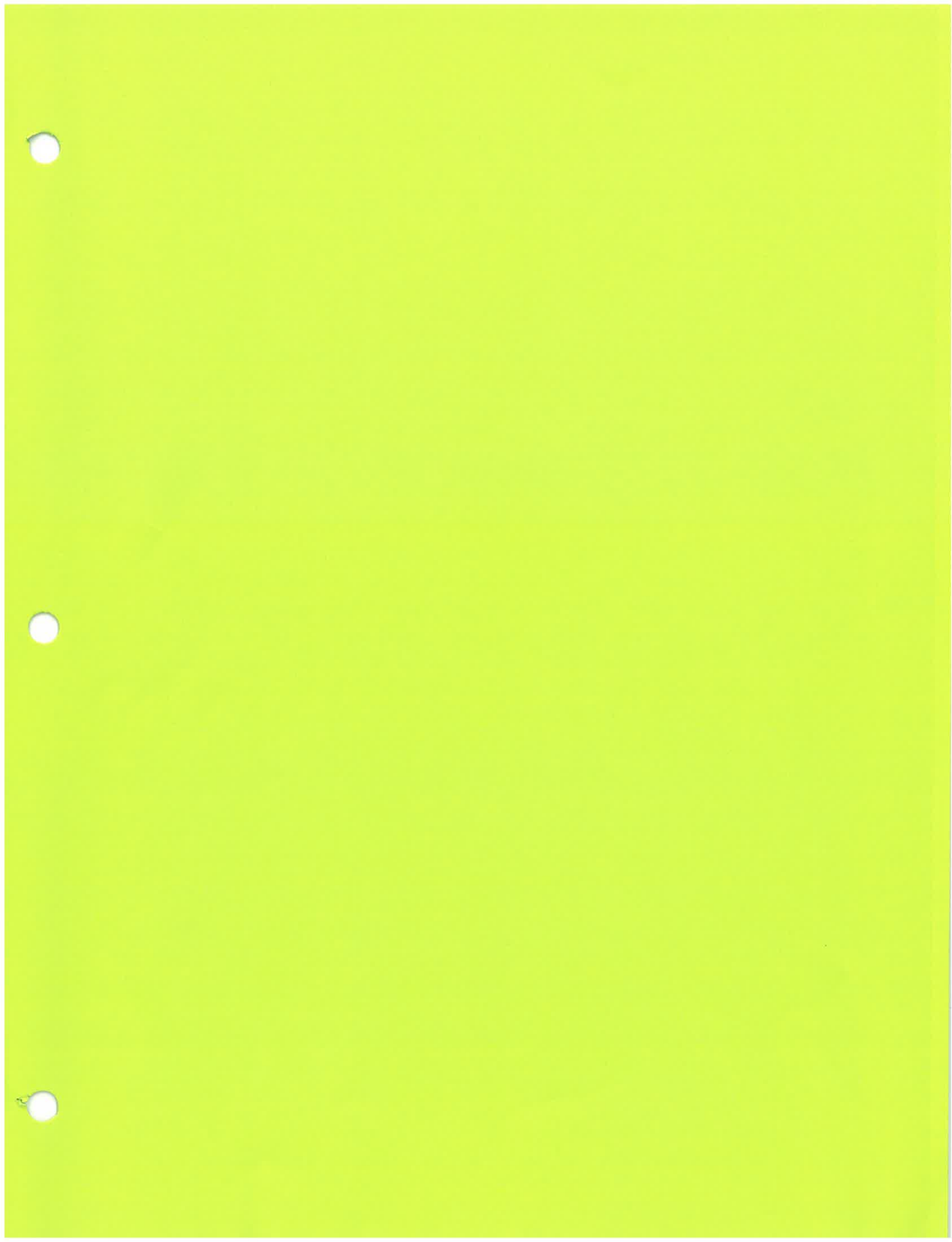
I would also like clarification from CCCERA on my call-back (D-19) that I contributed to from January 1, 2001 to February 22, 2013. In my retirement conference with Kurt Schneider, May 2013, he said that I would be reimbursed for this retirement contribution with interest. To date, I have not received information on what this amount is or when I will receive reimbursement.

I understand CCCERA's fiduciary responsibility to both retirees and current members. When I retired, I was made aware of the possible reduction of my on-call hours, as indicated by Kurt Schneider, during my May 2013 meeting at CCCERA. My on-call hours were assigned to me by my supervisor due to both employee retirements and employees leaving the department. Also at the time of my initial retirement Group Counseling session, June 19, 2007, CCCERA staff advised me to maximize my retirement accruals, this included both on-call (D-33) and call-back (D-19). At that meeting, I established my initial retirement date for August, 1, 2017, not February 22, 2013.

Very Respectfully,



Neal Price



REC'D APR 25 2016

BARBARA A. GINSBERG
ATTORNEY AT LAW

P.O. Box 2707, Oakland, CA 94602

TELEPHONE: (510) 842-3622

FAX: (510) 842-3209

E-MAIL: barbaraginsberg@earthlink.net

April 22, 2016

Wrally Dutkiewicz, Compliance Officer
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

*Re: Gabriel Adebiyi [REDACTED]
Retirement Board Hearing on Includable Compensation for
Retirement Purposes
Release of Records to Barbara A. Ginsberg*

Dear Mr. Dutkiewicz:

I spoke to you by telephone recently, and you confirmed that the above-described matter is separate from the "Call-Back Pay" issue in which I already represent Mr. Adebiyi. For that reason, you indicated that you could not send records to me without a specific release by Mr. Adebiyi which related to this particular issue. Therefore, I am now enclosing the following:

1. A very broad authorization, signed by Mr. Adebiyi last July, which indicates that CCCERA is authorized to release to me any records and information which Mr. Adebiyi would be entitled to receive in regards to his retirement benefits.
2. A letter signed by Mr. Adebiyi on 4-18-2016 which is addressed to you and which specifically authorizes you to release the records which were sent to Mr. Adebiyi by FEDEX on or about March 31, 2016 in regards to the above-captioned issue in regards to the compensation used in calculating his retirement benefits.

Therefore, as requested by Mr. Adebiyi, please forward that information to me. Mr. Adebiyi's letter uses my post office address, which is where I normally receive mail. However, as set out in that letter, if the package will be sent by FEDEX and you need a street address, you may forward the package to:

Attn: Barbara A. Ginsberg
2631 School Street
Oakland, CA 94602

REC'D APR 25 2016

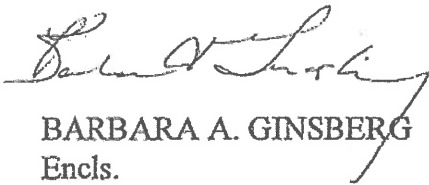
Wrally Dutkiewicz, Compliance Officer
Contra Costa County Employees' Retirement Association

Page Two

*Re: Gabriel Adebisi [REDACTED]
Retirement Board Hearing on Includable Compensation for
Retirement Purposes
Release of Records to Barbara A. Ginsberg*

Thank you for your assistance in this matter. If you have any questions or if you need any further documents or information before you are able to send the entire package to me, please contact me either by e-mail at barbaraginsberg@earthlink.net or by telephone at 510-842-3622.

Very truly yours,



BARBARA A. GINSBERG

Encls.

cc: client

CONTRA
COSTA
COUNTY
CCCERA
Employees' Retirement Association

April 26, 2016

VIA FEDEX

Barbara A. Ginsberg
Attorney at Law
2631 School Street
Oakland, CA 94602

Re: Gabriel Adebisi, Retirement Board Hearing on Includable Compensation for Retirement
Purposes – Release of Records

Dear Ms. Ginsberg,

Pursuant to your records request dated April 22, 2016 that was received in our office on April 25, 2016 please consider this letter along with its accompanying enclosures as CCCERA's fulfillment of your request.

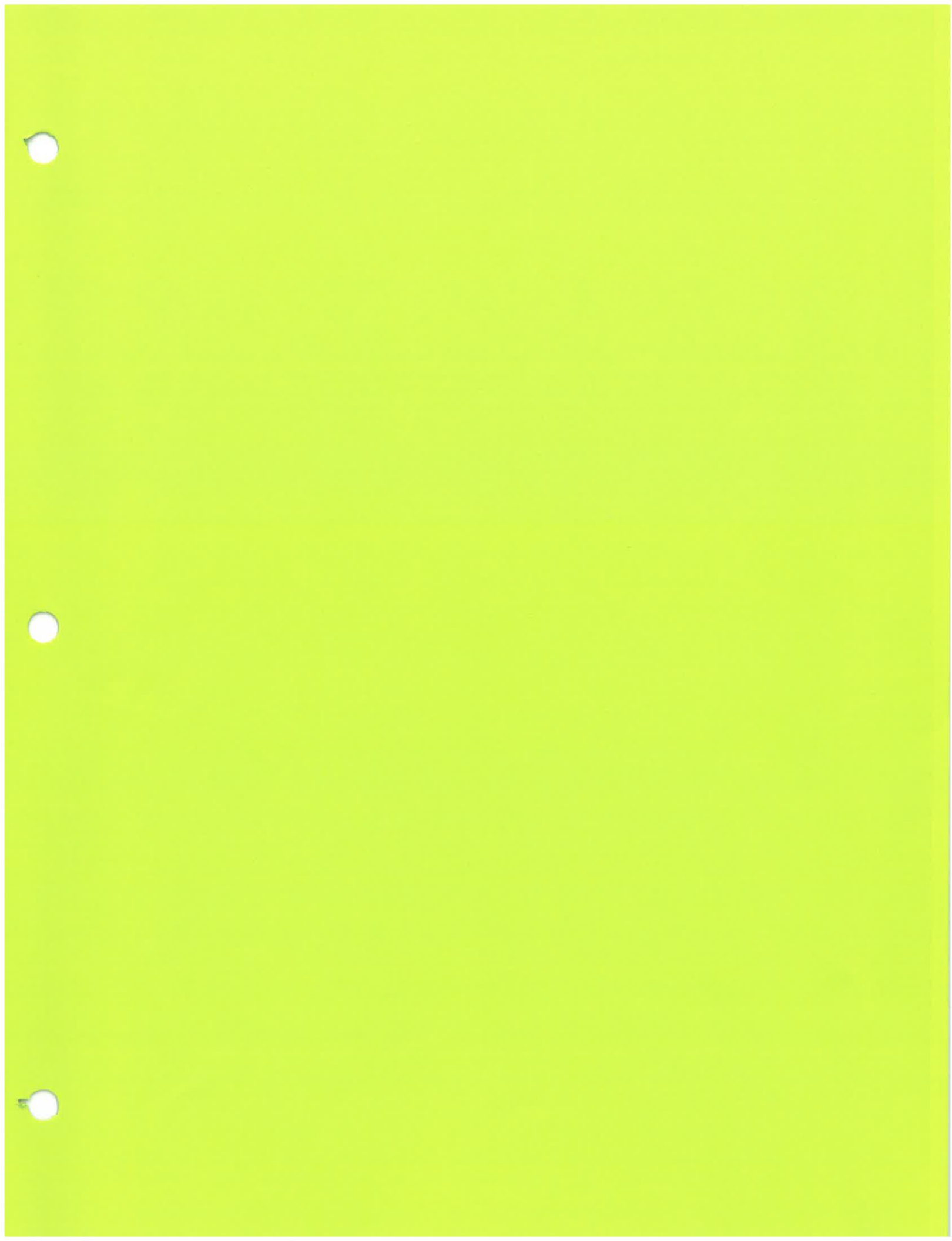
I have enclosed the materials that were dated and sent to Mr. Adebisi on March 31, 2016 that includes a copy of the Memo to the Board of retirement dated May 4, 2016, the individual observations of on-call pay and scheduling for Mr. Adebisi, copy of the Hazardous Materials Incident Response Team Schedules, and Mr. Adebisi's timesheets as provided by the Contra Costa Health Services Department.

Should you require any further items or wish to discuss the enclosed please contact me.

Best regards,


Wrally Dutkiewicz
Compliance Officer

Enclosures.



APR 25 2016

April 25, 2016

TO: Wally Dutkiewicz
Contra Costa County Employees' Retirement Association

RE: Scott Hanson's Response to CCCERA's Letter dated March 31, 2016

In my opinion any error, and I am not saying any was made, was by CCCERA. They are the ones that told us how to maximize our benefit. In this very boardroom, during a group counseling session, I asked if it would be in my best interest to make myself available for as much on call as possible my last year, The CCCERA counselors said that would be an excellent idea. I have witnesses.

To be absolutely clear on that point, I never "traded" or "took" any on call time. I made myself available for unfilled shifts, and was appointed those shifts by someone of at least the Deputy Director level.

All of my retirement estimates, prepared by CCCERA acknowledged this additional on call. I discussed it with the CCCERA counselor assigned to me. I did not pick my counselor nor did I have any influence over her. We were assigned counselors based on the first letter of our last name and everyone was treated the same. CCCERA definitely knew and understood what was happening. They encouraged it. CCCERA had every opportunity to review my, and everybody else's, retirement application and calculations before approval. The fact is they did not object to any of it until years later, after it became an issue in the local newspaper, when records were lost and memories faded. This review came years after the agreements were well established and memorialized.

Incidentally that newspaper, due to low and falling readership primarily caused by poor editorial content, no longer exists.

With great merit, others in my class will argue that the final year average on call calculations have statistical and method errors. In reality, the calculations are irrelevant. Correct or incorrect, they simply do not matter.

CCCERA recommended we maximize availability for on call duty, and everybody did it, I can't see a competent finding of "unusual" compensation in the final

year. It was the usual thing, with the encouragement, knowledge and approval of the CCCERA Board, or at least people they had direct control of, and were responsible for their actions.

So CCCERA proposes a review of all facts and regulations regarding this matter. I doubt this will be done.

A binding contract: All of the elements of a contract are present, a promise made and consideration given. All of my actions, as my fellow retirees, were in good faith. All accusations of fraud or any other misconduct are unfounded. CCCERA as the producer of the contract, should have ambiguity (and I believe none exists, nor has any been claimed) construed against them.

On this matter, CCCERA board members that in a public forum, claim fraud has been committed should expose that fraud. As no fraud occurred I doubt this possible. Lacking that it stands as a slanderous statement against me and others. It obviously demonstrates hostility by some members of this Board towards HazMat retirees. Clearly this shows we cannot get a fair and impartial hearing before this Board.

Detrimental reliance: I, and all the other Hazmat Specialists and others relied to our detriment on the commitment made by CCCERA. We made decisions about when we retired, where we live, where our children go to school, what assisted living arrangements we made for our parents, etc. based upon the promises made by CCCERA. CCCERA refusing it legitimate obligations could cause serious and unnecessary hardship for those of us that relied on those promises.

Contributory negligence: My expertise lies in the field of environmental science. I never even heard the idea of "codeable for retirement" until after I retired. CCCERA has long employed, at great expense to its members, inside and outside Counsel with alleged expertise in retirement systems, as well as employees with advanced degrees and in public administration and decades of experience. I reasonably thought they knew what they were doing, would comply with their fiduciary duty and would act in my interest.

I didn't think it was necessary to hire my own counsel to review my application for retirement because there were plenty of experts at CCCERA that were obligated to do that for me.

Regarding the 384 hours of on call that I worked my final year CCCERA says should be excluded in final calculations, I would like to be informed of exactly

what hours and shifts that CCCERA believes do not count. Then I can make a solid, irrefutable argument that I was on call those days and they should be included.

CCCERA I fear, is making a distinction without a difference.

Once CCCERA identifies the specific shifts that they say should be excluded it can involve itself in the pointless (and expensive) task of claiming I was not on call those days.

All this, whatever it is, clearly is the fault and responsibility of the Board of Directors of CCCERA and the employees they selected and supervised. The Board clearly needs to own up to its own actions in this matter and accept responsibility its own mismanagement.

In a December 10, 2015 memo from Kurt Schneider to the CCCERA Board, page 2 paragraph 5 says: "... Is that there is no distinction between assigned on call duty and voluntary on call duty." That is because there is no difference. Any difference only exists in the imagination of some CCCERA Board Members.

In the May 4, 2016 Memoranda to CCCERA Board of Retirement on page 3 paragraph 2, "...one interpretation is the on call duty." Yes it is one interpretation but it is the wrong one. By indicating that it is only one interpretation, accepts that other interpretations exist that have neither been identified or developed. It also says "The voluntary on call duty is a form of overtime." This is not true. On call was never a form of overtime. Overtime occurs when you are called back to work. To define any on call time as overtime is erroneous. And most definitely is not "... considered to have been paid services due to normal working hours."

In the same memo I find the following curious, page 4 last paragraph continued onto page 5.

"(1) by crossing off other employee names or initials from the department schedule and adding the retirement member's name or initials to note swapping of shifts, or,

(2) by the retiring member making notations in order to sign up for additional on-call hours."

In number 1, all this did was making ourselves be available and we were

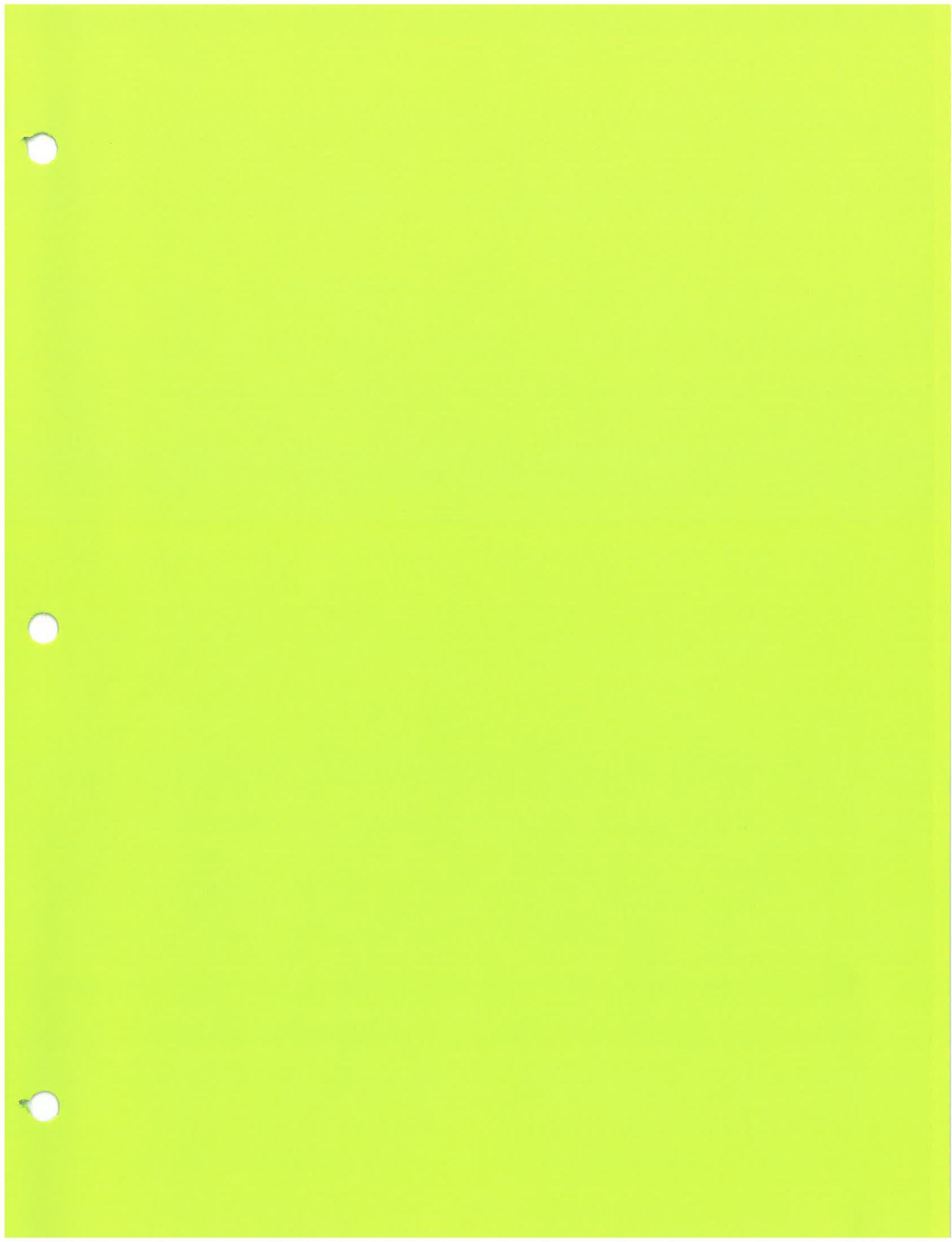
appointed to that duty by the Deputy Director. I am clueless as to what number 2 means." The simple truth is that neither I or any other of the specialists own on call time. It was the County's responsibility to assign that duty. All work assignments were done by management. Specialists did not assign work or on call duty.

Regardless, the scheduling methods used during the year that I retired were the same as they were the day I was hired and the same as they are currently used now.

As an aside, CCCERA continued to collect on call contributions from current employees. It seems that CCCERA is clueless as how to deal with that issue also.

Regards,

Scott Hanson



DAVID B. MASTAGNI
JOHN R. HOLSTEDT
MICHAEL D. AMICK
CRAIG E. JOHNSON
RIAN A. DIXON
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DAVID L. KRUCKENBERG
MATTHEW S. KANE

April 25, 2016

Sent Via Facsimile & U.S. Mail

CCCERA
Attn: Luz Casas
1355 Willow Way, Suite 221
Concord, California 94520
Fax: (925) 521-3969

RE: Statement for May 4, 2016 Meeting Regarding CCCERA's Calculation of Retirement Allowance for Charles Nicholson

Honorable Members of the CCCERA Board:

I write on behalf of retiree **Charles Nicholson** to submit this statement regarding CCCERA's calculation of his retirement allowance and to provide information relevant to the issue. As discussed herein, there is no reason to reduce Mr. Nicholson's retirement allowance.

As a preliminary matter, it is not entirely clear what item(s) of pay will be addressed at the Board's May 4, 2016 meeting. The letter CCCERA sent Nicholson regarding the meeting does not identify with specificity any item(s) of pay at issue. Instead, it merely states the Board's review "will concentrate on specific, unique items of pay and not on regularly recurring vacation, sick or compensatory leave time." (3/31/16 Letter from CCCERA to Nicholson, p.1.)¹ The materials provided with the letter discuss only "on call" pay. As such, this letter focuses exclusively on "on call" pay. If the Board intends to review any other pay items, Nicholson respectfully asks the Board to postpone its review of such items to allow him an opportunity to collect any relevant documents and submit a supplemental statement regarding whether those items should have been included in his retirement allowance.

As set forth herein, all On Call Pay Nicholson earned while working for the County of Contra Costa should be included in his retirement allowance. The On Call Pay Nicholson earned was not compensation for overtime work, and was not paid for the purposes of enhancing his retirement benefits. As evidenced by IRT's on call schedules, Nicholson's on call hours increased

¹ A copy of the March 31, 2016 letter is attached as Attachment A. Copies of the enclosures sent with the letter are not included in this attachment, because the materials are voluminous and already in CCCERA's possession.

annually from 2006-2011, not just during his final average salary period. Finally, in the event the Board elects to exclude any portion of Nicholson's On Call Pay from his retirement allowance, it cannot and should not "claw back" any purported "overpayments" for pension benefits Nicholson received On Call Pay was included in his retirement calculations.

I. FACTS

Charles Nicholson began working for the County as a Supervising Environmental Health Specialist in 1990. As a County employee, Nicholson was a member of CCCERA and contributed towards his pension benefits. In 1996, he transferred to the County's Health Services Hazardous Materials Division, where he worked as a Hazardous Materials Specialist II.

After transferring to the Hazardous Materials Division, Nicholson joined the Incident Response Team ("IRT"). As a member of the IRT, Nicholson was required him to be on call to respond to emergencies. On call shifts were scheduled and assigned by management personnel in the Hazardous Materials division. Any changes to the on call schedule required management approval. On call duty was not "voluntary." When Nicholson was scheduled to be on call, he had to be available to respond to any emergencies. He could not leave town for a trip, get intoxicated, or ignore a call out. Doing so would be grounds for discipline, up to and including removal from the IRT. Nicholson would receive Callback Pay instead of On Call Pay for any time he spent actually performing work for the County during an on call shift.

When an employee scheduled to be on call could not make himself or herself available, the employee could ask another employee to take his on call shift. However, management had to approve any changes to the schedule.

During his career, the County told Nicholson that On Call Pay was pensionable. As such, Nicholson believed the On Call Pay he received would be included in the compensation used to determine his retirement allowance.

When Nicholson discussed his retirement benefits with CCCERA representatives, he was informed that On Call Pay was pensionable. Indeed, the retirement estimate CCCERA provided Nicholson when he was considering whether to retire included On Call Pay in the compensation earnable used to calculate his retirement allowance.

Nicholson relied on the County's and CCCERA's representations regarding On Call Pay when planning his retirement. The retirement allowance estimate he used to decide whether he could afford to retire included On Call Pay, because the County and CCCERA told him it would. Nicholson counted on the money he would receive for On Call Pay to support his family, and pay for his children's education. He also planned on being able to use the money to purchase a home in Nevada or Florida, where he planned to move.

He retired on December 1, 2011.

II. DISCUSSION

There are no factual or legal grounds to support excluding any portion of the On Call Pay Nicholson received from his retirement allowance.

A. PRE-PEPRA DEFINITIONS OF "COMPENSATION EARNABLE" AND "SPECIAL COMPENSATION" GOVERN BECAUSE MR. NICHOLSON RETIRED BEFORE PEPRA'S ENACTMENT

As an initial matter, it should be noted that CCCERA must evaluate whether Nicholson's pay items are pensionable using the definitions and laws in effect when Nicholson retired. For example, the changes to the definition of special compensation enacted with the Public Employees' Pension Reform Act of 2012 ("PEPRA") are inapplicable because PEPRA was enacted after Nicholson retired. Relying on such changes to exclude pay items from Nicholson's pensionable income would violate the constitutional prohibition on ex post facto laws.

As discussed herein, Nicholson's On Call Pay compensation is not excludible under the definition of "compensation earnable" set forth in Government Code section 31461 as it existed when Nicholson retired.

B. ON CALL PAY IS NOT EXCLUDIBLE FROM NICHOLSON'S COMPENSATION EARNABLE

1. ON CALL PAY IS NOT PAYMENT FOR HOURS WORKED

On Call Pay is not excludible as "payments for additional services rendered outside of normal working hours" within the meaning of Government Code section 31461(b)(3) because On Call Pay was not paid for work performed outside normal working hours. The act of being on call does not constitute work. Nicholson did not receive On Call Pay for doing anything outside his normal working hours. Instead, he received it for being *available* to do something if an after-hours emergency arose. In fact, he received Callback Pay instead of On Call Pay whenever he had to perform work during an on call shift. Thus, On Call Pay cannot be considered payment for work performed outside normal working hours. Rather, it is an incentive paid to employees for agreeing to be available to respond to after-hours emergencies.

The County never treated Nicholson's on call hours as hours worked for the purposes of calculating Nicholson's overtime compensation. For example, the County never included time Nicholson spent on call in the hours used to determine whether he was entitled to overtime compensation. This is unsurprising, considering the considerable jurisprudence establishing that being on call is generally not viewed as performing work for an employer. *See, e.g., Berry v. County of Sonoma* (1994) 30 F.3d 1174 (coroners not entitled to overtime compensation because being on call was not compensable work.)

Notably, the County did not pay Nicholson On Call Pay for time he spent responding to an emergency during an on call shift. Unlike most other employees, if a Hazardous Material Specialist was called back and received callback pay, his On Call Pay would be reduced by the

number of hours of callback pay he received. In other words, the County would actually stop paying Nicholson for On Call Pay if he worked – further showing On Call Pay was not pay for worked he performed.

Because being on call is not performing work, On Call Pay is not payment for additional work performed outside normal working hours. Therefore, it is not excludible as such a payment pursuant to Government Code section 31461(b)(3.) Therefore, the On Call Pay must be included in Nicholson's pensionable compensation.

2. THE ON CALL SHIFTS NICHOLSON COVERED FOR OTHER EMPLOYEES WERE NOT "VOLUNTARY."

Contrary to the assertions in the staff report prepared by Wrally Dutkiewicz, the fact that Nicholson and his coworkers were allowed to cover on call shifts initially scheduled for other employees does not mean those shifts were "voluntary."

Dutkiewicz's assertion that Nicholson worked additional on call shifts he was not required to² ignores the practical reality that, when an employee was unavailable for his or her on call shift, another employee in the Division would have to work it. If the employee originally scheduled to work the shift could not find someone to take it, management would have to order someone to cover it. What is characterized as "volunteering" for a shift in the staff report is actually an act of self-preservation – if you do not cover for an unavailable colleague, you could be "voluntold" to cover it anyway. As such, an employee not wanting to be ordered to cover an undesirable on call shift (e.g. Fourth of July, Christmas, etc.) would agree to cover other shifts when the opportunity arose.

The facts do not support Dutkiewicz's contention that on call time was divided between "assigned" and "voluntary" on call work.³ "Voluntary" on call time was simply not a concept that existed with respect to the IRT. Throughout Nicholson's career, management stressed that on call time was mandatory and required. This became especially true when the IRT was mandated by the Contra Costa County Hazardous Materials Plan and management upgraded to a Type II Hazardous Materials Response Team. This required the division to increase staffing from five to six person teams. Being available to cover on call shifts was not optional – being on call was a requirement of the job.

3. NICHOLSON DID NOT IMPROPERLY INCREASE HIS PENSION BY SIGNING UP FOR ON CALL WORK

Even if Nicholson worked more On Call Shifts during his final average salary period than other years, this would not establish that Nicholson worked those shifts to increase his retirement allowance. The number of on call shifts Nicholson worked increased each year from 2006 to 2011 – so while he worked more on call shifts during his final average salary period, this does not reflect

² See Staff Report, p. 4, stating "some of the on-call shifts worked by the IRT members was [sic] on a voluntary basis above and beyond that which had been scheduled by the Director, and therefore was not required work."

³ See Staff report, pp. 3-4, stating "all assigned and voluntary on-call duty is paid using the same pay code."

an attempt to enhance his retirement allowance. Moreover, most of the shifts Nicholson worked for other employees during his final average salary period were at the other employees' request – not Nicholson's.

The charts relating to Nicholson's on call hours attached to the staff report paint an incomplete picture. They fail to show the number of on call hours Nicholson had each year from 2006 to 2011. This information can be extracted from the schedules included in the attachments to the staff report. These schedules show that Nicholson's on call hours increased each year from 2006 to 2011. Thus, evidence that Nicholson covered more on call hours during his final average salary period than he worked the year before does not establish that he covered extra on call shifts to boost his pension – it is just consistent with the trend of annual increases in his on call hours.

Moreover, the on call schedules included in the materials show that almost all the shifts Nicholson covered for other employees from December 2010 to December 2011 were at the request of other employees. These schedules reflect the changes made to employees' on call shifts during the time period at issue. From December 2010 to December 2011, Nicholson covered 54 on call shifts for other employees. Other employees asked Nicholson to work all but six of those shifts.⁴ Moreover, on many occasions, Nicholson agreed to cover these shifts with the understanding the employees he was covering for would cover a shift for him at a later date. As such, the fact that Nicholson covered other employees' on call shifts does not reflect an intent on Nicholson's part to "spike" his retirement.

Even if, for the sake of argument, Nicholson accepted a few shifts believing the extra pay would enhance his retirement, this would not show Nicholson *improperly* increased his pension. CCCERA's own representatives encouraged employees to boost their salaries during their final average salary periods. When Nicholson was reclassified as a safety member, he called CCCERA to discuss his retirement. During the call, the representative he spoke to told him he needed to do everything he could to boost his salary during his final year. A CCCERA representative told him the same thing when he called to discuss retirement in or around 2006. These and similar representations show employees, including Nicholson, were made to understand that earning as much pensionable income as possible in their final year was expected – failing to do so would, in effect, reduce the benefits they would otherwise be entitled to. CCCERA cannot now claim such conduct was improper.

C. CCCERA IS TIME-BARRED FROM DEMANDING REPAYMENT FOR ALLEGED OVERPAYMENTS.

Even if, for the sake of argument, CCCERA overpaid Nicholson as a result of including On Call Pay in his retirement allowance, it could not recover the \$29,482.29 it claims it overpaid him since 2011. Government Code section 31540 (b) establishes a three-year statute of limitations period for recovering overpayments the retirement system makes to a member. This statute of

⁴ Nicholson asked to cover one shift in September 2011, and five in November 2011.

limitations runs from the date of the payment. As such, any claim for alleged overpayments occurring before May 2013 will be time-barred by the time the Board meets on May 4, 2016.

D. CCCERA IS ESTOPPED FROM EXCLUDING ON CALL PAY, BECAUSE IT PROMISED SUCH PAY WOULD BE INCLUDED IN RETIREMENT CALCULATIONS

CCCERA is equitably estopped from excluding On Call Pay from Nicholson's retirement allowance now, more than four years after Nicholson retired. For many years, CCCERA advised employees, including Nicholson, that On Call Pay would be included in the compensation used to calculate their retirement benefits. In 1999, for example, CCCERA's Administrator, Pat Wiegert, issued a memorandum unequivocally stating "On-call pay is considered compensation for retirement purposes. It's reported to us, we collect contributions on it, and we use it as part of salary when computing the [pension] benefit." (August 11, 1999 Memo from Wiegert to Leslie Knight, Director of Human Resources.)⁵ CCCERA affirmed this promise repeatedly, including in the retirement allowance estimates it provided Nicholson. In September 2011, for example, CCCERA issued Nicholson a "Basic Retirement Estimate" showing that On Call Pay would be included in the final compensation used to calculate his retirement benefits.⁶

E. EVEN IF CCCERA DECIDES TO EXCLUDE SOME ON CALL PAY FROM NICHOLSON'S RETIREMENT ALLOWANCE GOING FORWARD, CCCERA IS ESTOPPED FROM RETROACTIVELY EXCLUDING IT FROM THE PENSION BENEFITS HE ALREADY RECEIVED

Regardless of whether "on call" pay should be included in Nicholson's retirement benefits going forward, there is no basis for recovering money he already received as a result of On Call Pay being treated as pensionable compensation in the past.

1. CCCERA IS ESTOPPED FROM DEMANDING REPAYMENT FROM NICHOLSON

The doctrine of equitable estoppel bars CCCERA from requiring Nicholson to repay any alleged overpayments resulting from the inclusion of On Call Pay in his pensionable compensation. Estoppel may be invoked against a government agency when "justice and right require it." *Driscoll v. City of Los Angeles* (1967) 67 Cal.2d 297, 306. Here, estoppel lies to prevent CCCERA from requiring Nicholson to repay money he received as the result of any compensation improperly included in his pensionable compensation.

The elements that must be present for equitable estoppel to apply are: (1) the party to be estopped must be apprised of the facts; (2) that party must intend for its conduct to 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

⁵ A copy of Pat Wiegert's memorandum is attached as Attachment B.

⁶ A copy of the Basic Retirement Estimate, dated 8/09/11, is attached as Attachment C. Certain sensitive information has been redacted, to protect Nicholson's privacy.

injury. *Crumpler v. Board of Administration* (1973) 32 Cal.App.3d 567, 581 (citing *Driscoll v. City of Los Angeles* (1967) 62 Cal.2d 297, 305.)

These elements are easily established here. First, the County was apprised of the fact that employees were permitted to take on call shifts from each other, yet still advised Nicholson and other employees that On Call Pay received for such work would be included in their pensionable compensation. Second, the County intended for its conduct to be acted on. Third, Nicholson was ignorant of the fact that CCCERA could determine his On Call Pay was not pensionable. Fourth, Nicholson relied on the County and CCCERA's representations to his injury. Nicholson planned his retirement based on CCCERA's representations that On Call Pay would be included in his pension benefits. If CCCERA excludes it from Nicholson's retirement allowance in the manner discussed in the materials it included with its March 31, 2016 letter, Nicholson will lose almost \$600 in retirement pay each month. This loss is bad enough by itself – requiring Nicholson to repay over \$29,000 for past pension benefits would be financially devastating.

As such, equitable estoppel applies. Thus, even if – for the sake of argument – CCCERA could exclude On Call Pay from Nicholson's future pension benefits, it cannot require him to repay money he received in the past as a result of the pay being included in his retirement calculations.

CCCERA cannot avoid estoppel by claiming it did not know how On Call Pay was administered for Nicholson. In *Crumpler*, the court held that equitable estoppel barred PERS from retroactively reclassifying a group of employees as miscellaneous members. When the employees began employment, they were classified as local safety members of PERS. Years later, PERS conducted an investigation and determined the employees should have been classified as miscellaneous employees because their job duties did not constitute active law enforcement service. The employees sued PERS when it tried to reclassify them as miscellaneous members retroactive to the date they were hired. The court held while PERS was estopped from retroactively reclassifying the employees. In so doing, the court rejected PERS' assertion that it had no knowledge of the employees' job duties when it initially classified them as safety members. According to the court, in the administration of PERS as it pertained to city contract members, the City and PERS' Board were agents of the state, and were therefore in privity. Accordingly, the estoppel of the city applied to estop PERS. *Id.* at p. 584.

2. EVEN IF CCCERA COULD DEMAND REPAYMENT, IT SHOULD NOT DO SO

Even if, for the sake of argument, CCCERA could force Nicholson to repay the money he received as a result of On Call Pay being included in his pension calculations, CCCERA should not do so. Nicholson is a retiree, who planned his retirement around receiving pension benefits that included his On Call Pay. Requiring him to repay the approximately \$30,000 CCCERA's staff claims Nicholson received as a result of including supposedly non-includible On Call Pay would have a crippling impact on Nicholson's finances.

It is well established that a retirement association is not required to seek repayments from retirees for overpayments arising from the inclusion of pay items that are later determined not to

Luz Casas
April 25, 2016
Page 8

be pensionable compensation in retirees' pension benefit calculations. *See City of Oakland v. Oakland Police and Fire Retirement System* (2014) 224 Cal.App.4th 210, 245-46. Likewise, forgoing repayment from retirees for such overpayments would not constitute a "gift of public funds," or otherwise violate the retirement association's legal obligations. (*Id.*)

Moreover, Nicholson was acting in reliance on representations from the County and CCCERA when he signed up for additional on call shifts. He was not trying to game the system, or obtain something he was not entitled to. Requiring Nicholson to pay back pension benefits he already received would punish him for the acts and omissions of the County and CCCERA.

F. IN THE EVENT CCCERA PLANS TO EXCLUDE ANY OTHER PAY ITEMS FROM NICHOLSON'S PENSION, IT SHOULD PROVIDE NICHOLSON NOTICE AND AN OPPORTUNITY TO RESPOND

As stated previously, Nicholson submits this statement with the understanding that On Call Pay is the only pay item CCCERA plans to discuss at its May 4, 2016 meeting. CCCERA did not identify any other pay items potentially at issue in its March 31, 2016 letter to Nicholson. Likewise, CCCERA did not provide information about any additional pay items. Accordingly, Nicholson has only addressed On Call Pay in this statement. In the event CCCERA's Board intends to address additional pay items at the May 4, 2016 meeting, Nicholson respectfully asks for notice of the items to be considered and copies of any documents the Board may consider with respect to such pay items. Nicholson needs such information to meaningfully respond to any matters concerning other pay items.

III. CONCLUSION

For the reasons set forth herein, Nicholson's retirement allowance should not be reduced. There is no basis for excluding any On Call Pay from Nicholson's pension benefits. Moreover, even if such compensation was excludible, CCCERA is barred from retroactively recalculating benefits Nicholson already received or demanding repayment of any alleged overpayments resulting from the inclusion of On Call Pay in Nicholson's pensionable compensation.

Thank you for your attention to this matter.

Sincerely,

MASTAGNI HOLSTEDT, A.P.C.



ISAAC STEVENS

Lawyer for Charles Nicholson

ISS/jee
Enclosures
Cc: Wrally Dutkiewicz

ATTACHMENT A

CONTRA
COSTA
COUNTY
CCCERA
Employees' Retirement Association

March 31, 2016

Charles Nicholson
[REDACTED]

VIA FEDEX

Re: Retirement Board Hearing on Includable Compensation for Retirement Purposes

Dear Mr. Nicholson,

You retired from CCCERA effective December 1, 2011. In 2014, the Board of Retirement resolved to review past incidents of unusual compensation increases at the end of employment. The Board initially voted on May 7, 2014 to begin the review. On July 23, 2014, the Board directed as follows:

1. The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers.
2. The review will concentrate on specific, unique items of pay and not on regularly recurring vacation, sick or compensatory leave time.

The Board directed that any proposed adjustments to retirement benefits will occur only after the Board has conducted a thorough examination of all applicable facts and applicable law, and only after affording any affected members the opportunity to appear before, and present their positions to, the Board before any action is taken.

NOTICE IS HEREBY GIVEN that the Board is scheduled to hear the matter of whether adjustments to your retirement allowance are warranted at its regular meeting:

May 4, 2016

9:00 a.m.

Contra Costa County Employees' Retirement Association

1355 Willow Way, Suite 221

Concord, California 94520


This meeting is your opportunity to present to the Board your position and any information you believe is relevant to the calculation of your retirement allowance. You may submit written materials relevant to this issue in advance of the Board meeting. The materials will be included with the agenda distributed to the Board and the public if received by CCCERA on or by Monday, April 25, 2016. The public meeting materials prepared by CCCERA for the purpose of the hearing are enclosed.

March 31, 2016
Charles Nicholson
Page 2

Note that Retirement Board meetings are open, public meetings, and any member of the public may comment or present information to the Board. Any written materials you submit will be made public.

If you have any questions, please contact the undersigned at (925) 521-3960.

Sincerely,



Wally Dutkiewicz
Compliance Officer

Encl.

ATTACHMENT B

MEMO

Date: August 11, 1999
To: Leslie Knight, Director
Human Resources
From: Pat Wiegert, Administrator
Subject: On-Call Pay vs. Call-Back Pay

The Retirement Board discovered what appears to be an inequity in the way on-call pay is paid to different employee groups. There may be a good reason for this disparity, but the Board asked that I advise you in the event you were not aware of it.

The difference is in the way on-call pay is paid to an employee when the employee is actually called back to work. In some cases, the on-call pay stops accruing and the call-back pay goes into effect. In other cases, the call-back pay goes into effect, but the on-call pay continues for the remainder of the time the employee was scheduled to be in "on call" status.

As I noted there may be a good reason for this, but it directly affects the pension these people will eventually receive. On-call pay is considered compensation for retirement purposes. It's reported to us, we collect contributions on it, and we use it as part of salary when computing the benefit. Call-back pay is considered overtime and therefore not included in compensation for retirement purposes.

Two employees, each scheduled for the same number of hours in on-call status will receive different pensions if one is called back to work and the other isn't. The one called back to work will get a lower pension.

The Board became aware of this situation during its review of requests from two employee groups to include their overtime pay in pensionable compensation under the *Ventura Decision*. While both groups' requests were denied, it became apparent that their on-call pay, which was not in question because it has always been included, was paid in two different ways.

The two groups involved were the Social Services Children's Protective Services after hours emergency response team and the Health Services hazardous materials after hours emergency response team. The first group continues to receive on-call pay even though called back to work. The second group does not.

There may be other groups who also receive on-call pay. We have no knowledge of who they may be nor do we know how their on-call pay is handled when they're called back to work. Since on-call pay and how it's handled was not the original reason for the Board's review, we limited our attention to the overtime issue only.



ATTACHMENT C

BASIC RETIREMENT ESTIMATE

Employee Name: Charles Nicholson
Address: Apt 8/16/11
Retirement Date: 11/30/11

Employee #: [REDACTED]
Employee SS#: [REDACTED]
Birthdate: [REDACTED]
Member Date: 8/21/91

Tier:	1	Prior Srv	Pickup	Redeposit	Pub. Srv.
Tier:	2				
Tier:	3				
Tier:	Safety				

Retirement Age

Monthly Salary - Include Management and Longevity Pay:			
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
	0.00		
36 Month Total	0.00		
11/30/10	0.03		
12/1/10-10/31/11	11.00		
11/1/11-11/29/11	0.97		
	0.00		
L05 Longevity included	0.00		
12 Month Total	12.00		

	60.353
	60.25
Tier: 1	
Factor: 0.000000	
Tier: 2	
Factor:	
Tier: 3	
Factor:	
Tier: Safety	
Factor: 0.000000	

Service Credit Tier 1	
Current Serv.	= 9.1887
Conv to Safety	-7.1029
Total	= 2.0858
Service Credit Tier 2	
Curr Serv.	= 0.0000
Add'l. Service:	0.0000
Total	= 0.0000
Service Credit Tier 3	
Curr Serv.	= 0.0000
Add'l. Service:	0.0000
Total	= 0.0000
Service Credit Safety	

SUBTOTAL FINAL COMPENSATION	TIER 1, 3 & SAFETY		TIER 2	
	12 Month	36 Month	12 Month	36 Month
Differential Type: ACS (Educ Allowance)	\$ [REDACTED]	\$ -		
Differential Type: 885 (Haz Mat Response)	\$ [REDACTED]	\$ [REDACTED]		
Differential Type: 028 (Call Haz Materials)	\$ [REDACTED]	\$ [REDACTED]		
Differential Type: 010/021 & 003 (On Call Call Back & Phone Call Back)	\$ [REDACTED]	\$ [REDACTED]		
Vac. Sales Hrs: (1yr) (3yr) x hourly rate	\$ -	\$ -		
Vac. P/O Hrs: 200.9 (1yr) (3yr) x hourly rate	\$ [REDACTED]	\$ -		
Pers. Hol. P/O Hrs: 24.0 (1yr) (3yr) x hourly rate	\$ [REDACTED]	\$ -		
Hol Comp P/O Hrs: 130.4 (1yr) (3yr) x hourly rate	\$ [REDACTED]	\$ -		
Grand Total Compensation:	\$ [REDACTED]	\$ -		
Longevity included in vac & ph payoffs	36 mo CPAS FAB	\$0.00		
AVERAGE SALARY - ONE YEAR:	\$ [REDACTED]			
AVERAGE SALARY - THREE YEARS:	\$ -			

BASIC RETIREMENT ALLOWANCE

Tier 1					
0.022740	X	\$	X	2.0838	= \$
2.6531	X		X		= \$ 0.45
Tier 2					
0.000000	X	\$	X	0.0000	= \$
0	X		X	0.0000	= \$
Tier 3					
0.000000	X	\$	X	0.0000	= \$
0	X		X	N/A	= \$
Safety					
0.030000	X	\$	X	19.6029	= \$
Sick Leave					
0.022740	X	\$	X	0.6308	= \$
2.6531	X		X		= \$ 1.67
TOTAL ALLOWANCE WITHOUT SICK LEAVE \$					
TOTAL ALLOWANCE INCLUDING SICK LEAVE \$					

Cur Serv	=	12.5000
Conv. From Tier 1	=	7.1029
Total	=	19.6029
Hours	=	#hrs. 72000
	=	0.6308

Maximum accruals used for
 Vacation and personal Holiday
 Current Accruals for Holiday
 comp used.
 Assumes differentials
 continue as currently paid.

Date: 08/05/11 Initials: mr Date: _____ Initials: _____

Nicholson #46898 11.30.11 rev 8-13

05/04/16 Board Meeting Handout

My name is Jerry Yoshioka, [REDACTED] and I'm a retired Hazardous Materials Specialist, employee number 55631 retired. My presentation will respond to CCCERA's "Recommendations" regarding my pension.

However, first I must ask: Is CCCERA saying that fraud was committed?

I ask this since at a previous meeting that I attended there was some loose talk using that term by some of the Board members.

There was no fraud.

.....

I would also like to preface the rest of my presentation with this statement:

Throughout what became my final several years, it was not my intention to retire at the time of my actual retirement in March of 2014. With the new pension laws, I can't say that I hadn't thought about retirement. I just wasn't ready. I loved my job, my wife was planning on working for a few more years and I was actually afraid of retiring. There were those stories of county workers dying within a couple of years after retirement, so actually retiring was a scary thing that I was putting off.

The ultimate decision to retire was based on my health. [REDACTED]

[REDACTED] My wife, doctor and I made the decision at that time, it was time.

Now I will address the assumptions that Mr. Dutkiewicz cited in his May 4, 2016 Memo to the CCCERA Board, to support his recommendation that you consider and take possible action to determine that Hazardous Materials Specialists were paid excess on-call compensation.

I will use the generic term "the County" in the place of naming management or specific managers.

1. On Page 8 of Mr. Dutkiewicz's May 4, 2016 Memo, he suggests that the Board take possible action based on the assumption that some Hazardous Materials Specialists performed Voluntary non-required work that was beyond the average on-call hours performed by other HMS II's during the same pay period.

That assumption is inaccurate, and fails to take certain facts into account.

My agreement to work when asked to do so doesn't make the on call work voluntary. I came to the County in 1997 in order to be on the Hazmat Team. I was a professional and I took my duties and responsibilities as a team member seriously. When there was a need to cover more shifts, the County came to me and the other experienced senior staff and asked us to cover this required work. I agreed to work when I was asked.

The County has provided the Board with statements at previous meetings as well as written responses to Mr. Schneider's questions that establish that the on-call time was not voluntary – it was required work. I have included the County's response to some of Mr. Schneider's questions in **Attachment 1**. During what became my final year, all Hazardous Materials Specialist IIs in my pay grade were performing on-call.

During my employment with the County, there was no way for me to know the number of on call hours of the rest of the team members. We did not sit around the table and compare hours.

However, the County knew the numbers since the County made the on-call assignments, the County reviewed the on-call calendars, and the County approved the time sheets.

No one from the County or CCCERA told me that my on-call hours were above the average, or what that average was, or what the average numbers should be.

Most important is the fact that on-call was not "voluntary". My on-call duty work was required work and all in my pay grade worked on-call during my last several years.

2. Next, on Page 8 of the May 4 Memo, Mr. Dutkiewicz suggests that the Board should take possible action to exclude what he calls "excess on call pay" based on the improper assumption that some Hazardous Materials Specialists caused an improper increase of their final compensation.

The County was responsible for the shortage of staff due to lack of planning, tedious hiring practices and the lack of trained staff that caused my on-call hours to be increased in order to meet the needs of the County. I did not cause an improper increase in my final compensation. I did not cause a shortage of team members, which caused my hours to rise.

My on-call hours increased as I recovered from an injury, which is not improper. In **Attachment 2** you can see that my hours increased at the end of 2012 after I was medically cleared from a Worker's Comp Injury which occurred in late 2009. I have also included a copy of my Worker's Comp settlement letter. This increase in time corresponded with the recent retirements of several team members. Also included is an email from the County indicating the distribution of the open shifts. There was nothing improper on my part about that situation.

I did not set the payroll codes, and I did not determine which hours were pensionable and which were not. The County provided me with one pay code for all on-call hours. No one from the County or CCCERA told me this hour was pensionable and that hour was not and there was no way to record it if they did.

In **Attachment 3** is a graph of the percent increase by team members in my pay grade who worked the full time period in what became my final year. Conservatively the average was a 30% increase over the previous year.

I did not cause the conditions which increased my final compensation.

3. Next, on Page 8 of the May 4 Memo, Mr. Dutkiewicz suggests that the Board should take possible action to exclude so called "excess on call pay" based on the false assumption that I obtained it by signing up or trading for additional on-call hours in the last year or months prior to retirement, in order to boost up my final compensation.

I did not create the County's practice to trade on-call duty. Trading on-call shifts has been an approved practice by the County even before I was hired in 1997. **Attachment 4** is an early departmental policy titled "Incident Response Team Scheduling" written by then Director Lewis Pascalli. Also

an email from the County stating to trade on-call shifts. Trading was allowed and approved. From what I understand trading shifts are a common practice amongst the emergency services in order to maintain sufficient staffing.

I was not responsible for reviewing and approving trades. Trades made to the on call calendar were reviewed by the County. **Attachment 5** is an example of my time sheet with the on call hours entered which was reviewed and approved by the County.

Once again not only did the county approve the practice of trades, it was a requirement. **Attachment 5** is a copy of one of the on-call calendars that was contained in the syllabus I received on April 1. I have circled days in which the County has assigned individuals twice on the same shift. The County required me to make trades. Beginning around 2010, the County began to require each on-call team member to check in by radio at 8 AM and 5 PM so that the County could verify the on-call calendar.

Before my retirement was approved, the County gave Mr. Schneider the on-call calendars and the County answered his questions. Mr. Schneider was aware of the practice to trade on call duty when he approved my retirement. Had there been a problem, I would have hoped Mr. Schneider would have worked with the County to develop solutions prior to my retirement.

The County allowed trades and required trades before I was hired, and also during my employment with the County. Following the County's practices, I traded on call duty. However, until early 2014, I had not decided on retirement, and I did not trade on-call duty for the purpose of enhancing my retirement.

At the December 2014 meeting I asked the Board to evaluate my pension individually as the law required. The contents of the syllabus I received from CCCERA establishes that my pension has not been evaluated individually. My situation has been lumped together with every other retired Hazardous Materials Specialist, even though our situations are all different.

In the May 4 memo on page 6 under Section D, the second test was the comparison of my time with *all* HMS IIs on-call. I believe if there is to be a

comparison, the comparison should have been with those HMS IIs in the same pay grade during my time period. The number 63,69 was used in my case. My research shows that the average on call hours for those in my pay grade during that period of time was approximately 70 hours per month.

And why was I even included?

My pension was evaluated by CCCERA under the January 1, 2013, evaluation criteria. According to CCCERA staff a review of three years was conducted. **Attachment 6** is a graph of my on-call hours over the last 6 years along with the policy status report from Mr. Schneider and the CCCERA policy. CCCERA staff saw that my increase in the prior year corresponded with the increased need caused by the loss of team members and found no enhancement in the final year. My file was forwarded to Mr. Schneider. And Mr. Schneider recommended approval of my pension to the Board. I was approved by the Board on June 11, 2014. In fact, Mr. Schneider signed the check on June 1, 2014, 10 days prior to my approval by the Board. CCCERA's evaluation of my pension and the criteria used to conduct it must be considered in your decision.

In conclusion, there has never been voluntary on call duty. All of the on-call duty I worked was required work.

I did not create the County's policies and practices but I followed them. I did not create the on-call schedules or the trade system. I did not create the pay codes, and I was not authorized to approve the payroll. I did not cause an increase in my final compensation.

As I had stated previously I had intended to work much longer, how long I did not know. It was not my intent to enhance final compensation because it was not my intent to retire when I did.

What should I have done differently to avoid being here today?

I hope that you will consider these facts to determine that my approved pension should remain as it is.

Attachment 1

OFFICE OF THE DIRECTOR
WILLIAM B. WALKER, M.D.
DIRECTOR & HEALTH OFFICER

50 Douglas Drive, Suite 310-A
Martinez, California
94553-4003
Ph (925) 957-5403
Fax (925) 957-5409


CONTRA COSTA
HEALTH SERVICES

BOARD OF SUPERVISORS

JOHN GOHA, 1ST DISTRICT
CANDACE ANDERSEN, 2ND DISTRICT
MARY N. PEPPO, 3RD DISTRICT
KAREN MITCHELL, 4TH DISTRICT
FEDERAL D. GLOVER, 5TH DISTRICT
COUNTY ADMINISTRATOR
DAVID TWA

July 10, 2014

Mr. Kurt Schneider
Deputy Retirement Chief Executive Officer
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

RE: Response to CCCERA Letter of Inquiry

Dear Mr. Schneider:

I appreciate the amount of work that you, and the retirement association staff, are undertaking because of the change in the pension requirements and the number of people that are retiring to beat the July 11, 2014 deadline. I also appreciate your willingness to determine an equitable retirement pay for the Hazardous Materials Specialists.

Attached to this letter are responses to the questions asked in your July 2, 2014 letter to me, to assist in determining an equitable retirement pay. I am requesting that a meeting be scheduled to go over these responses, and to give more detail of how "On-Call" is handled at the Hazardous Materials Programs. The meeting may assist in resolving the discrepancy in what CCCERA records and Contra Costa Health Services records are showing for the Hazardous Materials Specialists that are "On-Call" prior to their final year of employment. Our records do not list, or reflect, any employee that was on the Hazardous Materials Response Team who had not been "On-Call" for the 16 months prior to the last year of employment. The same meeting can provide an opportunity to substantiate and confirm that there may be a difference in the number of hours a person is "On-Call" in their last year of employment compared to the other Hazardous Material Response Team members, but that difference is probably not as great as what has been indicated in your letter. Please contact Randy Sawyer at 925-335-3200 or randy.sawyer@hsd.cccounty.us to schedule this meeting.

Thank you for reaching out to me to understand how "On-Call" time for the Hazardous Materials Response Team is handled. Randy Sawyer and I are available if you have any questions, and we look forward to meeting with you to discuss this topic in greater detail.

Sincerely,



William B. Walker, M.D.

cc: Randy Sawyer

Encl: (25)



Response to CCCERA

1. Who is designated to assign on-call duty to Hazardous Materials Incident Response Team (IRT) members and how is it assigned?

Randy Sawyer, the Director of the Contra Costa Health Services - Hazardous Materials Programs (CCHMP) develops the Incident Response Team schedule. Two IRT schedules are developed each year - January through June, and July through December. The IRT is made up of three teams of six Hazardous Materials Specialists. Mr. Sawyer assigns the on-call days equally among the three teams.

Staff has the ability trade on-call shifts. Each trade is reviewed and approved by management. If a staff member is unable to work an on-call shift, management reassigns the shift to another qualified Specialist. As of June 2013, the schedule is maintained on an online calendar.

2. Are employees of the classification V4VC required to participate on the IRT? If this varies over time due to staffing issues, please provide details.

Employees of the classification V4WG and V4VC (Hazardous Materials Specialist I and II, respectively) who receive the Incident Response Team differential, are required to participate on the IRT, maintain competency per the California Occupational Safety and Health Administration (California Code of Regulations Title 8 §5192(q)(8)), and be on-call.

Health Services is not aware of an employee who received the IRT differential for 16 months without being on-call.

3. How many hours of on-call duty are required of IRT members? If this varies over time due to staffing issues, please provide details.

There are not a specific number of on-call hours required for IRT members. The Health Services Department is responsible for ensuring adequate staffing to manage a hazardous materials incident 24 hours a day, 365 days a year (Contra Costa County Hazardous Materials Area Plan dated September 29, 2009, Section 8-2.5 – Agency Responsibilities). Not including trainees, the IRT maintains six people on-call at all times. Therefore, not including holidays, there are approximately 832 paid on-call hours that must be worked by a certified and trained Hazardous Materials Specialist each month.

In the past, CCHMP had 21 certified Hazardous Materials Specialists on the IRT - 19 Hazardous Materials Specialists I and II (V4WG & V4VC) and two, Hazardous Materials Technicians (V4WF). In January of 2013, that number fell to 13 Specialists and no Technicians. The number of Specialists fell again in February of 2013 to 12, in November of 2013 to 11, and in March of 2014 that number decreased to nine. As of July 1, 2014, not including trainees there are eight Hazardous Materials Specialists and no Technicians on the IRT.

During this same time period, CCHMP conducted two recruitments and hired seven new Hazardous Materials Specialists. Currently, five of the seven are on the IRT in a probationary status. The remaining two Specialists will be receiving the Hazardous Materials Specialist certification training in the fourth quarter of 2014.

CCHMP is currently in a recruitment to hire five new Hazardous Materials Specialists. These Specialists are expected to start in August of 2014 and will also receive the Hazardous Materials Specialist certification training in the fourth quarter of 2014.

4. How many hours of assigned on-call duty are IRT members allowed to give away to other team members?

Depending upon the individual circumstances of each Hazardous Materials Specialist, some staff may be more available during a given month to work additional on-call shifts (e.g. vacation, sick leave, FMLA, personal issues, etc). The Health Services Department is responsible for maintaining adequate staffing in the event of a hazardous materials incident. CCHMP management fills on-call shifts to ensure that six adequately trained Hazardous Materials Specialists are able to respond at any given time.

5. How many hours of on-call duty are IRT members allowed to volunteer for in addition to what was assigned?

Except when worker safety is a concern, CCHMP does not limit the number of on-call hours that a Hazardous Materials Specialist can work. The Health Services Department has determined that six, trained and certified Hazardous Materials Specialists must be available at all times to safely respond to hazardous materials incidents. CCHMP is responsible for ensuring that the IRT is adequately staffed.

6. Copies of MOUs, contracts, guidelines, policies, procedures, work schedules, or timesheets that confirm the above listed information.

- The MoU with Public Employees Union Local One is available online at www.peul.org
- The *Contra Costa County Hazardous Materials Area Plan* establishes the guidelines for hazardous materials response within the County. The Area Plan is available at cchealth.org/hazmat/pdf/2009_area_plan.pdf
- Copies of the IRT on-call schedules are attached. These schedules are from January of 2013 through June of 2014. Earlier schedules are available.
- CCHMP has several finance reports dating back to 2008. These reports are available to CCCERA upon request.

Attachment 2

County Administrator
Risk Management Division

530 Arnold Drive, Suite 140
Martinez, California 94553

Contra Costa County

Workers' Compensation
Fax Number

(925) 335-1400
(925) 335-1420

June 29, 2012



Jerry Yoshioka
[REDACTED]

Re: Employer: Contra Costa County - Health Services
D/Injury : 11/02/2009
Claim No: 68506

Dear Mr. Yoshioka:

We have received notice from the Workers' Compensation Appeals Board dated June 26, 2012 that the Stipulations we submitted on your claim has been approved.

Your permanent disability has been settled at 12% permanent disability equivalent to \$7,743.85. Since you have been previously paid this amount, there are no monies owed to you.

[REDACTED]

If you have any questions, feel free to contact the undersigned.

Sincerely,

Maria Faint, Claims Adjuster
(925)335-1410

Enclosure: Approved Stipulations

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hager/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: Randy Sawyer/HazMat/HSD/US@HSD, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, November 01, 2012 05:06PM
Subject: Extra On Call Time

Sonny's on call time has been distributed and posted on the IR Schedule. The specific dates are listed on the distribution list that will be posted in the hall tomorrow. Please check the list and make sure you know when you are on call. Please be sure to trade those days you when you are listed multiple times.

Please note that Mike is now on call on Thanksgiving and Maria is on call during the Thanksgiving weekend.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Thursday, October 18, 2012 03:47PM
Subject: Re: Additional On Call Time

Jerry,
 If you can't trade the day I will give it away or we'll have to go with a 5 person team. As for participating in Urban Shield, I don't have an issue of being on call while participating. Just understand that you (and the others on call) could be called away from the events.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

Jerry Yoshioka---10/16/2012 05:55:24 PM---I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on ca

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/16/2012 05:55 PM
Subject: Re: Additional On Call Time

I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on call. Two are planning to go to urban shield. I'd like to go but unlikely to be able to make two trades or even giveaway the days. How do we cover oncall that day?

Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka

Sent: 10/16/2012 02:31 PM PDT

To: Greg Lawler; Paul Andrews; Maria Duazo; Jerry Yoshioka; Neal Price; Michael Wedl; Melissa Hagen; Adam Springer; Devra Lewis; Matt Kaufmann; Trisha Asuncion

Subject: Additional On Call Time

Here is the distribution of the additional on call time. The schedule has been updated to reflect these changes. Please check the schedule and address days that you are on call twice.

Greg - 1/14, 3/19, 5/1, 6/17, weekend of 6/7

Paul - 11/7, 1/17, 3/20, 5/6, 6/25, weekend of 6/21

Maria - 10/23, 1/22, 3/21, 5/8, 6/27

Jerry - 10/27, 1/23, 3/25, 5/15, 6/27

Neal - 11/3, 1/28, 3/27, 5/20, weekend of 1/4

Mike - 11/19, 1/30, 4/3, 5/23, weekend of 2/1

Melissa - 11/22, 2/20, 4/8, 5/28, weekend of 2/15

Adam - 12/6, 3/5, 4/11, 5/30, weekend of 3/15

Devra - 12/24, 3/7, 4/15, 6/3, weekend of 3/29

Matt K. - 12/26, 3/11, 4/17, 6/6, weekend of 4/26

Trisha - 1/9, 3/18, 4/22, 6/13, weekend of 5/10

Let me know if you have questions or see errors.

Thanks,

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Greg Lawler/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD

Date: Tuesday, October 16, 2012 02:30PM
Subject: Additional On Call Time

Here is the distribution of the additional on call time. The schedule has been updated to reflect these changes. Please check the schedule and address days that you are on call twice.

Greg - 1/14, 3/19, 5/1, 6/17, weekend of 6/7

Paul - 11/7, 1/17, 3/20, 5/6, 6/25, weekend of 6/21

Maria - 10/23, 1/22, 3/21, 5/8, 6/27

Jerry - 10/27, 1/23, 3/25, 5/15, 6/27

Neal - 11/3, 1/28, 3/27, 5/20, weekend of 1/4

Mike - 11/19, 1/30, 4/3, 5/23, weekend of 2/1

Melissa - 11/22, 2/20, 4/8, 5/28, weekend of 2/15

Adam - 12/6, 3/5, 4/11, 5/30, weekend of 3/15

Devra - 12/24, 3/7, 4/15, 6/3, weekend of 3/29

Matt K. - 12/26, 3/11, 4/17, 6/6, weekend of 4/26

Trisha - 1/9, 3/18, 4/22, 6/13, weekend of 5/10

Let me know if you have questions or see errors.

Thanks,

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD

Date: Thursday, October 04, 2012 05:14PM
 Subject: Re: Additional On-Call Time Distribution

done.

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

Jerry Yoshioka---10/04/2012 05:12:17 PM---sign me up Jerry

From: Jerry Yoshioka/HazMat/HSD/US
 To: Steve Morioka/HazMat/HSD/US@HSD
 Date: 10/04/2012 05:12 PM
 Subject: Re: Additional On-Call Time Distribution

sign me up
 Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka
 Sent: 10/04/2012 04:12 PM PDT
 To: Adam Springer; Devra Lewis; Greg Lawler; Jerry Yoshioka; Lacey Friedman; Maria Duazo; Matt Kaufmann; Matt Slafkosky; Melissa Hagen; Michael Wedl; Neal Price; Paul Andrews; Sonny Khoo; Tod Hickman; Trisha Asuncion
 Cc: randall.sawyer@hsd.cccounty.us; Alexandra McMullen
 Subject: Additional On-Call Time Distribution

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Please let me know if you have questions.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat

925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: randall.sawyer@hsd.cccounty.us, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, October 04, 2012 04:12PM
Subject: Additional On-Call Time Distribution

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Please let me know if you have questions.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Yolanda Leyva/Fin/HSD/US@HSD
Cc: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Monday, November 26, 2012 05:43AM
Subject: Switch to Regular Schedule

Good Morning Yolanda,
 Sorry for the last second notice but last Friday was the end of the two week period for Jerry Yoshioka (#55631) and starting today (11/26) he would like to work a regular 40 hour work week. Jerry's new schedule is 8:00 - 4:30, Monday - Friday.

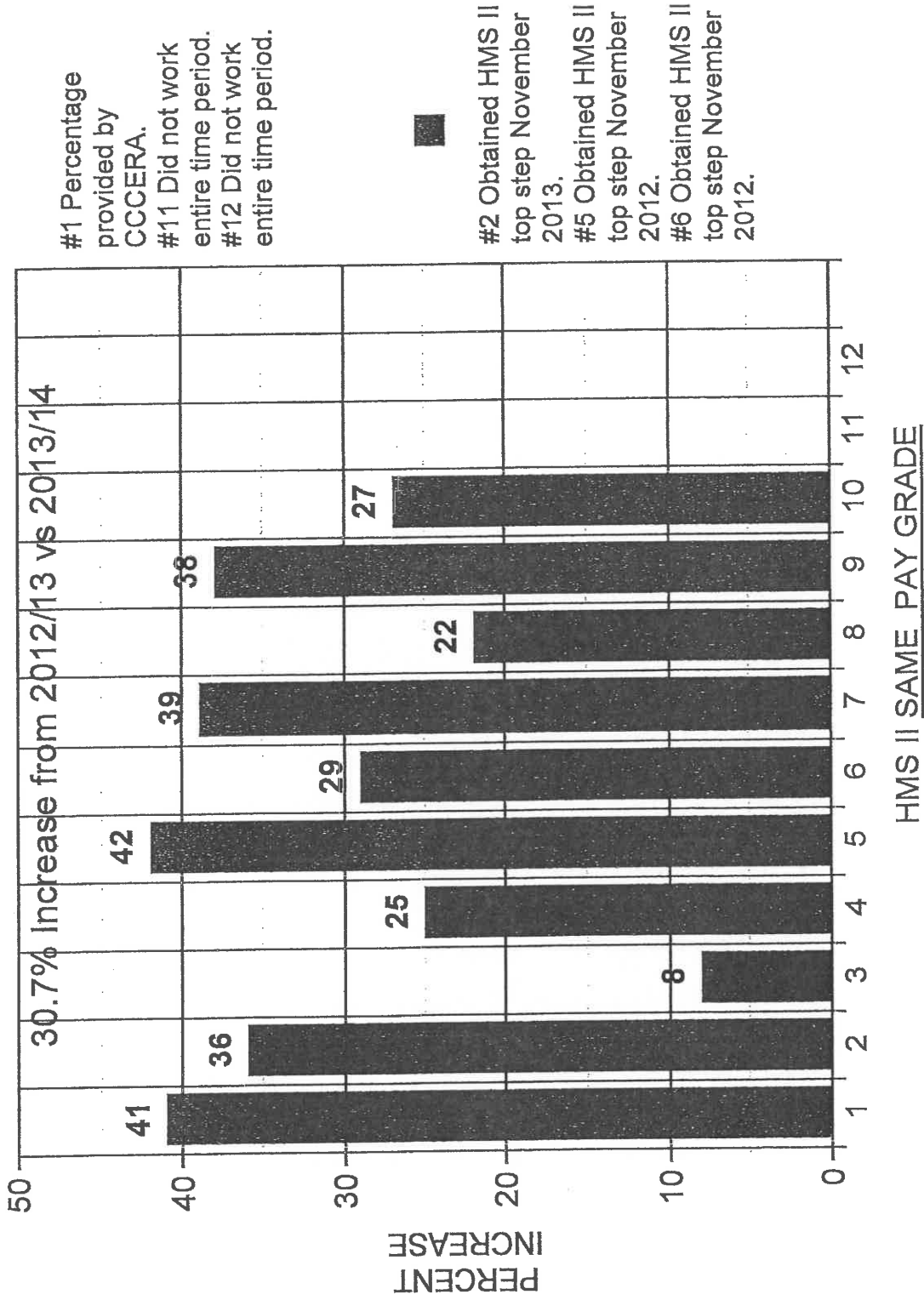
Thanks, please let me know if you have questions or need additional information.

-Steve

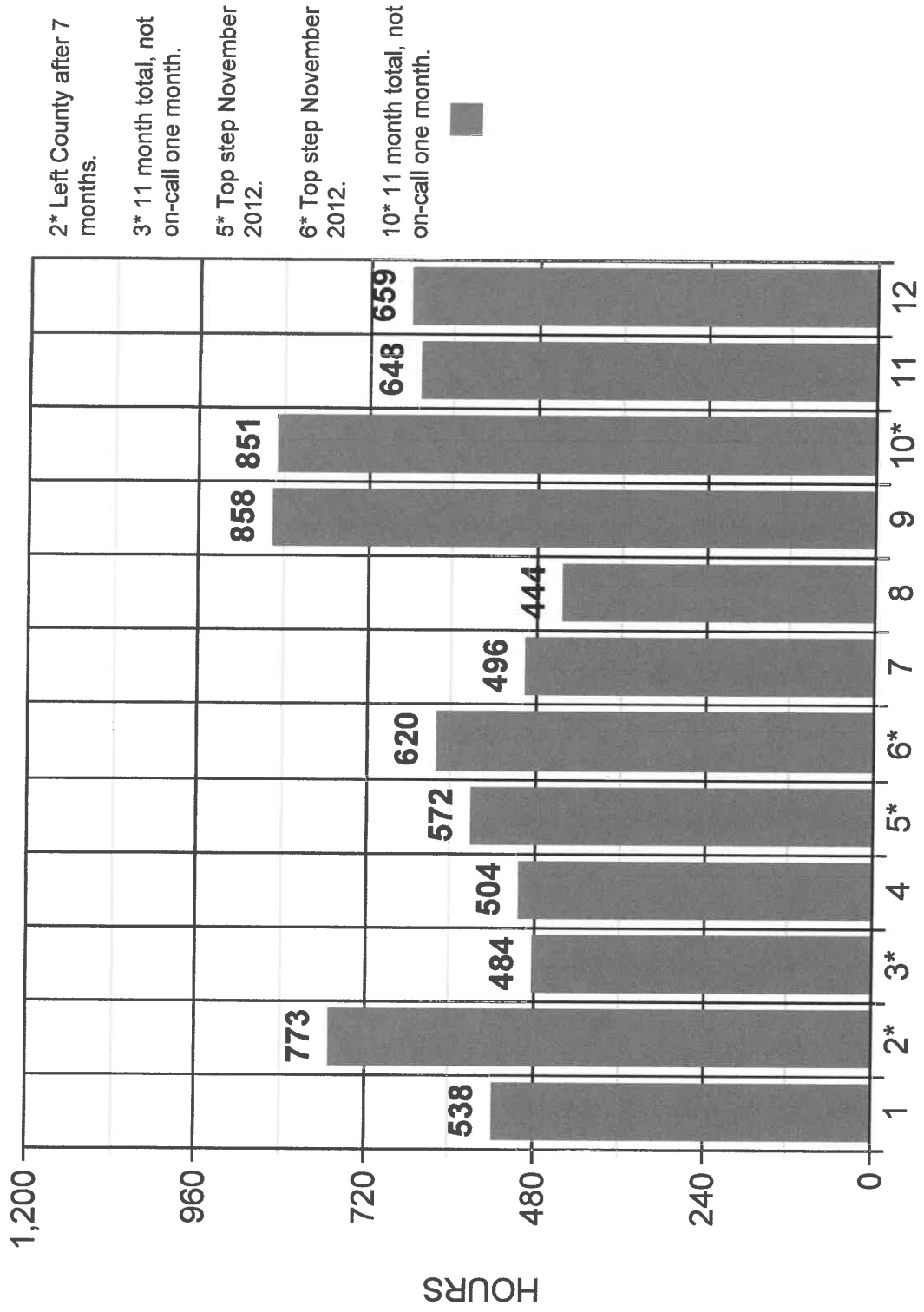
Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

Attachment 3

PERCENT INCREASE 2012/13 VS 2013/14

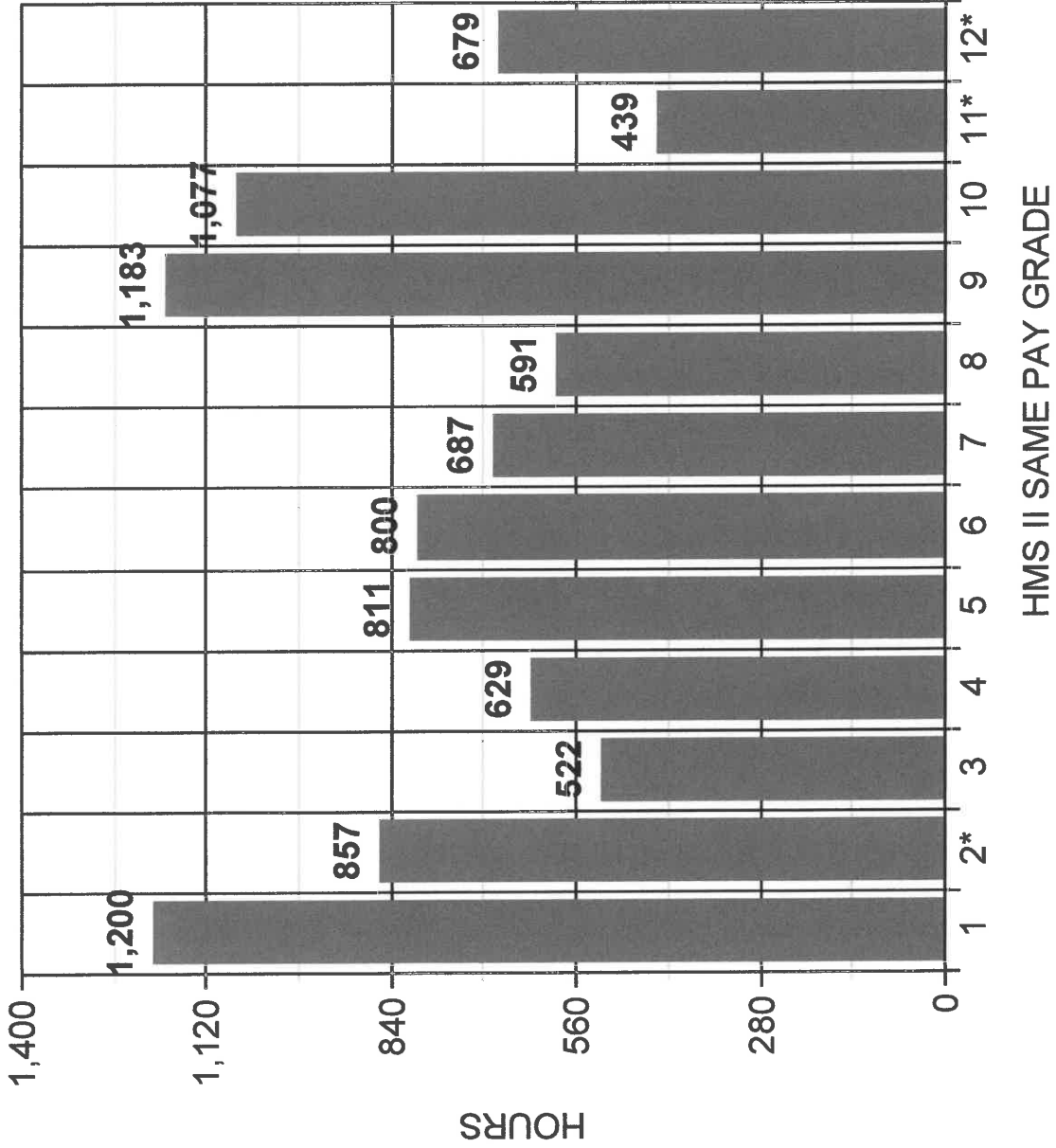


TOTAL HOURS TOP STEP 2012/13



HMS II SAME PAY GRADE

TOTAL HOURS 2013/2014



2* Last 5 months at top step.

11* Excluded from on-call two months.

12* Left County after 7 months.

833 AVG w/o 2, 11, & 12.

843 AVG ALL, using only top step on-call data.

Attachment 4

CONTRA COSTA HEALTH SERVICES

HAZARDOUS MATERIALS PROGRAMS (HMP) POLICY

INCIDENT RESPONSE TEAM SCHEDULING

I. PURPOSE:

This policy details the preparation, the administration, and the amending of the Incident Response Team (IRT) schedule.

II. REFERENCE:

- California Health and Safety Code, Chapter 6.95, Article 1, §§25500 et seq.
- Contra Costa County Hazardous Materials Area Plan

III. POLICY:

It is the policy of the HMP to develop a daily schedule one (1) calendar quarter in advance for eligible Incident Response Team (IRT) members, who will be assigned the on-call responsibility for responding to presented potential hazardous material incidents and answer calls from the public. The schedule will be submitted to the Hazardous Materials Program Director (HMPD) prior to the implementation date for review. The schedule will demonstrate that at least one (1) IRT member lives on this side of a bridge for each day scheduled.

IV. AUTHORITY:

Authority rests in the HMPD to ensure that this policy is followed. The Incident Response Team Coordinator (IRTC) has the authority to develop the schedule and monitor any changes.

V. PROCEDURE:

- A. The HMTD will develop the IRT schedule one (1) calendar quarter in advance, i.e. JAN FEB MAR, APR MAY JUN, JUL AUG SEP, OCT NOV DEC. The schedule will show three (3) names of the IRT members for each day. Notation or highlighting will be done for those IRT members who live across a bridge.
- B. The schedule will be reviewed by the HMPD. After acceptance, a copy of the schedule will be distributed to each IRT member and the master copy posted in the Administrative Support Office on the Communications Wall.

Hazardous Materials Programs Policy
Incident Response Team Scheduling
Page 2

- C. Any IRT member needing to change the schedule will arrange to have another IRT member substitute assuring that at least one (1) member lives on this side of a bridge. The master copy will be annotated showing the change.
- D. The HMPD will review and initial any changes.
- E. If any problems are anticipated IRT members will contact the IRTC to resolve. If the problem cannot be resolved the HMPD will assist in the final decision.
- F. This policy will be revised as necessary and reviewed annually.

VI. FORMS:

- Blank calendar titled "Incident Response Schedule"

_____ Date _____ Approved by

_____ Review Date

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: Randy Sawyer/HazMat/HSD/US@HSD, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, November 01, 2012 05:06PM
Subject: Extra On Call Time

Sonny's on call time has been distributed and posted on the IR Schedule. The specific dates are listed on the distribution list that will be posted in the hall tomorrow. Please check the list and make sure you know when you are on call. Please be sure to trade those days you when you are listed multiple times.

Please note that Mike is now on call on Thanksgiving and Maria is on call during the Thanksgiving weekend.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Thursday, October 18, 2012 03:47PM
Subject: Re: Additional On Call Time

Jerry,
 If you can't trade the day I will give it away or we'll have to go with a 5 person team. As for participating in Urban Shield, I don't have an issue of being on call while participating. Just understand that you (and the others on call) could be called away from the events.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

Jerry Yoshioka---10/16/2012 05:55:24 PM---I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on ca

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/16/2012 05:55 PM
Subject: Re: Additional On Call Time

Date: Thursday, October 04, 2012 05:14PM
Subject: Re: Additional On-Call Time Distribution

done.

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

Jerry Yoshioka---10/04/2012 05:12:17 PM---sign me up Jerry

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/04/2012 05:12 PM
Subject: Re: Additional On-Call Time Distribution

sign me up
Jerry

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Please let me know if you have questions.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat

Attachment 5

Employee # 55631 Backup Op. No. 0452/5878 Class Code V4VC Employee Name YOSHIOKA, JERRY H. CHFC Code PERM Emp. Type FULL PTO Hrs. 40.00 Location Code HZM138
 AS OF 09/01/2013 Val. Amt. 09/01/2013 FMS Comp. PERM / Admin Leave PERM PTO Hrs. 40.00 Period Ending Date 10/15/13

Check Days	TIME			REGULAR HOURS				O.T. HOURS				NONWORK HOURS				DISTRIBUTION SECTION			
	(1) ORG.#	(2) IN	(3) OUT	(4) DAY	(5) PM	(6) NIGHT	(7) O.T.	(8) S.T. O.T.	(9) O.T. Hrs	(10) VAC	(11) Sick Time	(12) HOL. ACC.	(13) Description	(14) Hours	(15) AVOID	(16) ORG V	(17) HOURS WORKED	(18) OT Hrs	
1																			
2																			
3																			
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30																			
31																			
Column Totals	INDICATE TOTAL COLUMNS 1 THRU 18 HERE			84				2.52				5.15				5875			

IMPORTANT: EMPLOYEES ARE RESPONSIBLE FOR SUBMITTING TIMESHEET CORRECTION FORMS FOR ANY CHANGES TO TIMESHEET AFTER SUBMISSION
 DAYS OFF/ROTATION NO. HAZARD HOURS STAT HOURS
 CGST CENTER 5875 % 10.0
 CGST CENTER 5876 % 15.0
 CGST CENTER 5877 % 25.0
 CGST CENTER 5878 %
 For Payroll Use Only:
 Employee Signature: Jerry Yoshioka DATE: 10/11/13
 Supervisor Signature: [Signature] DATE: 10/14/13
 CONTACT PHONE #
 P10 (1/2000)

Jerry Yoshioka's hours of work are 8:00 AM to 4:30 PM with Lunch at 12:00 PM to 12:30 PM

On Call Date	Option	On Call Pay	Call Back Pay	Notification Time	Scheduled OT	Hours On-Call	Call #	Option #	Start of Call	Call Ended	Call Duration	Cell Back Time	Notification
10/30/13	1	2:00	0:00	0:00	0:00	8:00	1	1	8:00	4:30	3:30	0:00	0:00
10/31/13	2	4:00	0:00	0:00	0:00	8:00	2	2	8:00	4:30	3:30	0:00	0:00
10/31/13	3	4:00	0:00	0:00	0:00	8:00	3	3	8:00	4:30	3:30	0:00	0:00
10/31/13	4	4:00	0:00	0:00	0:00	8:00	4	4	8:00	4:30	3:30	0:00	0:00
10/31/13	3	2:52	0:00	0:00	0:00	2:52	3	3	2:52	0:00	0:00	0:00	0:00
10/31/13	2	2:00	0:00	0:00	0:00	2:00	2	2	2:00	0:00	0:00	0:00	0:00
10/31/13	1	2:00	0:00	0:00	0:00	2:00	1	1	2:00	0:00	0:00	0:00	0:00
10/11/13	3	4:00	0:00	0:00	0:00	4:00	3	3	4:00	0:00	0:00	0:00	0:00
10/12/13	4	6:00	0:00	0:00	0:00	6:00	4	4	6:00	0:00	0:00	0:00	0:00
10/30/13	4	8:00	0:00	0:00	0:00	8:00	4	4	8:00	0:00	0:00	0:00	0:00
10/31/13	3	4:00	0:00	0:00	0:00	4:00	3	3	4:00	0:00	0:00	0:00	0:00
10/31/13	2	2:00	0:00	0:00	0:00	2:00	2	2	2:00	0:00	0:00	0:00	0:00
10/31/13	1	0:00	0:00	0:00	0:00	0:00	1	1	0:00	0:00	0:00	0:00	0:00
10/31/13	0	0:00	0:00	0:00	0:00	0:00	0	0	0:00	0:00	0:00	0:00	0:00
TOTAL		15:27:30	0:00:00	0:00:00	0:00:00	15:27:30							

10/31/13 0:00 - 0:00 = 2:12:30

47:22:30

AS

Call Back Date	Option #	On Call Time	Call Back Time
10/31/13	1	8:00	4:30
10/31/13	2	8:00	4:30
10/31/13	3	8:00	4:30
10/31/13	4	8:00	4:30
10/31/13	3	2:52	0:00
10/31/13	2	2:00	0:00
10/31/13	1	2:00	0:00
10/11/13	3	4:00	0:00
10/12/13	4	6:00	0:00
10/30/13	4	8:00	0:00
10/31/13	3	4:00	0:00
10/31/13	2	2:00	0:00
10/31/13	1	0:00	0:00
10/31/13	0	0:00	0:00
TOTAL		47:22:30	0:00:00

Call Back Date	Option #	On Call Time	Call Back Time
10/31/13	1	8:00	4:30
10/31/13	2	8:00	4:30
10/31/13	3	8:00	4:30
10/31/13	4	8:00	4:30
10/31/13	3	2:52	0:00
10/31/13	2	2:00	0:00
10/31/13	1	2:00	0:00
10/11/13	3	4:00	0:00
10/12/13	4	6:00	0:00
10/30/13	4	8:00	0:00
10/31/13	3	4:00	0:00
10/31/13	2	2:00	0:00
10/31/13	1	0:00	0:00
10/31/13	0	0:00	0:00
TOTAL		47:22:30	0:00:00

Call Back Date	Option #	On Call Time	Call Back Time
10/31/13	1	8:00	4:30
10/31/13	2	8:00	4:30
10/31/13	3	8:00	4:30
10/31/13	4	8:00	4:30
10/31/13	3	2:52	0:00
10/31/13	2	2:00	0:00
10/31/13	1	2:00	0:00
10/11/13	3	4:00	0:00
10/12/13	4	6:00	0:00
10/30/13	4	8:00	0:00
10/31/13	3	4:00	0:00
10/31/13	2	2:00	0:00
10/31/13	1	0:00	0:00
10/31/13	0	0:00	0:00
TOTAL		47:22:30	0:00:00

Scheduled OT Date	Start Time	End Time	Total
10/31/13	8:00	4:30	3:30
TOTAL			3:30

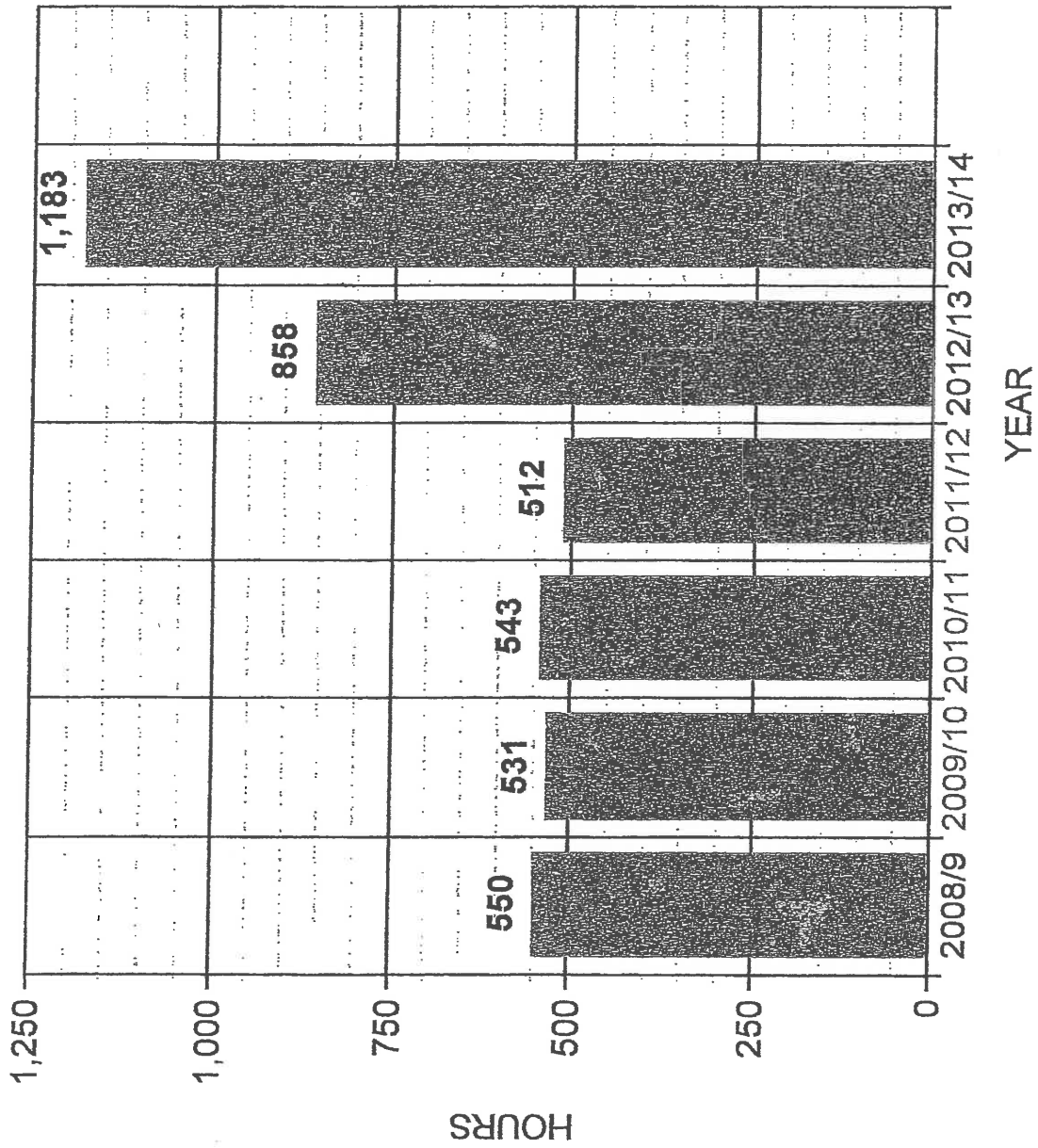
24-6 = 18.4 = 4:30

SEPTEMBER 2013

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 DL MW LF MD MS *TH	2. HOLIDAY DL MW LF MD MS *TH	3 AS *MH MK PA *AS TA	4 MH *DL *MK TH GL JY	5 *TA MK PA *GL *TA AS	6 (B Off) MW LF MD MS *PA DL	7 LF *MH MS *PA DL MW
8 MK PA TA AS *MD	9 (DL & MS Off) MK PA TA AS *MD	10 *JY *TH TH GL *JY *MH	11 MS *MH DL MW *LF MD	12 *AS TH GL JY MH *DL	13 (A Off) PA *TA TA AS *JY MK	14 *TA *AS *JY *MK PA
15 TA AS *JY MK PA *JY	16 (MW Off) TH GL JY MH *MK *TA	17 *GL DL MW LF MD MS	18 *GL JY MH *PA *MD TH	19 AS *JY *MK PA *TH TA	20 (B Off) JY *MD *TH *TH *GL *MK	21 *MH *TH *TH *TH *GL JY
22 *TH *MH *TH *GL JY *MH	23 (DL & MS Off) *MH MK *PA *AS *TA AS	24 DL MW LF MD MS *DL	25 *MK TH GL JY MH *TA	26 MK *PA *GL TA AS *PA	27 (A Off) MW LF MD MS *AS DL	28 LF *MH MS *AS DL MW
29 *MD MS *AS DL MW LF	30 (MW Off) TH GL *MH *MD *JY					

Attachment 6

ANNUAL HOURS 2008/9 to 2013/14



Period of
Workers Comp
Injury 2009/10
to 2011/12

MEMO

Date: April 10, 2013
To: CCCERA Board of Retirement
From: Kurt Schneider, Deputy Chief Executive Officer
Subject: Assessment and Determination of Compensation Enhancements

MEETING DATE
APR 10 2013
AGENDA ITEM
#9

At the January 9, 2013 meeting, the Retirement Board adopted a Policy Regarding Assessment and Determination of Compensation Enhancements. This policy was established to comply with new Gov. Code §31542, which requires the Board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. Any compensation element which the Board determines was paid to enhance a member's benefit must be excluded from "pensionable compensation" under Gov. Code §7522.34 and "compensation earnable" under Gov. Code §31461 (as amended by AB 197).

The purpose of this memo is to summarize the implementation of staff's review and assessment of final compensation as directed by the Board. The assessment policy requires staff to take the following steps when reviewing compensation for this purpose.

1. Assess whether the item of compensation was earned within the period during which final compensation is to be calculated;
2. Assess whether the compensation exceeds a members' base pay, and if so, whether the earnings codes reported are retirement compensable;
3. Review any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
4. Review information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

The first two steps have always been undertaken by CCCERA staff when calculating retirement benefits and are not new to this policy. The third step is now required for the first time by the new legislation, effective January 1, 2013. The Board has asked staff for an overview of the review process and what factors staff is considering in its determination.

As staff completes steps one and two above, the compensation during the final averaging period is broken out by pay item. The amounts during the final averaging period are then compared to recent periods both by individual pay item and in total. Any increase in compensation (for an individual pay item or in total) above a certain threshold is flagged for further review.

If further review is required, the member's pay history is reviewed as far back as possible to determine how the amount of the pay item varied over time. A statistical analysis is done to determine the likelihood that the increase witnessed in the final averaging period is due to chance alone. If that likelihood is below a certain threshold, the member and the employer are asked for an explanation of the increase. If the explanation provided is insufficient, a written report is prepared and presented to the Board for their determination.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

POLICY REGARDING ASSESSMENT AND DETERMINATION OF
COMPENSATION ENHANCEMENTS

Adopted: 1/9/2013

PURPOSE:

The CCCERA Board of Retirement is required to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a CCCERA member's benefit. (Government Code Section 31542, eff. January 1, 2013.) In keeping with this requirement, the Retirement Board has set forth the following procedure.

LEGAL AUTHORITY:

Government Code Section 31542 provides:

- (a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.
- (b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.
- (c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

POLICY:

The following policies and procedures shall be effective as to the assessment and determination of whether an element of compensation was paid to enhance a member's retirement benefit.

I. STAFF REVIEW AND ASSESSMENT

With respect to all retirement applications with an effective date of retirement on or after January 1, 2013, the Board directs CCCERA staff to review all compensation included within the calculation of the member's final compensation within the meaning of California Government Code Sections 7522.32, 7522.34, 31461, 31462, 31462.1, 31462.11, and 31462.2, as applicable, for the purpose of making an initial assessment as to whether any item of compensation included in final compensation was paid to enhance a member's retirement benefit. In conducting such review and making such initial assessment, staff shall consider:

- a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;
- b. Whether the compensation exceeds a members' base pay, and if so, whether the earnings codes reported are retirement compensable;
- c. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
- d. Information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

A member and the employer shall be given no less than 15 days to respond to such a written request. Staff may conduct such written and oral follow-up communication as staff believes is appropriate in the exercise of reasonable diligence.

II. PREPARATION OF WRITTEN ADMINISTRATIVE RECOMMENDATION AND BOARD ACTION

- a. If after conducting the initial assessment described above, CCCERA staff believes that an item of compensation was paid to enhance a member's retirement benefit, staff shall prepare a written report to the Board of Retirement making an administrative recommendation to the Board that any item not be included in the calculation of the member's retirement benefit. The report shall contain a description of the reasons for staff's recommendation, including the specific facts and circumstances supporting staff's recommendation.
- b. The report shall be noticed and agendized for a regular meeting of the Board, at which time the Board will act upon staff's administrative recommendation.

Before the Board acts, CCCERA, the member, and the employer shall be given an opportunity to be heard by the Board.

- c. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no later than 10 days before the recommendation is presented to the Board for action.
- d. At the meeting, the Board will make a decision as to whether the item of compensation was paid to enhance the member's retirement benefit.
- e. CCCERA will provide the member and the employer written notice of the Board's decision within 5 days, which will inform the member and the employer of their right to seek judicial review of the Board's action by filing a petition for writ of mandate within 30 days after the mailing of that notice.
- f. If the Board finds the item of compensation should be included, staff will adjust the member's benefit to include said item, retroactive to the effective date of retirement.
- g. If the payment of the member's benefit would be delayed by seeking resolution through the administrative processes set forth herein, CCCERA may process the benefit excluding the compensation in question. If it is later determined the compensation should be included, CCCERA will adjust the benefit retroactive to the effective retirement date.

05/04/16 Board Meeting Handout

April 30, 2016

CCCERA Board

Board Members:

Your current attack on my retirement pay seems to have begun with a witch hunt initiated by an opinion piece writer for the now defunct Contra Costa Times, and the adoption of said opinion by a former manager with CCCERA.

Evidence for a connection exists in both the language, and methods, used by the writer and the CCCERA. Errors in understanding, errors in fact, errors of omission as well as heavily biased language are so pervasive in just one article that journalistic integrity clearly took a back seat to personal agenda.

From the Society of Professional Journalists, one simple tenet is:

- *Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing*

Why mention one opinion piece writer's alleged lack of integrity? Because the CCCERA appears to have adopted the same tactics in threatening my retirement benefits for the second time. But this time around you are also attacking my character.

1. From a letter dated 3/31/16 by Wrally Dutkiewicz:

"The Board's intent is to scrutinize apparently intentional acts of pension spiking, through members' receipt of pay items that were not earned as part of their regularly recurring employment compensation during their careers."

Answer: I worked on call from the first day I was allowed (which in 1990 was about 2 months after beginning employment) until the days just before retiring. Do you understand? My entire 21 years.

2. A. From Hazmat On-Call Pay comp. review, 5/4/16, pages 4 and 5:

"Staff observed that all excess on-call hours were the result of members making adjustments on their own to the department schedule. These adjustments were made in various ways, for example:

- (1) *by crossing off other employee names or initials from the department schedule and adding the retiring member's name or initials to note swapping of shifts, or,*

(2) *by the retiring member making notations in order to sign up for additional on-call hours.*

Answer: This is how on call works: Hazardous Materials Incident Responders are on call an average of every 3rd weekday and every 3rd weekend. "Trading" shifts is a necessity for people to live their lives. If one is not available to be called back in to work, that shift is "traded" for someone else's shift on another day. The reason I broached journalistic integrity is the phrase "members making adjustments on their own to the department schedule by crossing off other employees' names..."

Wow. *"All excess on-call hours were the result of members making adjustments on their own..."* That sounds like fraud to me, and I hope your staff is willing to testify to our collective fraud in court. Specialists **never** made changes to the department schedule on our own. We "traded" shifts with the full knowledge of the other specialist and full approval of department management.

As to signing up for additional on-call hours, there are a fixed amount of hours. Currently (at least when I retired) the Incident Response Team was made up of three, 6 person teams. At times someone was unable to work a shift and simply abandoned it to the team. Management told the specialist to find another person to cover that shift or management would assign this shift to someone else. At no point could someone simply sign up for, or unilaterally take, more hours.

When 18 specialists were not available on a long term basis, at one point the decision was made to fill all 18 spots with fewer than that number of responders. Meaning, **on a rotating basis each person's name would appear twice on one day, again requiring shifts to be traded or abandoned back to the team.**

B. *"The voluntary aspect that led to the variance between "scheduled" and "actual" shifts, and the observed increase in shifts for each of the members either for part of or through their whole FAS period as compared to their pre-FAS periods, supports the conclusion that some of the on-call shifts worked by the IRT members was on a voluntary basis above and beyond that which had been scheduled by the Director, and therefore was not required work and should be excluded from pensionable compensation on this basis."*

Answer: The word "voluntary" was cleverly co-opted from the former Contra Costa Times but has no relevancy with respect to the Hazardous Materials Response team. The Contra Costa County Hazardous Materials Area Plan is approved by the County Board of Supervisors and renewed every three years. In the Area Plan, mandated by the state, the Contra

Costa Health Department/Hazardous Materials Programs is the primary response agency for all hazardous materials incidents. The Fire Department is listed alongside for many responsibilities in this plan yet Contra Costa Fire does not have a hazardous materials response team. Richmond Fire and San Ramon Fire each have teams and response capabilities, though not as much as the Hazardous Materials Programs.

This program is mandatory in the Hazardous Materials Programs, hence voluntary has no place in this discussion.

I've already explained how no Specialist could ever assign him or herself more shifts. You have implied as much in your report but this is impossible to do. I've also explained that all shifts must be covered but people cannot always take back a shift. Family, health, every reason under the sun can account for this. Thus some specialists will have more on-call shifts than others. When the specialist needs to "give" up a shift it can be hard to find someone to cover. Often times someone closer to retirement will be less impacted and is more sought out by people needing coverage.

Young children are less of an issue for the older specialist. The specialist on the brink of retirement will have time to recuperate from being available more than once every three days. Being available is stressful for many reasons, not the least of which is being awakened by a pager with your heart thumping, whether the notification requires a response or not.

And yes, as you have heard and will hear again, CCCERA advised us all throughout our careers of two things: on-call pay counts toward retirement pay in FAS calculations and we should make ourselves available for on-call pay whenever possible to achieve our highest retirement benefit. And management approved every single on-call schedule.

As to my specific charge of fraud, most of my increased hours worked came as the result of a "trade" requested by my colleague. On-call schedules were typically written from January 1 to June 30, then July 1 to December 31. My friend's mother was very sick and he needed time off in the winter of 2011. He knew two things about my schedule: I was likely to retire in the early spring, though employees can, to my knowledge, continue to work and not retire with a day's notice before a planned retirement date. It is much easier for a retiree to recuperate from many on-call days than a specialist continuing to work.

He also knew that I had a long vacation planned from mid May to the end of June, 2011. Long "trades" are difficult to arrange but his suggestion suited us both. If I chose not to retire in spring I also needed a long "trade" of shifts. Indeed, a current Deputy Director, when he was a Specialist, made a large block "trade" with another

Specialist because each had wives who were due to deliver babies four months apart. I loved my job and was in no hurry to retire. Though now, were it not for the deep friendships I formed, I am beginning to rue the choice I made to work for, and honestly live in, Contra Costa County.

Though your staff report says excess hours worked were clearly marked on the IRT schedule, I'd love to see that assertion hold up in court. Which hours exactly were excess?

- *Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing*

I believe there existed an unholy alliance between the opinion piece writer for the former Contra Costa Times and the erstwhile manager for the CCCERA, and further contend that this board has continued along this same path. I repeated the above from the Society for Professional Journalism because this board has not followed any semblance of a fair process. Just as the writer neglected to do, neither the board nor its hired gun consulted with us as to how the Incident Response Team functioned in general or in our final years.

Nor did anyone question us with respect to specific "trades". Nor has the CCCERA or its Board acknowledged that our management developed and approved all response schedules. Nor has the CCCERA or its Board acknowledged that the CCCERA advised us specifically as to how we should maximize our retirement benefits.

Your own report shows that the average hours paid per month for on-call to Hazardous Materials Specialists from 2006 to 2014 was 54.11. Yet in my allegation of fraud you assert my 58 hours was 13 hours per month above some other average you developed. A quote attributed to Mark Twain, "there are lies, damned lies, and statistics." What numbers were used to arrive at 45 hours per month average in my case? What was the range of averages of all Specialists being considered?

If this process were fair, the Board would have considered all the variables in how the schedule actually works, some of which I have described above. Average 45 hours? Real statistics consider the range and standard deviations. If you now recognize the high variability necessary to keep the team functioning, you would have at least arrived at a number reflecting the highest within a standard deviation.

I don't suggest you do this, because I believe you have no right, ethically or legally, to unilaterally reduce my pension benefit. Was my final "trade", though completely within the lifetime of norms for our program, fraudulent? I did not even initiate this "trade". Prove my fraud.

And for those who retired after me, consider the dwindling level of training and experience within the ranks of hazardous materials specialists. If a response required all six, or more, of the Specialists to respond and all but two have three

years experience or less, the incident could be more dangerous. Or is the Board now going to retroactively manage the Hazardous Materials Incident Response Team.

I've heard that other Counties have reacted correctly to the new methods of calculating pensions by moving forward. It seems this Board is trying to score political points by clawing back and uncovering fraud where it never existed.

Do the right thing and abandon this witch hunt. You've already taken \$197 per month from me for a benefit I had been promised. Now you want \$433 more per month deducted. If you continue on this path I want a formal hearing. I will be represented and try my hardest to get you, MY retirement association, to pay my legal fees and something for pain and suffering. This is very stressful.

Or will your answer today be the one I heard in this room a year ago when you took away call-back as pensionable pay: "Why do you care? It's an average of 2% and you're about to get a 2.5% COLA." The very words of Kurt Schneider.

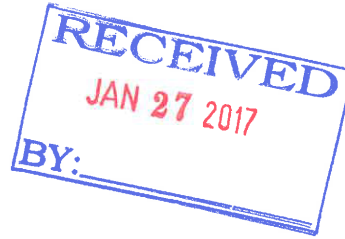
Eric Jonsson
Retired Hazardous Materials Specialist

Of note: Further, though not initiated by this board, my pay has gone down every year since I retired. I began in 1990 paying approximately \$100 for family health care. In 2011 I retired paying \$450 per month. In the following years my contribution went first to \$650 per month, \$800 per month, \$1,100 per month then \$1,400. So much for a reliable pension or the promise of retiree health care

Response to February 8, 2017 Memo
Jerry Yoshioka-part 1

■

CCCERA Board of Retirement
1355 Willow Way, Suite 221
Concord, CA



Re: Jerry Yoshioka's Pension
CCCERA Board Meeting Dated February 8, 2017

I have enclosed my submission to the CCCERA Board of Retirement for the February 8, 2017 meeting. I request that it be made a part of the record of that meeting.

Please acknowledge receipt by confirming via fax or email:

FAX (707) 258-0884

Email



Jerry Yoshioka

CCCERA BOARD MEETING
FEBRUARY 8, 2017



My name is Jerry Yoshioka, [REDACTED] I am a retired Hazardous Materials Specialist, employee number 55631.

I would like to cover some items before I begin my response to this latest analysis.

1. At the September 2013 Board meeting, the Board and its attorneys used the term “fraud” 29 times. 29 times even though attorney Lieberman warned of potential litigation.
2. My presentation was not included in the public record for the May 4, 2016 meeting. I have provided it again to CCCERA for inclusion to the public record as well as a copy of the transcript of the meeting.
3. CCCERA has filed claim after claim against me, I assume to find one that will stick. At times CCCERA has alleged the “excess on-call” time as non-pensionable overtime. CCCERA states that 417.1372 hours was non-pensionable in the May 2016 analysis. By my calculations the County would owe me \$90,498 in unpaid overtime and CCCERA \$3,619 in excess contributions. Not including interest. I show this example because if it were just about money I would not be challenging these proceedings. I would be money ahead by my calculations if you cut my pension. I just want what I earned. That is why I am standing here.

I would like to respond to the issues that Wrally has directed towards me:

My **TAB 1** responds to Item 2: “the retirees had the ability to trade, swap, and sign up for additional shifts ... a discretionary allocation of on-call time by the Director and Assistant Director, and voluntary election to sign up and work the on-call time by the members.”

In order to respond to this, I have to go back to the May board meeting. At the May 2016 meeting, Wrally stated that we had the ability to “self-elect” to the schedule. Page 8 Line 16 of the transcript. As proof of this, he states that this quote is from an email that says “sign me up”.

He uses the partial email again in today’s analysis. This time he provides a single page of the email. This email was in a six-page email string that was in my May presentation, which as I said did not make it into May 2016 public record.

The complete email string is in **TAB 1**. I have highlighted several points. The statement on Page 4 to “sign me up” is a response to an inquiry by the county as to who was available to work additional shifts in the place of a vacated team member. The County could not assign the work if they did not know who was available. Please note the highlighted line “his time will be distributed among staff”. Page 3 is a schedule developed by the county assigning the additional time.

Wrally has cherry-picked three words from an email string consisting of 6-pages of emails as proof that I self-elected. And he omitted the information that gave context to the rest of the

CCCERA BOARD MEETING
FEBRUARY 8, 2017

quote. The rest of the email string obviously states that the time was to be distributed by the County and that the time was distributed by the County. I answered the County's inquiry about availability and was assigned work which was distributed by the County. I did not schedule myself or self-elect to the schedule.

On page 4 of the email I have highlighted another line. The email states that I need to make a trade if I am assigned twice on the same shift. Again trades were County policy and the County required us to trade shifts.

My **TAB 2** responds to ITEM 3: that the "Director and Assistant Director did not have a formal written department directive or procedure that had been communicated to Hazardous Materials Specialist II members ..."

In my May 2016 presentation I provided a written policy titled "Incidence Response Team Scheduling". Again this did not make the public record. I do not know why Wrally chooses to not provide CCCERA this policy and chooses to ignore it. I have included it in **TAB 2**. This is the basic policy since before I came on the team. There have been changes to the policy since both management and the team has grown in size. But the general policy is the same.

All of the team members are familiar with the basics of the policy: that the shifts are scheduled, trading was allowed and all schedules, trades and timesheets were reviewed and approved by the County. I followed the County's policy and the instructions given by the County.

I have shown how Wrally has cherry-picked information to provide the Board with "evidence" that he has withheld from the public record.

Please refer to my **TAB 3**: How did the May 2016 final motion change from the time of the Board's vote to the issuance of the minutes of that meeting? I have provided you with a copy of the transcript of the May meeting. The motion that was voted on and approved was "to seek further legal advice". The motion in the public record is much different. In fact, the substitute motion as stated in the minutes is the same as the original motion. But now further studies and reports that were never discussed or authorized at any prior CCCERA Board meetings have been submitted to the record. Since the Board approved the minutes I must assume that the board either had knowledge and approved of the unauthorized analysis and the cherry-picking of information or will disregard this unauthorized work.

Please refer to my **TAB 4**: During the May 2016 meeting, several Board meetings asked I the Retirees were told, in writing to enhance their retirement. In 2003, CCCERA sent me a "Benefits Statement Information" pamphlet. A portion of this pamphlet is in **TAB 4**. Please note the highlight "Accruals and Terminal Pay can improve your financial future". This states;

CCCERA BOARD MEETING
FEBRUARY 8, 2017

“Before you use those vacation, sick leave and floating holidays you’ve earned, consider how these accruals may influence your favorable cash flow.” “... you may be able to add substantially to your pension, by turning a portion of these accruals (along with other terminal pay items) into a higher retirement benefit.”

I have also included two additional items both titled “Making the Most of Your Benefit” which states; “Likewise, the higher your Final Average Salary, the higher your retirement benefit.”

During what became my final year there were three state certified hazardous materials instructors on the team and each had more than 15 years of experience. At the May 2016 meeting Wrally commented on the makeup of the teams and I quote “and they made sure that they have a tenured senior individual on each of the teams.” And another quote “they tried to – or tried to schedule a seasoned, tenured individual to be a leader on each of those teams.” This is one time we agree. There were times when the highest in hours were the state certified instructors and the most senior members. We took public safety very seriously.

Yet you assume to know why and when I decided to retire. You assume to know my intent for working on-call. Of the 11 team members in my pay grade there were 6 with increases of at least 30% during what became my final year. Why would you assume I had an improper intent to enhance my retirement based on my hours, when the hours of an employee who did not retire were comparable to mine during the last two years? All HMS IIs in my pay grade were on the team and all of them had an increase during what became my FAS.

I did not cause my final compensation to be improperly increased or otherwise overstated at the time of retirement. I followed County policy.

Who says I followed County policy? CCCERA. CCCERA reviewed my retirement application using the 2013 Policy Regarding Assessment and Determination of Compensation Enhancements in **TAB 5**.

According to CCCERA staff a review of three years was conducted. CCCERA staff saw that my increase in the prior year corresponded with the increased need caused by the loss of team members and found no enhancement in the final year. My file was forwarded to Mr. Schneider. And Mr. Schneider recommended approval of my pension to the Board. I was approved by the Board on June 11, 2014. In fact, Mr. Schneider signed the check on June 1, 2014, 10 days prior to my approval by the Board. CCCERA’s evaluation of my pension and the criteria used to conduct it must be considered in your decision.

In conclusion, there has never been voluntary on call duty. All of the on-call duty I worked was required work.

CCCERA BOARD MEETING
FEBRUARY 8, 2017

I did not create the County's policies and practices but I followed them. I did not create the on-call schedules or the trading system. I did not create the pay codes, and I was not authorized to approve the payroll. I did not cause the shortage of staff or the increase in my final compensation.

As I had stated previously I had intended to work much longer, how long I did not know. It was not my intent to enhance final compensation because it was not my intent to retire when I did.

TAB 1

HEARING

1 Now, what we're not talking about is -- the County
2 establishes under its Hazard Materials Area plan a
3 mandate for the Hazardous Materials Department to
4 actually provide this service to the County. That's
5 required. They're required to staff the team -- the
6 Incident Response Team, IRT team -- for periods of 24/7
7 through the entire year. So that creates the mandate
8 for the Department.

9 What we're actually looking at is the actual
10 practice -- the administrative practice that the
11 department and management actually fulfilled that
12 mandate as it pertained to schedule and how members of
13 the Hazardous Materials Instant Response Team who are
14 Hazardous Materials Specialist II, Occupational Code
15 V4VC, were staffed into those schedules.

16 We found that in previous statements to the
17 Board, in written testimony to the Board, documents that
18 were provided to us, review of payroll records,
19 schedules and the agendas of the schedules themselves
20 indicated that there was the ability for each member to
21 actually self-elect in order to receive this on-call
22 time.

23 One of the observations that was made, when
24 there was a departing employee, somebody that left the
25 team, there was a pool of hours that needed to be

HEARING

1 distributed. A memo was sent to the members of the
2 Incident Response Team by the assistant director that
3 the pool of on-call hours had to be filled, and the
4 responses from the members were, you know, "Sign me up."
5 And actually that's a quote from one of the emails.

6 So there was that ability for them to actually
7 place themselves on the schedule. In observation of and
8 looking at the schedules going back in time, the
9 schedules themselves were maintained in a manual manner;
10 basically, a calendar with the individuals' names on it.
11 When they traded shifts back and forth with each other,
12 which was a permissible practice, they would indicate,
13 you know, when they would be available and actually
14 strike their name off and then they would swap with them
15 going forward.

16 There was no tracking for that. We actually,
17 during the review, had to build the tables from those
18 handwritten notes.

19 Okay. Just going forward here.

20 Okay. Going to Item C. That's on page 4 of
21 the memo.

22 Okay. So here we have Table 1, and that just,
23 you know, sets the backdrop.

24 Now, in order to fulfill the schedule, it's
25 important to know that per the MOU during the time going

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: Randy Sawyer/HazMat/HSD/US@HSD, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, November 01, 2012 05:06PM
Subject: Extra On Call Time

Sonny's on call time has been distributed and posted on the IR Schedule. The specific dates are listed on the distribution list that will be posted in the hall tomorrow. Please check the list and make sure you know when you are on call. Please be sure to trade those days you when you are listed multiple times.

Please note that Mike is now on call on Thanksgiving and Maria is on call during the Thanksgiving weekend.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Thursday, October 18, 2012 03:47PM
Subject: Re: Additional On Call Time

Jerry,
 If you can't trade the day I will give it away or we'll have to go with a 5 person team. As for participating in Urban Shield, I don't have an issue of being on call while participating. Just understand that you (and the others on call) could be called away from the events.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

Jerry Yoshioka---10/16/2012 05:55:24 PM---I am trying to get a trade for 10/27 since I was laked. If I can't get it there will be only 5 on ca

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/16/2012 05:55 PM
Subject: Re: Additional On Call Time

I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on call. Two are planning to go to urban shield. I'd like to go but unlikely to be able to make two trades or even giveaway the days. How do we cover oncall that day?

Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka

Sent: 10/16/2012 02:31 PM PDT

To: Greg Lawler; Paul Andrews; Maria Duazo; Jerry Yoshioka; Neal Price; Michael Wedl; Melissa Hagen; Adam Springer; Devra Lewis; Matt Kaufmann; Trisha Asuncion

Subject: Additional On Call Time

Here is the distribution of the additional on call time. The schedule has been updated to reflect these changes. Please check the schedule and address days that you are on call twice.

Greg - 1/14, 3/19, 5/1, 6/17, weekend of 6/7

Paul - 11/7, 1/17, 3/20, 5/6, 6/25, weekend of 6/21

Maria - 10/23, 1/22, 3/21, 5/8, 6/27

Jerry - 10/27, 1/23, 3/25, 5/15, 6/27

Neal - 11/3, 1/28, 3/27, 5/20, weekend of 1/4

Mike - 11/19, 1/30, 4/3, 5/23, weekend of 2/1

Melissa - 11/22, 2/20, 4/8, 5/28, weekend of 2/15

Adam - 12/6, 3/5, 4/11, 5/30, weekend of 3/15

Devra - 12/24, 3/7, 4/15, 6/3, weekend of 3/29

Matt K. - 12/26, 3/11, 4/17, 6/6, weekend of 4/26

Trisha - 1/9, 3/18, 4/22, 6/13, weekend of 5/10

Let me know if you have questions or see errors.

Thanks,

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Greg Lawler/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Michael Wedi/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD

Date: Tuesday, October 16, 2012 02:30PM
Subject: Additional On Call Time

Here is the distribution of the additional on call time. The schedule has been updated to reflect these changes. Please check the schedule and address days that you are on call twice.

Greg - 1/14, 3/19, 5/1, 6/17, weekend of 6/7

Paul - 11/7, 1/17, 3/20, 5/6, 6/25, weekend of 6/21

Maria - 10/23, 1/22, 3/21, 5/8, 6/27

Jerry - 10/27, 1/23, 3/25, 5/15, 6/27

Neal - 11/3, 1/28, 3/27, 5/20, weekend of 1/4

Milke - 11/19, 1/30, 4/3, 5/23, weekend of 2/1

Melissa - 11/22, 2/20, 4/8, 5/28, weekend of 2/15

Adam - 12/6, 3/5, 4/11, 5/30, weekend of 3/15

Devra - 12/24, 3/7, 4/15, 6/3, weekend of 3/29

Matt K. - 12/26, 3/11, 4/17, 6/6, weekend of 4/26

Trisha - 1/9, 3/18, 4/22, 6/13, weekend of 5/10

Let me know if you have questions or see errors.

Thanks,

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD

Date: Thursday, October 04, 2012 05:14PM
Subject: Re: Additional On-Call Time Distribution

done.

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

Jerry Yoshioka--10/04/2012 05:12:17 PM--sign me up Jerry

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/04/2012 05:12 PM
Subject: Re: Additional On-Call Time Distribution

sign me up
Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka
Sent: 10/04/2012 04:12 PM PDT
To: Adam Springer; Devra Lewis; Greg Lawler; Jerry Yoshioka; Lacey Friedman; Maria Duazo; Matt Kaufmann; Matt Slafkosky; Melissa Hagen; Michael Wedl; Neal Price; Paul Andrews; Sonny Khoo; Tod Hickman; Trisha Asuncion
Cc: randall.sawyer@hsd.cccounty.us; Alexandra McMullen
Subject: Additional On-Call Time Distribution

A few weeks ago I asked staff if they wanted to be included on the list for additional on-call time. Those on the list were rotated through the vacant spots on the Jan - June 2012 IR schedule.

With Jake leaving us next week, his time will be distributed among staff. If you would like to remain on the list for this additional time, please let me know by next Wednesday (10/10). This list will be updated at the beginning of next year.

During this morning's IR meeting I was reminded of the process for handling available on-call time. Put simply, on-call time can be traded at any time; however, on-call time that is scheduled after the staff member leaves their position cannot be given away. Jake's on-call time will be distributed next Thursday.

Please let me know if you have questions.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat

925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: randall.sawyer@hsd.cccounty.us, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, October 04, 2012 04:12PM
Subject: Additional On-Call Time Distribution

A few weeks ago I asked staff if they wanted to be included on the list for additional on-call time. Those on the list were rotated through the vacant spots on the Jan - June 2012 IR schedule.

With Jake leaving us next week, his time will be distributed among staff. If you would like to remain on the list for this additional time, please let me know by next Wednesday (10/10). This list will be updated at the beginning of next year.

During this morning's IR meeting I was reminded of the process for handling available on-call time. Put simply, on-call time can be traded at any time; however, on-call time that is scheduled after the staff member leaves their position cannot be given away. Jake's on-call time will be distributed next Thursday.

Please let me know if you have questions.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Yolanda Leyva/Fin/HSD/US@HSD
Cc: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Monday, November 26, 2012 05:43AM
Subject: Switch to Regular Schedule

Good Morning Yolanda,
 Sorry for the last second notice but last Friday was the end of the two week period for Jerry Yoshioka (#55631) and starting today (11/26) he would like to work a regular 40 hour work week. Jerry's new schedule is 8:00 - 4:30, Monday - Friday.

Thanks, please let me know if you have questions or need additional information.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

TAB 2

CONTRA COSTA HEALTH SERVICES
HAZARDOUS MATERIALS PROGRAMS (HMP) POLICY

INCIDENT RESPONSE TEAM SCHEDULING

I. PURPOSE:

This policy details the preparation, the administration, and the amending of the Incident Response Team (IRT) schedule.

II. REFERENCE:

- California Health and Safety Code, Chapter 6.95, Article 1, ♣♣25500 et seq.
- Contra Costa County Hazardous Materials Area Plan

III. POLICY:

It is the policy of the HMP to develop a daily schedule one (1) calendar quarter in advance for eligible Incident Response Team (IRT) members, who will be assigned the on-call responsibility for responding to presented potential hazardous material incidents and answer calls from the public. The schedule will be submitted to the Hazardous Materials Program Director (HMPD) prior to the implementation date for review. The schedule will demonstrate that at least one (1) IRT member lives on this side of a bridge for each day scheduled.

IV. AUTHORITY:

Authority rests in the HMPD to ensure that this policy is followed. The Incident Response Team Coordinator (IRTC) has the authority to develop the schedule and monitor any changes.

V. PROCEDURE:

- A. The HMTTC will develop the IRT schedule one (1) calendar quarter in advance, i.e. JAN FEB MAR, APR MAY JUN, JUL AUG SEP, OCT NOV DEC. The schedule will show three (3) names of the IRT members for each day. Notation or highlighting will be done for those IRT members who live across a bridge.
- B. The schedule will be reviewed by the HMPD. After acceptance, a copy of the schedule will be distributed to each IRT member and the master copy posted in the Administrative Support Office on the Communications Wall.

Hazardous Materials Programs Policy
Incident Response Team Scheduling
Page 2

- C. Any IRT member needing to change the schedule will arrange to have another IRT member substitute assuring that at least one (1) member lives on this side of a bridge. The master copy will be annotated showing the change.
- D. The HMPD will review and initial any changes.
- E. If any problems are anticipated IRT members will contact the IRTC to resolve. If the problem cannot be resolved the HMPD will assist in the final decision.
- F. This policy will be revised as necessary and reviewed annually.

VI. FORMS:

- Blank calendar titled "Incident Response Schedule"

_____ Date _____ Approved by _____
_____ Review Date _____

TAB 3

HEARING

1 CHAIRMAN PHILLIPS: All right. So we are back
2 to the original motion.

3 Do you want to restate the original motion?

4 BOARD MEMBER GORDON: Yes, that we continue
5 the item to a further hearing and to receive additional
6 legal advice in the interim, after which we would set
7 the matter for hearing as soon as practicable at our
8 regularly-scheduled public meeting and take final action
9 at that time.

10 CHAIRMAN PHILLIPS: Allen?

11 BOARD MEMBER HAST: And that actually would
12 also include Mr. Andrews --

13 (Simultaneous cross-talk.)

14 BOARD MEMBER GORDON: Yes. Certainly.

15 CHAIRMAN PHILLIPS: Andersen?

16 BOARD MEMBER ANDERSEN: Yes.

17 CHAIRMAN PHILLIPS: Gordon?

18 BOARD MEMBER GORDON: Yes.

19 CHAIRMAN PHILLIPS: Hast?

20 BOARD MEMBER HAST: Yes.

21 CHAIRMAN PHILLIPS: Phillips? Yes.

22 Rodriguez?

23 BOARD MEMBER RODRIGUES: Yes.

24 CHAIRMAN PHILLIPS: Smithey?

25 BOARD MEMBER SMITHEY: Yes.

HEARING

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CHAIRMAN PHILLIPS: Telles?

BOARD MEMBER TELLES: Yes.

CHAIRMAN PHILLIPS: Watts?

BOARD MEMBER WATTS: Yes.

CHAIRMAN PHILLIPS: It's unanimous.

All right. So the original motion passes
unanimously.

(Hearing concluded at 2:02 p.m.)

---o0o---

Mike Wedl, retired Hazardous Materials Specialist II, stated there were 9 Hazardous Materials Specialist IIs covering 19 spots when he retired and at times they were assigned to be on-call twice in one day. He had planned to work a couple of more years but was forced to because of legislation. He believes his numbers were higher because of the shortage of staff. At the time he felt he was doing a service to the County by stepping up and taking the on-call that was offered to him.

It was M/S to table this item for further discussion at a meeting to be determined and in the interim to fully digest what the board has heard so far, get some additional advice from legal counsel because of the several references to potential litigation against the Board, and schedule this item as soon as practicable thereafter for discussion in a public meeting.

- c. Levy asked if any employer present had any comments. Lisa Driscoll, County Finance Director stated that the County has no additional information to present.

The Board reconvened into closed session pursuant to Govt. Code Section 54956.9(d)(2) to discuss this item.

The Board moved into open session.

A substitute motion was M/S to take no action and do not reduce the pension benefits of the 10 members in question.

- d. In public comment, Jerry Yoshioka, stated he hoped the Board votes for the substitute motion.
- e. The Board voted on the substitute motion:

It was M/S to table this item for further discussion at a meeting to be determined and in the interim to fully digest what we've heard so far and get some additional advice from counsel because we've heard several references to potential litigation and schedule this as soon as practicable thereafter for discussion in a public meeting. (Yes: Rodrigues, Smithey and Telles. No: Allen, Andersen, Gordon, Hast, Phillips and Watts). Motion Failed.

The Board voted on the original motion:

It was M/S/C to table this item for further discussion at a meeting to be determined and in the interim to fully digest what the board has heard so far, get some additional advice from legal counsel because of the several references to potential litigation against the Board, and schedule this item as soon as practicable thereafter for discussion in a public meeting. (Yes: Allen, Andersen, Gordon, Hast, Phillips, Rodrigues, Smithey, Telles and Watts).

The Board directed staff to include Paul Andrews with this item when it returns.

Gordon and Watts were no longer present for subsequent discussion and voting.

8. **Consider and take possible action to direct the CCCERA Board voting delegate to vote in support of the 2016 SACRS legislative proposal at the May 2016 SACRS Conference**

Levy reported on the two SACRS legislative proposals noting the first proposal has been receiving opposition from the labor unions and that the bill is in the process of being amended by the author. The proposal may be on the SACRS business meeting agenda on Friday.

It was M/S/C to abstain from voting on Proposal 1 until further information is received. (Yes: Allen, Andersen, Hast, Holcombe, Phillips, Rodrigues, Smithey and Telles)

TAB 4

Your Estimated Benefits at Retirement

as of December 31, 2004

If you retire at this age	56
You will have this many years of service*:	10.4178
Your estimated monthly benefit is:	\$2,457.62
Your accrued sick leave** would add	\$80.90
Your total estimated monthly benefit is:	\$2,538.52
Estimated % of compensation at retirement age:	30.43%

*This does not include your 6.2639 years of reciprocal service. Benefits will be paid by the reciprocal system.

**This is based on your 646.64 hours of sick leave as of 12/31/2004. Sick leave creditable for retirement will be determined at the time you retire.

The benefit amounts in this statement are **estimates**, expressed in **current dollars** with no factoring for inflation's impact on future wages (possible future inflation).

Estimates are based on these assumptions:

You chose the Unmodified Retirement Option, as described in your Handbook;

You will meet all eligibility requirements at the projected retirement ages;

You will work continuously at your current employment and membership status;

Your average monthly compensation rate, \$8,341.43, remains unchanged until the retirement age shown;

There are no changes in the Plan or in the law between now and the ages indicated.

The Benefits Home S-t-r-e-t-c-h

Accruals and Terminal Pay can improve your financial future:

Before you use those vacation, sick leave and floating holidays you've earned, consider how these accruals may influence your future favorable cash flow. Depending on your employer, union contract, and employment position, you may be able to add substantially to your pension, by turning a portion of these accruals (along with other terminal pay items) into a higher retirement benefit.

The chart below illustrates the difference in monthly benefits these additional earnings might provide:

If you retire at this age	56
Estimated Increase in Monthly Benefit For Each Week of Terminal Pay	\$47.26

Making the Most of Your Benefit


As you can see from the formula on page 14, the more retirement service credit you have, the higher your benefit will be. Likewise, the higher your Final Average Salary, the higher your retirement benefit.

Additionally, there are four broad categories that may also increase your retirement benefit:

Differentials · Vacation Accruals · Unused Sick Leave · Purchases

- Differentials and vacation accruals add dollars to your Final Average Salary (FAS).
- Unused sick leave and purchases add service credit.

Differentials

 31460.

Differentials are additional pay items subject to retirement.

Differentials vary from employer to employer. For example, if you are a bi-lingual employee, you may receive a pay differential for using that skill. If your work includes a uniform allowance, that allowance may be considered a special pay item, and therefore, a differential. Since retirement contributions are taken on these amounts, their value is included in your retirement benefit. Differentials fall under the definition of "compensation" in the '37 Act. (To find out the details for your job, ask your payroll clerk.)

(UNUSED) Sick Leave Accruals

 31641.01

General members accrue sick leave at the rate of 8 hours for every month worked. Part-time employees accrue a pro-rated amount of sick leave, depending on the number of hours worked. For County employees, **unused sick leave accumulates from year to year with no limit.** If you leave employment before retirement, all sick leave credit is canceled. But if you retire, **all accumulated sick leave is converted to service credit.** (NOTE: Some districts have accrual limits, and may or may not offer this option.) **Your employer may vary on these specific issues. Please check with your employer.** Here is an example of how this time is computed for your benefit:

One hour of unused sick leave equals one hour of service credit.

An example: 1,000 hours of unused sick leave ÷ 2,000 hours (average hours worked in a year)
= .5 (1/2) of one year's service credit.

This amount of service credit is added into your final retirement benefit calculation. **Remember, service credit increases your monetary benefit, but does not count toward retirement eligibility.**

August 8, 2013

Make The Most of Your Benefit

As you can see from the formula on the Benefit Value page, the more retirement service credit you have, the higher your benefit will be. Likewise, the higher your final average salary, the higher your retirement benefit.

Plus, there are four broad categories that may also increase your retirement benefit:

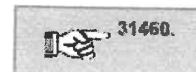
Differentials Vacation Accruals Unused Sick Leave Purchases

- Unused sick leave and purchases add service credit.
- Differentials and vacation accruals add dollars to your final average salary (FAS).
*Please see important notice below concerning "Terminal Pay" for employees entering the system on or after January 1, 2011.

Differentials:

Additional pay items subject to retirement (differentials) and eligible terminal pay may increase your final average salary. If available to you, these dollar amounts are added to the highest final average salary before that amount is used in your benefit formula.

Differentials vary from employer to employer. For example, if you are a bi-lingual employee, you may receive a pay differential for using that skill. If your work includes a uniform allowance, that allowance may be considered a special pay item, and therefore, a differential. Since retirement contributions are taken on these amounts, their value is included in your retirement benefit. Differentials fall under the definition of "compensation" in the 1937 Act. (To find out the details for your job, ask your payroll clerk.)



(UNUSED) Sick Leave Accruals:

General members accrue sick leave at the rate of 8 hours for every month worked. Part-time employees accrue a pro-rated amount of sick leave, depending on the number of hours worked. Unused sick leave accumulates from year to year with no limit (NOTE: Some districts have accrual limits, and may or may not offer this option.) If you retire, all accumulated sick leave is converted to service credit. Here's an example of how this time is computed for your benefit:

$$\begin{aligned} & \text{One hour of unused sick leave equals one hour of service credit.} \\ & 1,000 \text{ hours of unused sick leave} \div \text{by } 2,000 \text{ hours (average hours worked in a year)} \\ & = .5 \text{ (1/2 of one year's service credit)} \end{aligned}$$

This amount of service credit is added to your final retirement benefit calculation. Remember, service credit increases your monetary benefit, but does not count toward retirement eligibility.



Terminal Pay:

Terminal pay is the phrase used to describe dollar amounts you are paid for unused vacation accruals and personal (floating) holiday hours at time of retirement. Terminal pay amounts become part of the final average salary (FAS) calculation, if you were hired prior to 12/31/2010. Terminal pay is added to your salary for your last working month, making your final average salary higher. Here's an example:

Your salary for the last twelve months before you retired was \$2,000 per month. At time of retirement, you have \$500.00 worth of unused vacation time.
 11 months x \$2,000 = \$22,000.
 Your last month (month 12) of pay is your regular salary (\$2,000) + \$500 worth of vacation = \$2500.
 Your final salary for the year is \$22,000 + \$2500 = \$24,500.

TAB 5

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**POLICY REGARDING ASSESSMENT AND DETERMINATION OF
COMPENSATION ENHANCEMENTS**

Adopted: 1/9/2013

PURPOSE:

The CCCERA Board of Retirement is required to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a CCCERA member's benefit. (Government Code Section 31542, eff. January 1, 2013.) In keeping with this requirement, the Retirement Board has set forth the following procedure.

LEGAL AUTHORITY:

Government Code Section 31542 provides:

- (a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.
- (b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.
- (c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

POLICY:

The following policies and procedures shall be effective as to the assessment and determination of whether an element of compensation was paid to enhance a member's retirement benefit.

I. STAFF REVIEW AND ASSESSMENT

With respect to all retirement applications with an effective date of retirement on or after January 1, 2013, the Board directs CCCERA staff to review all compensation included within the calculation of the member's final compensation within the meaning of California Government Code Sections 7522.32, 7522.34, 31461, 31462, 31462.1, 31462.11, and 31462.2, as applicable, for the purpose of making an initial assessment as to whether any item of compensation included in final compensation was paid to enhance a member's retirement benefit. In conducting such review and making such initial assessment, staff shall consider:

- a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;
- b. Whether the compensation exceeds a members' base pay, and if so, whether the earnings codes reported are retirement compensable;
- c. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
- d. Information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

A member and the employer shall be given no less than 15 days to respond to such a written request. Staff may conduct such written and oral follow-up communication as staff believes is appropriate in the exercise of reasonable diligence.

II. PREPARATION OF WRITTEN ADMINISTRATIVE RECOMMENDATION AND BOARD ACTION

- a. If after conducting the initial assessment described above, CCCERA staff believes that an item of compensation was paid to enhance a member's retirement benefit, staff shall prepare a written report to the Board of Retirement making an administrative recommendation to the Board that any item not be included in the calculation of the member's retirement benefit. The report shall contain a description of the reasons for staff's recommendation, including the specific facts and circumstances supporting staff's recommendation.
- b. The report shall be noticed and agendized for a regular meeting of the Board, at which time the Board will act upon staff's administrative recommendation.

Before the Board acts, CCCERA, the member, and the employer shall be given an opportunity to be heard by the Board.

- c. Written notice of the Board meeting and a copy of staff's report shall be provided to the member and the employer no later than 10 days before the recommendation is presented to the Board for action.
- d. At the meeting, the Board will make a decision as to whether the item of compensation was paid to enhance the member's retirement benefit.
- e. CCCERA will provide the member and the employer written notice of the Board's decision within 5 days, which will inform the member and the employer of their right to seek judicial review of the Board's action by filing a petition for writ of mandate within 30 days after the mailing of that notice.
- f. If the Board finds the item of compensation should be included, staff will adjust the member's benefit to include said item, retroactive to the effective date of retirement.
- g. If the payment of the member's benefit would be delayed by seeking resolution through the administrative processes set forth herein, CCCERA may process the benefit excluding the compensation in question. If it is later determined the compensation should be included, CCCERA will adjust the benefit retroactive to the effective retirement date.

Response to February 8, 2017 Memo
Jerry Yoshioka-part 2

CCCERA Board of Retirement
1355 Willow Way, Suite 221
Concord, CA



Re: Jerry Yoshioka's Pension
CCCERA Board Meeting Dated February 8, 2017

I have attached my wife, Lola Ellwein's, letter to CCCERA Board of Retirement regarding the February 8, 2017 meeting. I request it be made a part of the record of that meeting.

Please acknowledge receipt by confirming via fax or email:

FAX (707) 258-0884

Email



A handwritten signature in blue ink that reads "Jerry Yoshioka".

LOLA C. ELLWEIN

A Professional Law Corporation

January 26, 2017



CCCERA Board of Retirement
1355 Willow Way, Suite 221
Concord, CA

Re: Jerry Yoshioka's Pension
CCCERA Board Meeting Dated February 8, 2017

CCCERA's proceedings against Mr. Yoshioka are fatally flawed. This Board should stop these proceedings against him, refrain from reducing his retirement benefits, and not make any request for payment from him. Any other decision will be in violation of his rights, and will result in unnecessary and costly litigation.

TIMELINE OF CCCERA'S PROCEEDINGS AGAINST JERRY YOSHIOKA

- ✓ March 28, 2014 was Jerry Yoshioka's effective date of retirement.
- ✓ In May 2014, Mr. Yoshioka received a letter from CCCERA that states "Congratulations on your retirement! **We** have computed your final allowance." It also states that "after approval by the Retirement Board, a copy of the signed Choice of Retirement Allowance will be returned for your records."
- ✓ On June 11, 2014, CCCERA's Board approved Mr. Yoshioka's pension.
- ✓ On June 12, 2014, Mr. Yoshioka received his first pension check, and he deposited it on June 16, 2014.
- ✓ By letter dated June 17, 2014, which Mr. Yoshioka received after he retired, after the Board approved his pension, and after he deposited his first pension check, Kurt Schneider stated "CCCERA cannot advise you on whether you should retire or should not retire at this point but we would like to remind you that you may rescind your retirement at any time prior to cashing your first retirement check.
- ✓ May 4, 2016 was the date of the first hearing on CCCERA's attacks on Mr. Yoshioka's pension.

It's now February 2017, nearly three years since Mr. Yoshioka retired, and CCCERA still has not made a decision regarding its attack on his pension. This must stop.

THE COUNTY CAUSED THE INCREASE IN MR. YOSHIOKA'S FINAL PAY

Mr. Yoshioka did not cause an increase in his final salary. Contra Costa County did. However, in his February 2017 Memorandum to CCCERA's Board, Mr. Dutkiewicz sets forth his personal opinion that there are "three observed contributing causes" of what he calls "unusual increases in on-call compensation in the retired members' final average salary periods" – and he erroneously concludes that the Retirees' are the genesis of each such "cause." (Page 3, 2/8/17 Memo.)

Mr. Dutkiewicz's opinion is not fact, his opinion is not supported by the evidence before the Board, and his opinion omits any reference to the evidence that disproves it. The preponderance of the evidence before the Board proves that the county caused the increase in Mr. Yoshioka's pension, and also establishes that each of Mr. Dutkiewicz's "observations" is flawed.

- ✓ Mr. Dutkiewicz's first "observation" is his personal opinion that the Retirees "elected" and "directed" to have on-call time coded and paid as on-call time. He claims that "six of the eleven retired members" gave explicit directions to payroll to have on-call time coded as compensatory time off." (Page 3, 2/8/17 Memo.) Although it is not explicit, his first assertion is not levied against Mr. Yoshioka. Yet Mr. Dutkiewicz paints all of the Retirees with this negative brush without any qualification, reservation, or limitation.
- ✓ Mr. Dutkiewicz's second "observation" is his personal opinion that "the members were able to increase their on-call compensation by their own volition" by "volunteering" and "accepting trades." Mr. Dutkiewicz's opinion is without evidentiary support, he omitted any reference to the county's written policy regarding trades, and he also omitted any citation to the contrary evidence that has been submitted to CCCERA's Board.
 - Mr. Dutkiewicz opines that, based on his review of schedules and time sheets, and email from and to the Hazardous Assistant Director, that "there was, in practice, a discretionary allocation of on-call time by the Director and Assistant Director, and voluntary election to sign up and work the on-

call time by the members.” (P. 4, 2/8/17 Memo.) In support of his opinion, he cites one incomplete and therefore misleading email “string” and one misleading chart. (Compare 2/8/17 Memo. to Jerry Yoshioka’s oral presentation and written submission for CCCERA’s 2/8/17 Meeting.)

- However, In July 2014, Dr. William Walker provided written responses to CCCERA’s inquiries regarding on-call duty that completely contradict Mr. Dutkiewicz’s opinion and conclusions. (Mr. Dutkiewicz omitted any reference to this evidence though it was included in Mr. Yoshioka’s May 2016 submission.) In his responses, Dr. Walker stated:
 - The Director of the Hazardous Materials Programs develops the Incident Response Team schedule.
 - Staff may trade on-call shifts but “each trade is reviewed and approved by management.”
 - The Health Services Department is responsible for ensuring adequate staffing to manage a hazardous materials incident 24 hours a day, 365 days a year, citing the county’s Hazardous Materials Area Plan dated 9/29/09, Section 8-2.5.
 - In the past, the Health Services Department had 21 certified HazMat specialists, which dropped to 13 in January of 2013, to 12 in February of 2013, and to 8 as of July 2014.
 - Six trained and certified HazMat specialists must be available at all times.
- Mr. Dutkiewicz’s personal opinion also omitted any reference to the fact that the county has a written policy regarding trades, and it is not a matter of self-election. The county’s Hazardous Materials Programs (HMP) Policy regarding “Incident Response Team Scheduling” was also included in Mr. Yoshioka’s May 2016 submission.
- Curiously, Mr. Yoshioka’s May 2016 submission is not part of CCCERA’s record in this matter. As a result, Mr. Yoshioka has re-submitted his May 2016 submission to correct this error in the record.

- Mr. Dutkiewicz's opinion also omits any reference to the MOU between the county and PEU Local One July 1, 2011 to June 30, 2013, which states at Section 9 that "the Department Head shall designate which employees are on-call unless otherwise provided." That MOU is attachment 7 to Mr. Dutkiewicz's May 2016 Memo.
- Mr. Dutkiewicz's opinion also omits any reference to the Retirees' statements to you that negate the charge of "volunteering" and establish that the county was responsible for the on-call situation:
 - Mr. Yoshioka told you that during what became his final year, all Hazmat Specialist II's in his pay grade were performing on-call; they did not compare hours; the county knew the numbers since the county made the on-call assignments; and the county reviewed and approved all time sheets. (P. 102, Transcript, 5/4/16 hearing, a copy of which is included in Mr. Yoshioka's February 2017 submission.)
 - Mr. Yoshioka told you that his on-call duty work was required work – not voluntary – and that all in his pay grade worked on-call during his last several years. (P. 103, Transcript, 5/4/16 hearing.)
 - Mr. Yoshioka told you that "there has never been any – never been voluntary on-call. All the on-call duty I worked was required work. I did not create the county's policies and practices but I followed them. I did not create the on-call schedules or the trade systems. I did not create the pay codes. I was not authorized to approve payroll. I did not cause an increase in my final compensation." (P. 108, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka submitted a copy of an on-call calendar that showed that the county assigned individuals twice on the same shift, which proved that "the county required me to make trades." (P. 105, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka told you "The county allowed trades and required trades before I was hired and also during my employment with the county. Following the county's practices, I traded on-call duty." (P. 106, Transcript 5/4/16 hearing.)

- Mr. Eric Jonsson stated at the May 2016 hearing: “Yeah, we took our jobs seriously, and Contra Costa County had to provide a team. . . . Permissible practice to trade? There’s no other way this works.” (P. 41, Transcript of 5/4/16 hearing.)
- Mr. Jonsson also stated that no one ever changed the on-call schedule on their own; management mandated that the on-call slots be filled; and every schedule was approved. (Pp. 43-44, Transcript of 5/4/16 hearing.)
- Mr. Jonsson stated “So, again, all excess hours on-call were the result of members making adjustments on their own [?] I don’t know where you came up with that conclusion. That never happened. And that does sound like fraud to me, and I hope somebody from the staff will stand up in court and testify to that. Never happened. And again, why didn’t you come talk to us? (P. 44, Transcript of 5/4/16 hearing.)
- Mr. Jonsson stated, “on a rotating basis each person’s name would show up on the schedule twice. They were mandating these spots be filled when there weren’t 18 people to fill them. Again, now it’s my problem or someone else’s problem to deal with that day. So we’ve already discussed the word “voluntary” and how I don’t think that applies.” (Pp. 44-45, Transcript of 5/4/16 hearing.)
- Mr. Scott Hanson told you “So to be absolutely clear, I never traded or took any on-call time. I made myself available for that unfilled shift and was appointed to those shifts by someone of at least the deputy director level.” (P. 80, Transcript of 5/4/16 hearing.)
- Mr. Neal Price told you that “I was available and worked all my on-call time that I reported on my timesheet. All time sheets were reviewed and signed by my supervisor. And as to my on-call schedule, my supervisor established the on-call duty list. I did not help establish or maintain this list. My supervisor also assigned the additional time as employees left the department. I was never solely

responsible for establishing this list.” (P. 95, Transcript 5/4/16 hearing.)

- Mr. Mike Wedl told you that he “was the very last to retire of this group, and by the time I retired, like Jerry said, there were nine Hazmat Specialists II covering 19 spots, and management was trying to cover those spots with the nine of us. And at times they would assign us to be on-call twice in one day, and it was up to us to cover that and make the changes.” (P. 113, Transcript 5/4/16.)
- ✓ Mr. Dutkiewicz’s third opinion actually supports Mr. Yoshioka’s position in this matter. Mr. Dutkiewicz has concluded that the “Hazardous Materials Department management and supervisors facilitated the increase of paid on-call compensation in the members’ final average salary.” (P. 4, Dutkiewicz 2/17 Memo.)

Clearly, Mr. Yoshioka was not responsible for and did not “cause” the diminishing on-call staffing situation, he did not cause the county to issue its written policy regarding on-call, and his compliance with the county’s policies was not improper.

MR. YOSHIOKA DID NOT “CAUSE” AN “IMPROPER” INCREASE IN HIS FINAL COMPENSATION.

Mr. Dutkiewicz’s February 2017 memorandum advised that he conducted a supplemental review pursuant to Government Code Section 31539(a)(2), which states:

“The member caused his or her final compensation to be *improperly* increased or otherwise overstated at the time of retirement and the system applied that overstated amount as the basis for calculating the member’s monthly retirement allowance or other benefits under this chapter.” (Emphasis added.)

CCCERA has acknowledged that, in the context of Government Code Section 31539, the word “improper” means erroneous. (See, 11/6/13 Kurt Schneider Memo. To CCCERA Board.)

In this case, Mr. Yoshioka did not “cause” any “error” that overstated the basis for his pension. And the written materials submitted by Mr. Dutkiewicz completely disregard and omit reference to the evidence before CCCERA's Board that establishes the fact that Mr. Yoshioka did nothing “improper.”

- ✓ Mr. Yoshioka did not determine that on-call pay counted toward his final salary.
 - Mr. Yoshioka told you “before my retirement was approved, the county gave Mr. Schneider the on-call calendars and the county answered his questions. Mr. Schneider was aware of the practice to trade on-call duty when he approved my retirement. Had there been a problem, I would have hoped Mr. Schneider would have worked with the county to develop solutions prior to my retirement.” (P. 106, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka told you that “My pension was evaluated by CCCERA under the January 1, 2013, evaluation criteria. According to CCCERA staff, a review of three years was conducted. . . . CCCERA staff saw that my increase in the prior year was – corresponded with the increased need caused by the loss of team members and found no enhancement in the final year. My file was forwarded to Mr. Schneider, and Mr. Schneider recommended approval of my pension to the Board. I was approved by the Board on June 11, 2014. In fact, Mr. Schneider signed the check on June 1, 2014.” (P. 107, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka told you that “I did not set payroll codes, and I did not determine which hours were pensionable and which were not. The county provided me with one pay code for all on-call hours. No one from the county or CCCERA told me this hour was pensionable and that hour was not, and there was no way to record it either way. You had one pay code.” (P. 104, Transcript 5/4/16 hearing.)

There is no way for this Board to decide that Mr. Yoshioka's use of the one pay code he was told to use for on-call hours was an error.

- ✓ Mr. Yoshioka's statements were echoed by the other Retirees:

- Eric Jonsson told you “We were told our entire careers on-call pay would count toward our FAS, whatever it’s called.” (P. 46, Transcript 5/4/16 hearing.)
 - Scott Hanson told you “All of my retirement estimates prepared by CCCERA acknowledges additional on-call time. I discussed it with CCCERA counselors assigned to me. Now, I did not pick my counselor. I had no influence over her. We were assigned counselors based upon the first initial of our last name. Everybody was treated the same. CCCERA definitely knew and understood what was happening and they encouraged it.” (P. 80, Transcript 5/4/16 hearing.)
 - Mr. Hanson also told you that “CCCERA had every opportunity to review my and everybody else’s retirement applications before they approved them. The fact that this did not object – the fact that they did not object to any of it until years later, after it became an issue in a local newspaper, when my records were lost and memories are faded, the review came years after the agreements were well-established and memorialized.” (P. 81, Transcript 5/4/16 hearing.)
- ✓ The Retirees did not advise themselves that on-call counted towards retirement and they did not advise themselves on how to prepare for retirement – CCCERA did.
- Eric Jonsson told you that “We were advised by the very CCCERA who’s accusing us basically of fraud at this point – we were advised to be available in our last year for as much on-call as we could get. We were advised by this association to do that.” (Pp. 46-47, Transcript 5/4/16 hearing.)
 - Mr. Jonsson told you that he was advised by CCCERA regarding the use of on-call time in his final year of retirement and was told “If there are extra on-call shifts to be had, work them. On-call pay counts, we were always told. I think we are only told about callback pay that was discontinued for ten years, but we were always told on-call pay counts. If there is extra time in there to be had, should I work it? Yes.” (Pp. 55-56, Transcript 5/4/16

hearing.) He told you that he got this advice from CCCERA staff in one-on-one counseling sessions. (P. 57, Transcript 5/4/16 hearing.)

- Scott Hanson told you that “In this very room, during a group counseling session, I asked if it would be in my best interest to make myself available for as much call as possible in my last year. The CCCERA representative said that was an excellent idea. And I have witnesses to that.” (P. 79, Transcript 5/4/16 hearing.)
- Mr. Neal Price told you that he was “advised by CCCERA staff to maximize my accrual. This included on-call” (P. 95, Transcript 5/4/16 hearing.) He said “When they went to advise me, they listed out my on-call and callback and they said that to maximize these accruals in these two accounts, and – and so that’s where I received that information. That’s from my initial group counseling session.” (P. 96, Transcript 5/4/16 hearing.)

For years, HazMat retirees have received retirement benefits that were calculated with on-call pay. CCCERA retirement counselors actively encouraged retirement applicants to work as much on-call as they could, as it would maximize their retirement benefits. CCCERA's retirement estimates, including those it prepared for Mr. Yoshioka, included the on-call pay. Thus, for years, CCCERA actively asserted that on-call pay should and would be treated as “retireable.” With actual knowledge that this was occurring, the Board acquiesced in that characterization. Mr. Yoshioka did not advise himself that on-call counted.

- ✓ As referenced above and below, Mr. Yoshioka told you that there were individual, legitimate, and proper reasons he had to trade and for the on-call hours he worked, and for his decisions to retire – none of which were improper, i.e., erroneous:
 - Mr. Yoshioka told you that he did not intend to retire in March 2014 but did so for health reasons. (P. 101, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka told you that “until early 2014, I had not decided on retirement, and I did not trade on-call duty for the purpose of enhancing my retirement” (P. 106, Transcript 5/4/16 hearing.)

- Mr. Yoshioka told you that he “had intended to work much longer; how long, I did not know. It was not my intent to enhance final compensation because it was not my intent to retire at that time. You assume to know when I decided to retire. You assume to know my intent for working on-call. . . . There was an individual listed as No. 10 who had similar hours as mine in the final time period and that employee did not retire. Why would you assume I had an improper intent to enhance my retirement based on my hours when the hours of an employee who did not retire were comparable to mine during the last two years?” (Pp. 108-109, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka told you that he was not responsible for the conditions which increased his final compensation. He told you that “the county was responsible for the shortage of staff due to lack of planning, tedious hiring practices, and a lack of trained staff that caused my on-call hours to be increased in order to meet the needs of the county. I did not cause an improper increase in my final compensation. I did not cause a shortage of team members which caused my hours to rise.” (P. 103, Transcript 5/4/16 hearing.)
 - Mr. Yoshioka also told you that his hours increased at the end of 2012, after he was medically cleared from a worker’s comp injury, “which is not improper” [and] this increase in time corresponded with the recent retirement of several team members who had retired.” (P. 103, Transcript 5/4/16 hearing.)
- ✓ The other Retirees echoed Mr. Yoshioka’s comments:
- Eric Jonsson told you that he agreed to a difficult and lengthy exchange during his final year because another employee, whose mother was ill, approached him and asked for a three month trade. (Pp. 48-49, Transcript 5/4/16 hearing.)
 - Mr. Jonsson said “So did I make that trade? Did I meet to make that trade to increase my last year pay? No. did I realize before I did it that it was

going to happen? Yep. And you tell me why that's wrong. You told me to do it. You told us all to do it." (P. 53, Transcript 5/4/16 hearing.)

- Mr. Jonsson explained the reasons he traded shifts and very clearly told you "but it wasn't the intent of my trade" to "bump my retirement" up. (P. 61, Transcript 5/4/16 hearing.)
- Mr. Gabe Adebiyi told you he worked for the county from 1984 to 2007 he wasn't even on the Incident Response Team until 2004, and 2007 was a very busy year for the team. (Pp. 69-77, Transcript 5/4/16 hearing.)
- Mr. Scott Hanson told you that he was planning on working for three more years but the reason he picked his retirement date was the county was talking about a five percent pay cut and retirees were going to get a COLA for three percent, and he wanted to be gone by the time PERPA became effective. So, when he entered his last year he "had no idea that it was going to be [his] last year." (P. 84, Transcript 5/4/16 hearing.)
- Mr. Hanson told you that all he ever did was "make myself available for that on-call, and whether or not I was assigned, it was a deputy director or a director" and he "couldn't reject what I was assigned to if no one else would take it." (Pp. 85-86, Transcript 5/4/16 hearing.)
- Mr. Stevens, Charles Nicholson's attorney, explained to you that his client's hours of on-call consistently increased year after year, "so what you're seeing is a trend in having to work more on-call hours, not in intentionally gobbling up on-call hours to spike pension." (Pp. 89-90, Transcript 5/4/16 hearing.) He said that "the increase in hours follows a trend of Mr. Nicholson, not – not some last-year push to boost his retirement." (P. 93, Transcript 5/4/16 hearing.)
- Mr. Neal Price told you that he retired in 2013 but had actually planned to retire in 2017 (P. 95, Transcript 5/4/16 hearing), and that two people left the department just before his last year. (p. 96, Transcript, 5/4/16 hearing.)
- Mr. Mike Wedl told you that his "intention wasn't to retire when I did. I had planned to work a couple more years because I had reciprocity with CALPRERS and that reciprocity – it would have been better for me to retire

at 55, but as the judge was making his decision it basically forced me to retire when I did, at the end of this day.” (P. 113, Transcript 5/4/16 hearing.)

The evidence is clear and consistent. Mr. Yoshioka did not commit any error that caused an increase in his pension. Accordingly, there are no grounds to reduce his pension under Government Code Section 31539.

CCCERA MAY ASSESS CONTRA COSTA COUNTY BUT SHOULD NOT SEEK ANY REDUCTION OF MR. YOSHIOKA’S PENSION

If an error was made, it was Contra Costa County's error. Mr. Yoshioka is not responsible for and cannot be charged with the county's errors.

Government Code Section 31542.5 provides as follows:

“(a) When a county or district reports compensation to the board, it shall identify the pay period in which the compensation was earned regardless of when it was reported or paid. Compensation shall be reported in accordance with Section 31461 and shall not exceed compensation earnable, as defined in Section 31461.

“(b) The board may assess a county or district a reasonable amount to cover the cost of audit, adjustment, or correction, if it determines that a county or district knowingly failed to comply with subdivision (a). A county or district shall be found to have knowingly failed to comply with subdivision (a) if the board determines that either of the following applies:

“(1) The county or district knew or should have known that the compensation reported was not compensation earnable, as defined in Section 31461.

“(2) The county or district failed to identify the pay period in which compensation earnable was earned, as required by this section.

“(c) A county or district shall not pass on to an employee any costs assessed pursuant to subdivision (b).”

Mr. Dutkiewicz's February 2017 memorandum states that county management

facilitated the paid on-call compensation in the Retirees' final salary, and approved their timesheets. If that was an error, and if Contra Costa County knew or should have known that the compensation it reported was not compensation earnable, then the Board should assess the county and not Mr. Yoshioka.

THERE IS NO PROTECTION FOR UNWARRANTED CLAIMS AGAINST THE RETIREES

Mr. Yoshioka's on-call service was not "voluntary," and the evidence proves that fact. The evidence has not been refuted or contradicted, and therefore Mr. Dutkiewicz's opinion that the Retirees – including Mr. Yoshioka -- voluntarily elected to sign up and work the on-call time, which he's labeled as an "observation," is at best a mistake. However, at worse, it's a deliberate and intentional misrepresentation of the facts, which is unlawful.

In California, it is unlawful to present a false report or to fail to disclose a material fact for the purpose of reducing a person's retirement benefits. (Govt. Code § 31455.5 (a)(1).) Presenting a false report exposes one to imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both. (Govt. Code § 31455.5(c).)

It would be difficult to assert that Mr. Dutkiewicz's alleged "observations" are simple mistakes. He was present at the hearings on these matters, he's received the Retiree's submittals, and he's intentionally omitted their relevant evidence in an apparent attempt to reduce their pensions.

CCCERA VIOLATED ITS REGULATIONS IN THESE PROCEEDINGS.

CCCERA's Regulations require that "communications and requests shall be made in writing and any action of the Board thereon shall be noted in the minutes." (Regulations, Sec. 2, ¶ 6.) The Regulations also require that "the minutes or a true copy thereof, prepared in accordance with the Ralph M. Brown Act, shall be signed . . . and shall form part of the permanent records of the Board."

In this matter, CCCERA's records are intentionally inaccurate and misleading, as follows:

- CCCERA's minutes fail to report that CCCERA accused the Retirees of fraud.
- CCCERA's minutes fail to accurately report the comments made by the Retirees at the May 2016 hearing, especially those comments that undermined the Board's apparent prejudgment in this matter.
- CCCERA's records fail to include Mr. Yoshioka's May 2016 submission.
- CCCERA's May 2016 minutes misrepresent the motions that were actually made and approved.

Mr. Yoshioka has submitted audiotape of the May 2016 meeting, a transcript of that meeting, and the Minutes of that meeting. The Minutes of that meeting state that it was "M/S/C to table this item for further discussion at a meeting to be determined and in the interim to fully digest what the board has heard so far, get some additional advice from legal counsel because of the several references to potential litigation against the board, and schedule this item as soon as practicable thereafter for discussion in a public meeting."

Yet, Mr. Dutkiewicz's February 2017 memo states that "this report is a supplement to the report presented on May 4, 2016." And Attachment B to his February 2017 memo is a Segal Consulting letter to CCCERA dated July 15, 2016 which states that "*as requested*, we are providing our analysis regarding the impact of certain unusual increases in compensation for eleven retirees."

However, during the May 2016 meeting and thereafter, the Board did not move or vote - in open hearing - to have Mr. Dutkiewicz or any other CCCERA staff prepare a "supplemental staff report." During the May 2016 meeting and therefore, the Board did not move or vote - in open hearing - to authorize and instruct Segal Consulting to perform an analysis. The only reason given to continue the hearing was to "get some additional advice from legal counsel."

If the Board requested the supplemental report from CCCERA staff and/or ordered and agreed to pay for this additional analysis from Segal Consulting, it did not do so during the public hearing. If that is what occurred, then the Board has violated the Brown Act.

If the Board did not request Mr. Dutkiewicz's so called "supplemental report" or the private outside consultant's analysis report, then there have been unauthorized

expenditures of staff time and members' financial resources to account for. Under the circumstances, the Board should conduct an investigation to determine whose decision it was to undertake these studies and reports, who authorized the staff time and the financial resources to pay for the Segal analysis, and why they were done.

The record thus far reflects an undeserved and unhealthy hostility against these Retirees that is staggering.

CCCERA VIOLATED ITS COMPENSATION POLICY TO MR. YOSHIOKA'S DETRIMENT.

Pursuant to its "Policy Regarding Assessment and Determination of Compensation Enhancements" (adopted: 1/20/13), the Board directed its staff to review all retirement applications with an effective date of retirement on or after January 1, 2013 under the following considerations:

- "a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;
- "b. Whether the compensation exceeds a member's base pay, and if so, whether the earnings codes reported are retirement compensable;
- "c. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
- "d. Information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

This policy sets forth a time frame for the employer and the retirement applicant to respond to written requests, and time frames for further proceedings "if after conducting the initial assessment described above, CCCERA staff believes that an item of compensation was paid to enhance a member's retirement benefits." The policy requires CCCERA's reports to the Board to include the specific facts and circumstances of the reasons for recommendations that an item was paid to enhance a member's retirement benefit.

CCCERA's violations of its policy include the following:

- ✓ If Mr. Yoshioka's pension is now subject to challenge, then CCCERA failed to properly review his retirement application pursuant to its written policy in the first place.
- ✓ Mr. Yoshioka's effective date of retirement is March 28, 2014. He received notice that CCCERA's Board approved his retirement in June 2014. But in conducting its initial review of his retirement application, CCCERA never asked Mr. Yoshioka for any information or explanations about any facts or circumstances relating to his retirement.
- ✓ Mr. Dutkiewicz has recommended in writing to the Board to reduce Mr. Yoshioka's pension but does not specify each "item" he claims should be eliminated.
- ✓ Mr. Dutkiewicz has recommended in writing to the Board to reduce Mr. Yoshioka's pension despite the fact that neither Mr. Dutkiewicz nor any other CCCERA staff member ever asked Mr. Yoshioka for any information or for any explanation of any facts or circumstances, and Mr. Dutkiewicz compounded this failure by omitting any reference to Mr. Yoshioka's May 2016 presentation in his February 2017 memorandum to the Board.
- ✓ It's been three years since CCCERA brought charges against Mr. Yoshioka without resolution, which is in violation of the time frames set forth in CCCERA's own policy.

As a result of the violations of CCCERA's policy, Mr. Yoshioka is now subject to claims and charges that should never have been asserted against him in the first place.

SPECULATIVE REDUCTION OF MR. YOSHIOKA'S PENSION WILL ALSO VIOLATE CCCERA'S POLICY.

CCCERA's "Policy Governing the Overpayment or Underpayment of Member Benefits" (adopted: 12/10/14) states that "Members have a right to accurate pension benefit payments." But Kurt Schneider's May 6, 2015 Memo to the CCCERA Board concedes that "It may not be possible to determine precisely how much on call duty was assigned to the member and how much the member [allegedly] volunteered for in order to provide coverage." Even Mr. Dutkiewicz's personal speculation concerning reductions

he'd like to make to Mr. Yoshioka's pension have varied widely between his May 2016 and February 2017 memoranda to the Board. (Compare 5/4/16 Memo. to 2/8/17 Memo.)

Personal opinions and conclusions that the Retirees "volunteered" to work on-call, have been disproved with credible evidence that has not been refuted. Therefore, as CCCERA is unable to prove by the preponderance of evidence that Mr. Yoshioka "volunteered," and CCCERA is unable to prove with any specificity which hours it claims that Mr. Yoshioka "volunteered," any decision to speculatively reduce Mr. Yoshioka's pension with regard to on call hours would be in direct violation of CCCERA's own policies.

CCCERA VIOLATED ITS FIDUCIARY DUTY OF HONESTY AND ETHICS

Retirement board trustees are fiduciaries (Cal. Const., art. XVI, § 17) and as such are subject to suit for breach of fiduciary duty when their decisions fall short of the standard the law demands.

The National Conference on Public Employee Retirement's Model Code of Fiduciary Conduct and Ethics is quoted at the beginning of CCCERA's *Code of Fiduciary Conduct and Ethics*. Paragraph 6 of the Model Code states:

"Service to public pension fund beneficiaries demands special sensitivity to the qualities of justice, courage, honesty, equity, competence and compassion."

Paragraph 8 of CCCERA's Code of Ethics states:

"Board members shall refrain from abusive or disruptive conduct, personal charges or verbal attacks upon the character, motives, ethics, or morals of others."

Instead of treating these Retirees with the respect and compassion they're due, CCCERA slandered, disrespected, and humiliated them. When CCCERA began its pursuit of claims against these Retirees, it accused them of fraud and, since then, denied ever having done so. The audiotape records reveal the truth.

Instead of treating these Retirees in a just manner, CCCERA prejudged them. From the

outset, CCCERA predetermined that the Retirees intentionally committed wrongful acts.

- ✓ At the beginning, and without having asked any Retiree a single question, CCCERA accused them of fraud.
- ✓ According to the September 4, 2014 memorandum from Kurt Schneider to CCCERA's Board, the Board requested "more information regarding pay items reported in the media: (1) on-call pay reportedly paid to members who volunteered to work additional on call hours during their final compensation period; . . ." Thus, in reliance on a newspaper article, and without having asked even one of the Retirees a single question, CCCERA had already concluded that the Retirees "volunteered" to work on-call. And without having asked the Retirees a single question, Mr. Schneider concluded that "the most egregious examples found have been for on-call pay for several job classifications within County Health Services." (Ibid.)
- ✓ According to CCCERA's December 10, 2014 Board meeting minutes, the Board adopted a statement of intent "to scrutinize apparently intentional acts of pension spiking." CCCERA had already assumed that the Retirees intentionally spiked their pensions and CCCERA still hadn't asked them a single question.
- ✓ By May 2016, CCCERA still hadn't asked one Retiree a single question. As Mr. Jonsson said at the May 2016 hearing, "And again – so if this process had really been fair, if you're actually looking for truth to find out what's going on, somebody would have talked to us. . . . What I find in this whole process, there was no attempt at fairness. There was no attempt to figure out why people worked when they worked. Nobody approached us. Nobody approached us, gave us a chance to talk about what we were accused of wrongdoing. This process is just wrong. So, yeah, I refer to it as a witch hunt. It is stressful. . . . We do care. This isn't just an attack on our pay; this is an attack on our character." (Pp. 50-51, Transcript 5/4/16 hearing.)

In addition, and instead of proceeding in a competent manner, the Board is being asked to apply the wrong standards. Mr. Dutkiewicz's February 2017 memorandum to the Board asserts that the first question for the Board to consider is "what action did the member take that led to an increase in paid on-call compensation during their final

average salary period?" He's wrong. His proposed question implies that the appropriate question has already been asked and answered, and it has not. Government Code section 31539 sets forth the proper question, which is: "Did the member cause an improper increase in his or her final compensation?" The evidence proves that the Retirees did not "cause" an "improper" increase.

Likewise, Mr. Dutkiewicz's February 2017 memorandum to the Board asserts that the second question for the Board to consider is "did that action led to an increase in on-call compensation being paid during their final average salary period lead to an improper increase in the calculation of the member's monthly retirement allowance?" He's wrong again. As stated above, the Government Code prescribes the proper question: "Did the member cause an improper increase in his or her final compensation?" The evidence proves the Retirees did not "cause" an "improper" increase.

The record reveals that the Retirees have been treated in a most egregious manner, without reference to the actual standard that applies. CCCERA's agendas, minutes, and memoranda fail to reflect any recognition that, in the context of Government Code Section 31539 investigations, the word 'improper' means erroneous." (See 11/6/13 Kurt Schneider Memo. to the Board.) But CCCERA has never used the word "error" in these proceedings. Instead, the record reveals that CCCERA has consistently accused the Retirees of acting intentionally and wrongfully.

Further, instead of proceeding in an equitable manner, there has been no consideration of potential setoffs in favor of the Retirees. There is no reference in CCCERA's memos and studies to any setoffs the Retirees would be entitled to for the contributions they paid towards allegedly un pensionable hours. And there is no reference in CCCERA's memos and studies to setoffs the Retirees would be entitled to for the compensation owed them for the hours CCCERA now claims were un pensionable overtime hours. Why?

Finally, instead of proceeding in good faith, CCCERA's attack on Mr. Yoshioka's pension omits any mention of the fact that CCCERA already approved it. And there is no reference to his vested pension in any of CCCERA's written materials regarding this matter. Why? Because CCCERA is unable to refer to any statute, regulation or policy

that authorizes it to reconsider and reverse its own completed evaluation of Mr. Yoshioka's pension without evidence that he "caused" an "improper" increase. And there is none.

All of these glaring acts and omissions are illustrative of the bias and hostility that fatally taints these proceedings against Mr. Yoshioka.

CCCERA VIOLATED ITS FIDUCIARY DUTY TO PROCEED TIMELY.

Paragraph 7 of CCCERA's Code of Fiduciary Conduct and Ethics states:

"Timely and energetic execution of fiduciary responsibilities is to be pursued at all times by pension fund trustees."

The delay in CCCERA's proceedings against these Retirees is neither unsubstantial nor insignificant. There are now new members on the Board who did not observe the Retirees' presentations at the May 2016 meeting. The new Board members have no ability to judge the Retirees' demeanor or credibility, or to perceive the emotional harm the Retirees have already suffered. The new Board members have no personal knowledge of prior proceedings in this matter. With nothing more than an inaccurate record to refer to, the new Board members are unable to adequately evaluate the charges against each individual Retiree.

It's been years since Jerry Yoshioka retired and CCCERA started these proceedings to attack his pension, and CCCERA still has not made a decision. The delay has harmed his ability to respond. Records no longer exist, memories fade, and this situation has subjected him to ongoing stress.

There has been nothing timely or fair about these proceedings and CCCERA's attack on Mr. Yoshioka's pension.

CONCLUSION

If the Board gives credence to erroneous opinions and conclusions and uses them as the basis for reducing Mr. Yoshioka's pension, then it will have abdicated its

responsibility to both consider the unrefuted evidence that Mr. Yoshioka and the other Retirees submitted, and to individually evaluate the charges against them.

If the Board votes to reduce Mr. Yoshioka's pension, the decision will be in violation of his rights and interests, and he will be forced to pursue all remedies available to him to correct that wrong. If he is forced to sue, he will prevail, and he will be entitled to the recovery of his attorneys fees pursuant to Government Code Section 31536.

Based on the facts, the law, and the evidence before it, CCCERA should not reduce Mr. Yoshioka's pension or seek any payment from him. Any other decision will expose CCCERA to unnecessary and costly litigation, and to liability for Mr. Yoshioka's resultant attorney's fees.

Accordingly, Mr. Yoshioka requests that you stop these proceedings immediately, and make a very clear decision not to reduce his pension or seek any payment from him. If any other decision is made, please consider this his request that you set forth – in the record -- the facts and circumstances for each Board member's decision.

Sincerely,



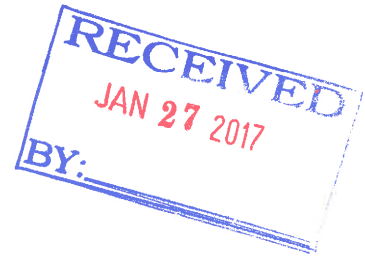
Lola C. Ellwein

LCE:mg

cc: Mr. Jerry Yoshioka

Response to February 8, 2017 Memo
Jerry Yoshioka-part 3

CCCERA Board of Retirement
1355 Willow Way, Suite 221
Concord, CA



Re: Jerry Yoshioka's Pension
CCCERA Board Meeting Dated May 4, 2016

I have enclosed my presentation as well as an audio CD and a transcript of the CCCERA Board of Retirement meeting dated May 4, 2016. I request that it be made a part of the record of that meeting. *AND A PART OF THE RECORD OF THE FEB. 8 2017 MEETING.*

Please acknowledge receipt by confirming via fax or email:

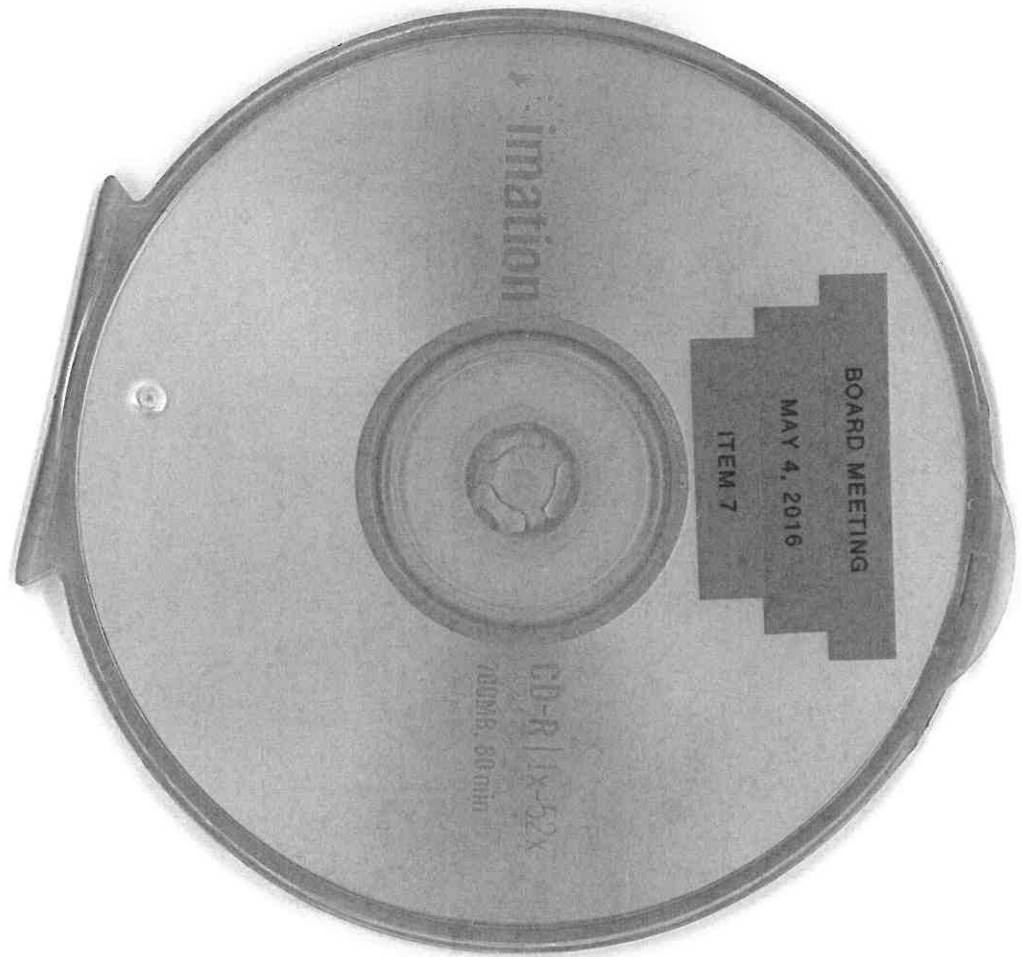
FAX (707) 258-0884

Email



A handwritten signature in blue ink that reads "Jerry Yoshioka".

Recording of the May 4, 2016 Board Meeting was included with members response.



RECEIVED
JAN 27 2017
BY:

My name is Jerry Yoshioka and I'm a retired Hazardous Materials Specialist, employee number 55631 retired. My presentation will respond to CCCERA's "Recommendations" regarding my pension.

However, first I must ask: Is CCCERA saying that fraud was committed?

I ask this since at a previous meeting that I attended there was some loose talk using that term by some of the Board members.

There was no fraud.

.....

I would also like to preface the rest of my presentation with this statement:

Throughout what became my final several years, it was not my intention to retire at the time of my actual retirement in March of 2014. With the new pension laws, I can't say that I hadn't thought about retirement. I just wasn't ready. I loved my job, my wife was planning on working for a few more years and I was actually afraid of retiring. There were those stories of county workers dying within a couple of years after retirement, so actually retiring was a scary thing that I was putting off.

The ultimate decision to retire was based on my health. My blood pressure had become dangerously high at the beginning of 2014, and additional medicines were not controlling it. My wife, doctor and I made the decision at that time, it was time.

Now I will address the assumptions that Mr. Dutkiewicz cited in his May 4, 2016 Memo to the CCCERA Board, to support his recommendation that you consider and take possible action to determine that Hazardous Materials Specialists were paid excess on-call compensation.

I will use the generic term "the County" in the place of naming management or specific managers.

1. On Page 8 of Mr. Dutkiewicz's May 4, 2016 Memo, he suggests that the Board take possible action based on the assumption that some Hazardous Materials Specialists performed Voluntary non-required work that was beyond the average on-call hours performed by other HMS II's during the same pay period.

That assumption is inaccurate, and fails to take certain facts into account.

My agreement to work when asked to do so doesn't make the on call work voluntary. I came to the County in 1997 in order to be on the Hazmat Team. I was a professional and I took my duties and responsibilities as a team member seriously. When there was a need to cover more shifts, the County came to me and the other experienced senior staff and asked us to cover this required work. I agreed to work when I was asked.

The County has provided the Board with statements at previous meetings as well as written responses to Mr. Schneider's questions that establish that the on-call time was not voluntary – it was required work. I have included the County's response to some of Mr. Schneider's questions in **Attachment 1**. During what became my final year, all Hazardous Materials Specialist IIs in my pay grade were performing on-call.

During my employment with the County, there was no way for me to know the number of on call hours of the rest of the team members. We did not sit around the table and compare hours.

However, the County knew the numbers since the County made the on-call assignments, the County reviewed the on-call calendars, and the County approved the time sheets.

No one from the County or CCCERA told me that my on-call hours were above the average, or what that average was, or what the average numbers should be.

Most important is the fact that on-call was not "voluntary". My on-call duty work was required work and all in my pay grade worked on-call during my last several years.

2. Next, on Page 8 of the May 4 Memo, Mr. Dutkiewicz suggests that the Board should take possible action to exclude what he calls "excess on call pay" based on the improper assumption that some Hazardous Materials Specialists caused an improper increase of their final compensation.

The County was responsible for the shortage of staff due to lack of planning, tedious hiring practices and the lack of trained staff that caused my on-call hours to be increased in order to meet the needs of the County. I did not cause an improper increase in my final compensation. I did not cause a shortage of team members, which caused my hours to rise.

My on-call hours increased as I recovered from an injury, which is not improper. In **Attachment 2** you can see that my hours increased at the end of 2012 after I was medically cleared from a Worker's Comp Injury which occurred in late 2009. I have also included a copy of my Worker's Comp settlement letter. This increase in time corresponded with the recent retirements of several team members. Also included is an email from the County indicating the distribution of the open shifts. There was nothing improper on my part about that situation.

I did not set the payroll codes, and I did not determine which hours were pensionable and which were not. The County provided me with one pay code for all on-call hours. No one from the County or CCCERA told me this hour was pensionable and that hour was not and there was no way to record it if they did.

In **Attachment 3** is a graph of the percent increase by team members in my pay grade who worked the full time period in what became my final year. Conservatively the average was a 30% increase over the previous year.

I also have two additional graphs showing the total of all HMS IIs in the same pay grade for my final year and the year prior. I am number 9. I call your attention to employee Number 10, who has similar hours for both years and has not retired.

I did not cause the conditions which increased my final compensation.

3. Next, on Page 8 of the May 4 Memo, Mr. Dutkiewicz suggests that the Board should take possible action to exclude so called "excess on call pay" based on the false assumption that I obtained it by signing up or trading for additional on-call hours in the last year or months prior to retirement, in order to boost up my final compensation.

I did not create the County's practice to trade on-call duty. Trading on-call shifts has been an approved practice by the County even before I was hired in 1997. **Attachment 4** is an early departmental policy titled "Incident Response Team Scheduling" written by then Director Lewis Pascalli. Also an email from the County stating to trade on-call shifts. Trading was allowed and approved. From what I understand trading shifts ^{'s} are a common practice amongst the emergency services in order to maintain sufficient staffing.

I was not responsible for reviewing and approving trades. Trades made to the on call calendar were reviewed by the County. **Attachment 5** is an example of my time sheet with the on call hours entered which was reviewed and approved by the County.

Once again not only did the county approve the practice of trades, it was a requirement. **Attachment 5** is a copy of one of the on-call calendars that was contained in the syllabus I received on April 1. I have circled days in which the County has assigned individuals twice on the same shift. The County required me to make trades. Beginning around 2010, the County began to require each on-call team member to check in by radio at 8 AM and 5 PM so that the County could verify the on-call calendar.

Before my retirement was approved, the County gave Mr. Schneider the on-call calendars and the County answered his questions. Mr. Schneider was aware of the practice to trade on call duty when he approved my retirement. Had there been a problem, I would have hoped Mr. Schneider would have worked with the County to develop solutions prior to my retirement.

The County allowed trades and required trades before I was hired, and also during my employment with the County. Following the County's practices, I traded on call duty. However, until early 2014, I had not decided on retirement, and I did not trade on-call duty for the purpose of enhancing my retirement.

At the December 2014 meeting I asked the Board to evaluate my pension individually as the law required. The contents of the syllabus I received from CCCERA establishes that my pension has not been evaluated

individually. My situation has been lumped together with every other retired Hazardous Materials Specialist, even though our situations are all different.

In the May 4 memo on page 6 under Section D, the second test was the comparison of my time with *all* HMS IIs on-call. I believe if there is to be a comparison, the comparison should have been with those HMS IIs in the same pay grade during my time period. The number 63.69 was used in my case. My research shows that the average on call hours for those in my pay grade during that period of time was approximately 70 hours per month.

And why was I even included?

My pension was evaluated by CCCERA under the January 1, 2013, evaluation criteria. According to CCCERA staff a review of three years was conducted. **Attachment 6** is a graph of my on-call hours over the last 6 years along with the policy status report from Mr. Schneider and the CCCERA policy. CCCERA staff saw that my increase in the prior year corresponded with the increased need caused by the loss of team members and found no enhancement in the final year. My file was forwarded to Mr. Schneider. And Mr. Schneider recommended approval of my pension to the Board. I was approved by the Board on June 11, 2014. In fact, Mr. Schneider signed the check on June 1, 2014, 10 days prior to my approval by the Board. CCCERA's evaluation of my pension and the criteria used to conduct it must be considered in your decision.

In conclusion, there has never been voluntary on call duty. All of the on-call duty I worked was required work.

I did not create the County's policies and practices but I followed them. I did not create the on-call schedules or the trade system. I did not create the pay codes, and I was not authorized to approve the payroll. I did not cause an increase in my final compensation.

As I had stated previously I had intended to work much longer, how long I did not know. It was not my intent to enhance final compensation because it was not my intent to retire when I did.

You assume to know when I decided to retire. You assume to know my intent for working on-call. As I have shown you in the graphs in Attachment 3, there was an approximate average 30% increase of hours from the previous time period for all in my pay grade. There was an individual listed as #10 who had similar hours as mine in the final time period and that employee did not retire.

Why would you assume I had an improper intent to enhance my retirement based on my hours, when the hours of an employee who did not retire were comparable to mine during the last two years?

What should I have done differently to avoid being here today?

I hope that you will consider these facts to determine that my approved pension should remain as it is.

Attachment 1

OFFICE OF THE DIRECTOR
WILLIAM B. WALKER, M.D.
DIRECTOR & HEALTH OFFICER

50 Douglas Drive, Suite 310-A
Martinez, California
94553-4003
Ph (925) 957-5403
Fax (925) 957-5409


CONTRA COSTA
HEALTH SERVICES

BOARD OF SUPERVISORS
JOHN GIOVA, 1ST DISTRICT
CANDACE ANDERSEN, 2ND DISTRICT
MARY N. PERHO, 3RD DISTRICT
KAREN MITCHOFF, 4TH DISTRICT
FEDERAL D. GLOVER, 5TH DISTRICT
COUNTY ADMINISTRATOR
DAVID TWA

July 10, 2014

Mr. Kurt Schneider
Deputy Retirement Chief Executive Officer
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

RE: Response to CCCERA Letter of Inquiry


Dear Mr. Schneider:

I appreciate the amount of work that you, and the retirement association staff, are undertaking because of the change in the pension requirements and the number of people that are retiring to beat the July 11, 2014 deadline. I also appreciate your willingness to determine an equitable retirement pay for the Hazardous Materials Specialists.

Attached to this letter are responses to the questions asked in your July 2, 2014 letter to me, to assist in determining an equitable retirement pay. I am requesting that a meeting be scheduled to go over these responses, and to give more detail of how "On-Call" is handled at the Hazardous Materials Programs. The meeting may assist in resolving the discrepancy in what CCCERA records and Contra Costa Health Services records are showing for the Hazardous Materials Specialists that are "On-Call" prior to their final year of employment. Our records do not list, or reflect, any employee that was on the Hazardous Materials Response Team who had not been "On-Call" for the 16 months prior to the last year of employment. The same meeting can provide an opportunity to substantiate and confirm that there may be a difference in the number of hours a person is "On-Call" in their last year of employment compared to the other Hazardous Material Response Team members, but that difference is probably not as great as what has been indicated in your letter. Please contact Randy Sawyer at 925-335-3200 or randy.sawyer@hds.cccounty.us to schedule this meeting.

Thank you for reaching out to me to understand how "On-Call" time for the Hazardous Materials Response Team is handled. Randy Sawyer and I are available if you have any questions, and we look forward to meeting with you to discuss this topic in greater detail.

Sincerely,



William B. Walker, M.D.

cc: Randy Sawyer

Encl: (25)



Response to CCCERA

1. Who is designated to assign on-call duty to Hazardous Materials Incident Response Team (IRT) members and how is it assigned?

Randy Sawyer, the Director of the Contra Costa Health Services - Hazardous Materials Programs (CCHMP) develops the Incident Response Team schedule. Two IRT schedules are developed each year - January through June, and July through December. The IRT is made up of three teams of six Hazardous Materials Specialists. Mr. Sawyer assigns the on-call days equally among the three teams.

Staff has the ability trade on-call shifts. Each trade is reviewed and approved by management. If a staff member is unable to work an on-call shift, management reassigns the shift to another qualified Specialist. As of June 2013, the schedule is maintained on an online calendar.

2. Are employees of the classification V4VC required to participate on the IRT? If this varies over time due to staffing issues, please provide details.

Employees of the classification V4WG and V4VC (Hazardous Materials Specialist I and II, respectively) who receive the Incident Response Team differential, are required to participate on the IRT, maintain competency per the California Occupational Safety and Health Administration (California Code of Regulations Title 8 §5192(q)(8)), and be on-call.

Health Services is not aware of an employee who received the IRT differential for 16 months without being on-call.

3. How many hours of on-call duty are required of IRT members? If this varies over time due to staffing issues, please provide details.

There are not a specific number of on-call hours required for IRT members. The Health Services Department is responsible for ensuring adequate staffing to manage a hazardous materials incident 24 hours a day, 365 days a year (Contra Costa County Hazardous Materials Area Plan dated September 29, 2009, Section 8-2.5 – Agency Responsibilities). Not including trainees, the IRT maintains six people on-call at all times. Therefore, not including holidays, there are approximately 832 paid on-call hours that must be worked by a certified and trained Hazardous Materials Specialist each month.

In the past, CCHMP had 21 certified Hazardous Materials Specialists on the IRT - 19 Hazardous Materials Specialists I and II (V4WG & V4VC) and two, Hazardous Materials Technicians (V4WF). In January of 2013, that number fell to 13 Specialists and no Technicians. The number of Specialists fell again in February of 2013 to 12, in November of 2013 to 11, and in March of 2014 that number decreased to nine. As of July 1, 2014, not including trainees there are eight Hazardous Materials Specialists and no Technicians on the IRT.

During this same time period, CCHMP conducted two recruitments and hired seven new Hazardous Materials Specialists. Currently, five of the seven are on the IRT in a probationary status. The remaining two Specialists will be receiving the Hazardous Materials Specialist certification training in the fourth quarter of 2014.

CCHMP is currently in a recruitment to hire five new Hazardous Materials Specialists. These Specialists are expected to start in August of 2014 and will also receive the Hazardous Materials Specialist certification training in the fourth quarter of 2014.

4. How many hours of assigned on-call duty are IRT members allowed to give away to other team members?

Depending upon the individual circumstances of each Hazardous Materials Specialist, some staff may be more available during a given month to work additional on-call shifts (e.g. vacation, sick leave, FMLA, personal issues, etc). The Health Services Department is responsible for maintaining adequate staffing in the event of a hazardous materials incident. CCHMP management fills on-call shifts to ensure that six adequately trained Hazardous Materials Specialists are able to respond at any given time.

5. How many hours of on-call duty are IRT members allowed to volunteer for in addition to what was assigned?

Except when worker safety is a concern, CCHMP does not limit the number of on-call hours that a Hazardous Materials Specialist can work. The Health Services Department has determined that six, trained and certified Hazardous Materials Specialists must be available at all times to safely respond to hazardous materials incidents. CCHMP is responsible for ensuring that the IRT is adequately staffed.

6. Copies of MOUs, contracts, guidelines, policies, procedures, work schedules, or timesheets that confirm the above listed information.

- The MoU with Public Employees Union Local One is available online at www.peul.org
- The *Contra Costa County Hazardous Materials Area Plan* establishes the guidelines for hazardous materials response within the County. The Area Plan is available at cchealth.org/hazmat/pdf/2009_area_plan.pdf
- Copies of the IRT on-call schedules are attached. These schedules are from January of 2013 through June of 2014. Earlier schedules are available.
- CCHMP has several finance reports dating back to 2008. These reports are available to CCCERA upon request.

Attachment 2

County Administrator
Risk Management Division

2530 Arnold Drive, Suite 140
Martinez, California 94553

Contra Costa County

Workers' Compensation
Fax Number

(925) 335-140
(925) 335-142

June 29, 2012



Jerry Yoshioka



Re: Employer: Contra Costa County - Health Services
D/Injury : 11/02/2009
Claim No: 68506

Dear Mr. Yoshioka:

We have received notice from the Workers' Compensation Appeals Board dated June 26, 2012 that the Stipulations we submitted on your claim has been approved.

Your permanent disability has been settled at 12% permanent disability equivalent to \$7,743.85. Since you have been previously paid this amount, there are no monies owed to you.

In accordance with the Stipulations, you are entitled to future medical treatment for your lower back.

If you have any questions, feel free to contact the undersigned.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maria Faint".

Maria Faint, Claims Adjuster
(925)335-1410

Enclosure: Approved Stipulations

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: Randy Sawyer/HazMat/HSD/US@HSD, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, November 01, 2012 05:06PM
Subject: Extra On Call Time

Sonny's on call time has been distributed and posted on the IR Schedule. The specific dates are listed on the distribution list that will be posted in the hall tomorrow. Please check the list and make sure you know when you are on call. Please be sure to trade those days you when you are listed multiple times.

Please note that Mike is now on call on Thanksgiving and Maria is on call during the Thanksgiving weekend.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Thursday, October 18, 2012 03:47PM
Subject: Re: Additional On Call Time

Jerry,
 If you can't trade the day I will give it away or we'll have to go with a 5 person team. As for participating in Urban Shield, I don't have an issue of being on call while participating. Just understand that you (and the others on call) could be called away from the events.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

Jerry Yoshioka---10/16/2012 05:55:24 PM---I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on ca

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/16/2012 05:55 PM
Subject: Re: Additional On Call Time

I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on call. Two are planning to go to urban shield. I'd like to go but unlikely to be able to make two trades or even giveaway the days. How do we cover oncall that day?

Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka

Sent: 10/16/2012 02:31 PM PDT

To: Greg Lawler; Paul Andrews; Maria Duazo; Jerry Yoshioka; Neal Price; Michael Wedl; Melissa Hagen; Adam Springer; Devra Lewis; Matt Kaufmann; Trisha Asuncion

Subject: Additional On Call Time

Here is the distribution of the additional on call time. The schedule has been updated to reflect these changes. Please check the schedule and address days that you are on call twice.

Greg - 1/14, 3/19, 5/1, 6/17, weekend of 6/7

Paul - 11/7, 1/17, 3/20, 5/6, 6/25, weekend of 6/21

Maria - 10/23, 1/22, 3/21, 5/8, 6/27

Jerry - 10/27, 1/23, 3/25, 5/15, 6/27

Neal - 11/3, 1/28, 3/27, 5/20, weekend of 1/4

Mike - 11/19, 1/30, 4/3, 5/23, weekend of 2/1

Melissa - 11/22, 2/20, 4/8, 5/28, weekend of 2/15

Adam - 12/6, 3/5, 4/11, 5/30, weekend of 3/15

Devra - 12/24, 3/7, 4/15, 6/3, weekend of 3/29

Matt K. - 12/26, 3/11, 4/17, 6/6, weekend of 4/26

Trisha - 1/9, 3/18, 4/22, 6/13, weekend of 5/10

Let me know if you have questions or see errors.

Thanks,

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Greg Lawler/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Date: Tuesday, October 16, 2012 02:30PM
Subject: Additional On Call Time

Here is the distribution of the additional on call time. The schedule has been updated to reflect these changes. Please check the schedule and address days that you are on call twice.

Greg - 1/14, 3/19, 5/1, 6/17, weekend of 6/7

Paul - 11/7, 1/17, 3/20, 5/6, 6/25, weekend of 6/21

Maria - 10/23, 1/22, 3/21, 5/8, 6/27

Jerry - 10/27, 1/23, 3/25, 5/15, 6/27

Neal - 11/3, 1/28, 3/27, 5/20, weekend of 1/4

Mike - 11/19, 1/30, 4/3, 5/23, weekend of 2/1

Melissa - 11/22, 2/20, 4/8, 5/28, weekend of 2/15

Adam - 12/6, 3/5, 4/11, 5/30, weekend of 3/15

Devra - 12/24, 3/7, 4/15, 6/3, weekend of 3/29

Matt K. - 12/26, 3/11, 4/17, 6/6, weekend of 4/26

Trisha - 1/9, 3/18, 4/22, 6/13, weekend of 5/10

Let me know if you have questions or see errors.

Thanks,

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD

Date: Thursday, October 04, 2012 05:14PM
Subject: Re: Additional On-Call Time Distribution

done.

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

Jerry Yoshioka---10/04/2012 05:12:17 PM---sign me up Jerry

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/04/2012 05:12 PM
Subject: Re: Additional On-Call Time Distribution

sign me up
Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka
Sent: 10/04/2012 04:12 PM PDT
To: Adam Springer; Devra Lewis; Greg Lawler; Jerry Yoshioka; Lacey Friedman; Maria Duazo; Matt Kaufmann; Matt Slafkosky; Melissa Hagen; Michael Wedl; Neal Price; Paul Andrews; Sonny Khoo; Tod Hickman; Trisha Asuncion
Cc: randall.sawyer@hsd.cccounty.us; Alexandra McMullen
Subject: Additional On-Call Time Distribution

A few weeks ago I asked staff if they wanted to be included on the list for additional on-call time. Those on the list were rotated through the vacant spots on the Jan - June 2012 IR schedule.

With Jake leaving us next week, his time will be distributed among staff. If you would like to remain on the list for this additional time, please let me know by next Wednesday (10/10). This list will be updated at the beginning of next year.

During this morning's IR meeting I was reminded of the process for handling available on-call time. Put simply, on-call time can be traded at any time; however, on-call time that is scheduled after the staff member leaves their position cannot be given away. Jake's on-call time will be distributed next Thursday.

Please let me know if you have questions.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat

925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: randall.sawyer@hsd.cccounty.us, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, October 04, 2012 04:12PM
Subject: Additional On-Call Time Distribution

A few weeks ago I asked staff if they wanted to be included on the list for additional on-call time. Those on the list were rotated through the vacant spots on the Jan - June 2012 IR schedule.

With Jake leaving us next week, his time will be distributed among staff. If you would like to remain on the list for this additional time, please let me know by next Wednesday (10/10). This list will be updated at the beginning of next year.

During this morning's IR meeting I was reminded of the process for handling available on-call time. Put simply, on-call time can be traded at any time; however, on-call time that is scheduled after the staff member leaves their position cannot be given away. Jake's on-call time will be distributed next Thursday.

Please let me know if you have questions.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Yolanda Leyva/Fin/HSD/US@HSD
Cc: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Monday, November 26, 2012 05:43AM
Subject: Switch to Regular Schedule

Good Morning Yolanda,
 Sorry for the last second notice but last Friday was the end of the two week period for Jerry Yoshioka (#55631) and starting today (11/26) he would like to work a regular 40 hour work week. Jerry's new schedule is 8:00 - 4:30, Monday - Friday.

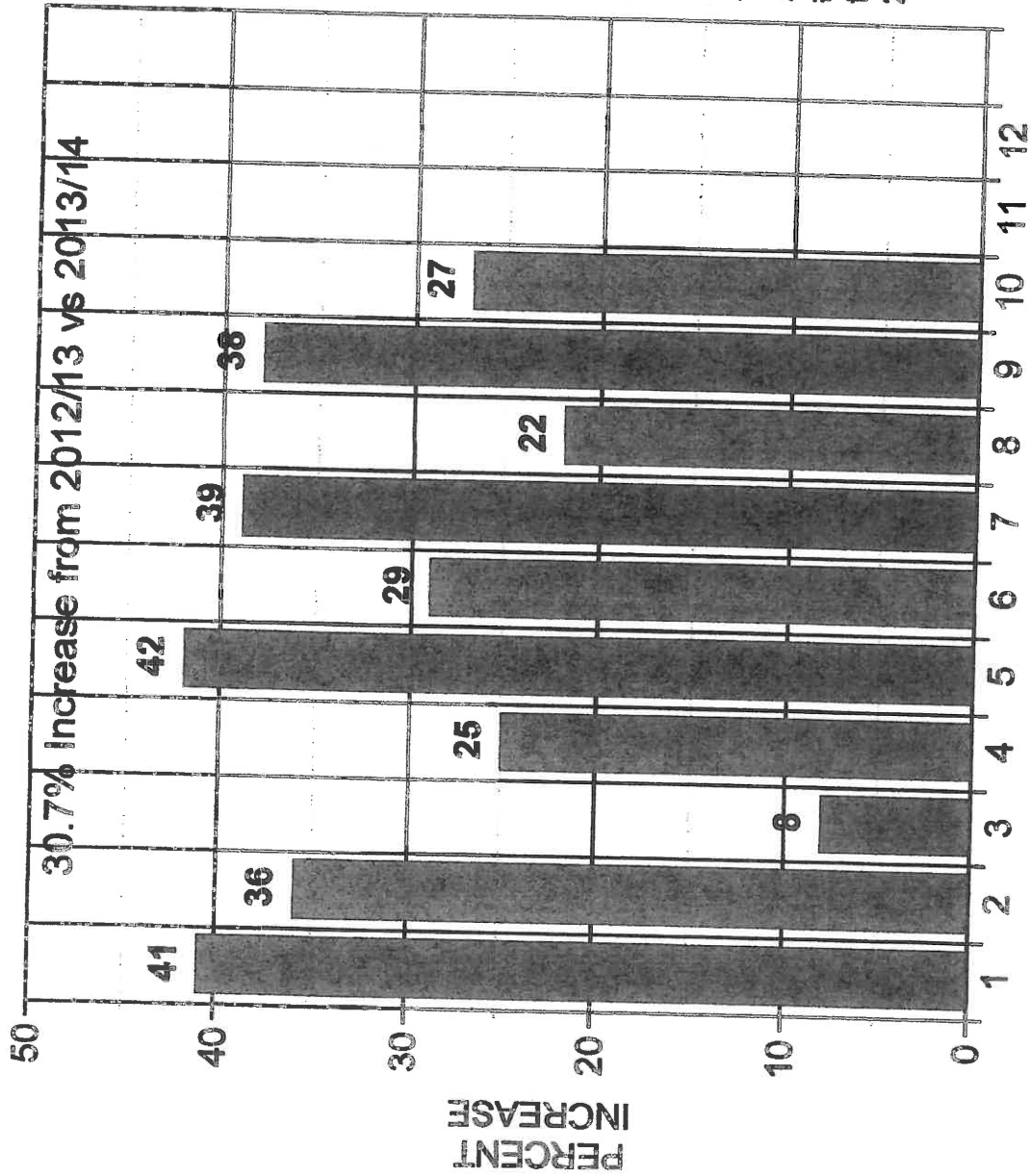
Thanks, please let me know if you have questions or need additional information.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

Attachment 3

PERCENT INCREASE 2012/13 VS 2013/14



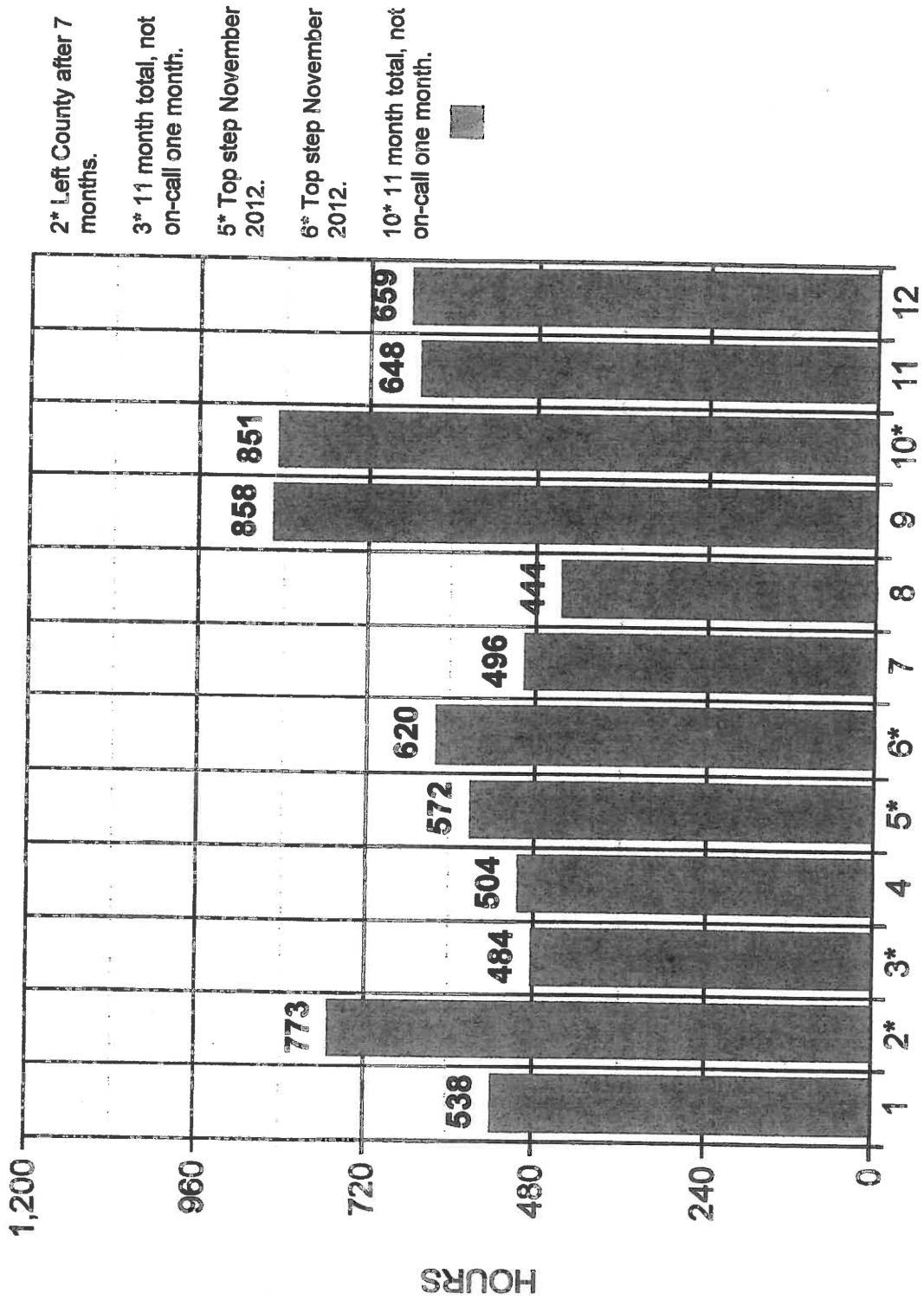
#1 Percentage provided by CCCERA.
 #11 Did not work entire time period.
 #12 Did not work entire time period.



#2 Obtained HMS II top step November 2013.
 #5 Obtained HMS II top step November 2012.
 #6 Obtained HMS II top step November 2012.

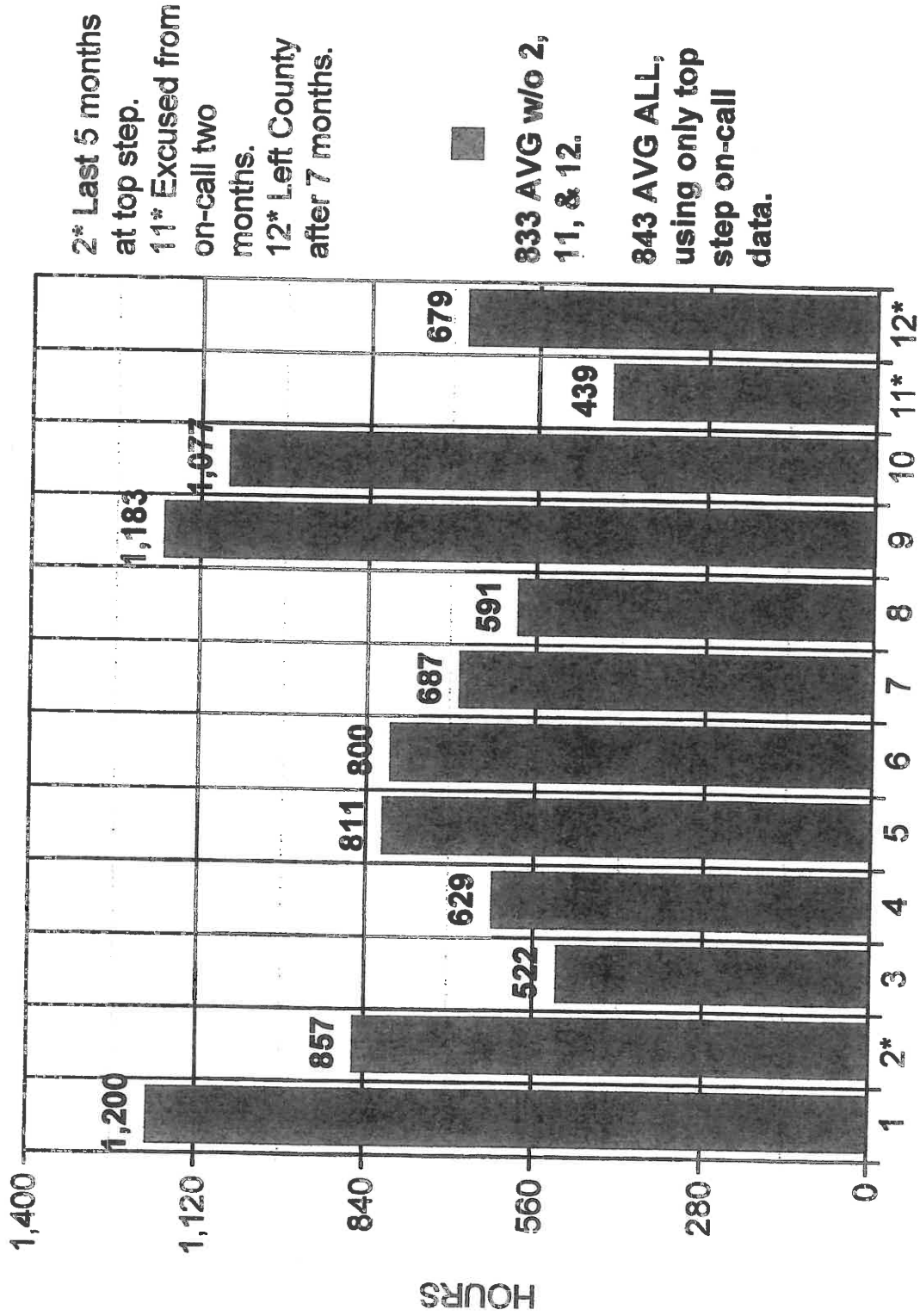
HMS II SAME PAY GRADE

TOTAL HOURS TOP STEP 2012/13



HMS II SAME PAY GRADE

TOTAL HOURS 2013/2014



Attachment 4

CONTRA COSTA HEALTH SERVICES
HAZARDOUS MATERIALS PROGRAMS (HMP) POLICY

INCIDENT RESPONSE TEAM SCHEDULING

I. PURPOSE:

This policy details the preparation, the administration, and the amending of the Incident Response Team (IRT) schedule.

II. REFERENCE:

- California Health and Safety Code, Chapter 6.95, Article 1, §§25500 et seq.
- Contra Costa County Hazardous Materials Area Plan

III. POLICY:

It is the policy of the HMP to develop a daily schedule one (1) calendar quarter in advance for eligible Incident Response Team (IRT) members, who will be assigned the on-call responsibility for responding to presented potential hazardous material incidents and answer calls from the public. The schedule will be submitted to the Hazardous Materials Program Director (HMPD) prior to the implementation date for review. The schedule will demonstrate that at least one (1) IRT member lives on this side of a bridge for each day scheduled.

IV. AUTHORITY:

Authority rests in the HMPD to ensure that this policy is followed. The Incident Response Team Coordinator (IRTC) has the authority to develop the schedule and monitor any changes.

V. PROCEDURE:

- A. The HMTTC will develop the IRT schedule one (1) calendar quarter in advance, i.e. JAN FEB MAR, APR MAY JUN, JUL AUG SEP, OCT NOV DEC. The schedule will show three (3) names of the IRT members for each day. Notation or highlighting will be done for those IRT members who live across a bridge.
- B. The schedule will be reviewed by the HMPD. After acceptance, a copy of the schedule will be distributed to each IRT member and the master copy posted in the Administrative Support Office on the Communications Wall.

Hazardous Materials Programs Policy
Incident Response Team Scheduling
Page 2

- C. Any IRT member needing to change the schedule will arrange to have another IRT member substitute assuring that at least one (1) member lives on this side of a bridge. The master copy will be annotated showing the change.
- D. The HMPD will review and initial any changes.
- E. If any problems are anticipated IRT members will contact the IRTC to resolve. If the problem cannot be resolved the HMPD will assist in the final decision.
- F. This policy will be revised as necessary and reviewed annually.

VI. FORMS:

- Blank calendar titled "Incident Response Schedule"

Date

Approved by

Review Date

From: Steve Morioka/HazMat/HSD/US
To: Adam Springer/HazMat/HSD/US@HSD, Devra Lewis/HazMat/HSD/US@HSD, Greg Lawler/HazMat/HSD/US@HSD, Jerry Yoshioka/HazMat/HSD/US@HSD, Lacey Friedman/HazMat/HSD/US@HSD, Maria Duazo/HazMat/HSD/US@HSD, Matt Kaufmann/HazMat/HSD/US@HSD, Matt Slafkosky/HazMat/HSD/US@HSD, Melissa Hagen/HazMat/HSD/US@HSD, Michael Wedl/HazMat/HSD/US@HSD, Neal Price/HazMat/HSD/US@HSD, Paul Andrews/HazMat/HSD/US@HSD, Sonny Khoo/HazMat/HSD/US@HSD, Tod Hickman/HazMat/HSD/US@HSD, Trisha Asuncion/HazMat/HSD/US@HSD
Cc: Randy Sawyer/HazMat/HSD/US@HSD, Alexandra McMullen/HazMat/HSD/US@HSD
Date: Thursday, November 01, 2012 05:06PM
Subject: Extra On Call Time

Sonny's on call time has been distributed and posted on the IR Schedule. The specific dates are listed on the distribution list that will be posted in the hall tomorrow. Please check the list and make sure you know when you are on call. Please be sure to trade those days when you are listed multiple times.

Please note that Mike is now on call on Thanksgiving and Maria is on call during the Thanksgiving weekend.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

From: Steve Morioka/HazMat/HSD/US
To: Jerry Yoshioka/HazMat/HSD/US@HSD
Date: Thursday, October 18, 2012 03:47PM
Subject: Re: Additional On Call Time

Jerry,
 If you can't trade the day I will give it away or we'll have to go with a 5 person team. As for participating in Urban Shield, I don't have an issue of being on call while participating. Just understand that you (and the others on call) could be called away from the events.

-Steve

Steve Morioka
 Assistant Director
 Contra Costa Health Services - HazMat
 925 335-3211

Jerry Yoshioka---10/16/2012 05:55:24 PM---I am trying to get a trade for 10/27 since I was Jaked. If I can't get it there will be only 5 on ca

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/16/2012 05:55 PM
Subject: Re: Additional On Call Time

Date: Thursday, October 04, 2012 05:14PM
Subject: Re: Additional On-Call Time Distribution

done.

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat
925 335-3211

Jerry Yoshioka---10/04/2012 05:12:17 PM---sign me up Jerry

From: Jerry Yoshioka/HazMat/HSD/US
To: Steve Morioka/HazMat/HSD/US@HSD
Date: 10/04/2012 05:12 PM
Subject: Re: Additional On-Call Time Distribution

sign me up
Jerry

This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, dissemination of this communication is prohibited. If you have received this communication in error, please delete all copies of the message and its attachments and notify me immediately.

Steve Morioka

----- Original Message -----

From: Steve Morioka
Sent: 10/04/2012 04:12 PM PDT
To: Adam Springer; Devra Lewis; Greg Lawler; Jerry Yoshioka; Lacey Friedman; Maria Duazo; Matt Kaufmann; Matt Slafkosky; Melissa Hagen; Michael Wedl; Neal Price; Paul Andrews; Sonny Khoo; Tod Hickman; Trisha Asuncion
Cc: randall.sawyer@hsd.cccounty.us; Alexandra McMullen
Subject: Additional On-Call Time Distribution

A few weeks ago I asked staff if they wanted to be included on the list for additional on-call time. Those on the list were rotated through the vacant spots on the Jan - June 2012 IR schedule.

With Jake leaving us next week, his time will be distributed among staff. If you would like to remain on the list for this additional time, please let me know by next Wednesday (10/10). This list will be updated at the beginning of next year.

During this morning's IR meeting I was reminded of the process for handling available on-call time. Put simply, on-call time can be traded at any time; however, on-call time that is scheduled after the staff member leaves their position cannot be given away. Jake's on-call time will be distributed next Thursday.

Please let me know if you have questions.

-Steve

Steve Morioka
Assistant Director
Contra Costa Health Services - HazMat

Attachment 5

10/15/13
 Location Code
 HZM138
 Period Ending Date 12/15/13
 89/30/138

CONTRA COSTA HEALTH SERVICES - PAYROLL TIME SHEET

Employee # 55631 Budget No. 0452/5878 Class Code VVC
 AS OF 09/01/2013 V.C. Bal. 304.46
 Employee Name YOSHICKA, JERRY H
 CHFC Code PE.R. Emp. Type FULL
 FWS Comp 0.00 Para. Hol. Bal. (P) 40.00 O.T. Comp. 120.00 PTO Hrs. 0.00
 Sick Bal. 1466.24 Hlt. Comp. (C) 3.81 91
 Annet Leave 0.00

Column Totals	REGULAR HOURS			O.T. HOURS			NONWORK HOURS			DISTRIBUTION SECTION							
	(1) ORG.#	(2) IN	(3) OUT	(4) PMS	(5) NIGHT	(6) O.T.	(7) O.T.	(8) S.T. O.T.	(9) On-call 1-4	(10) Call Worked	(11) VAC.	(12) Sick	(13) HOL. ACC.	(14) Description	(15) Hours	(16) AVOL	(17) OT Hrs
INDICATE TOTAL COLUMNS 4 THRU 18 HERE																	
1																	
2		1230	430	4				2									45:30
3		8	430	8				2									5:38
4		8	430	8				4									6:00
5		9	1:50	8				4:30									47:22
6								6									
7								6									
8		8	430	8				2:52									
9		8	430	8				2									
10		8	430	8				2									
11		8	430	8				4									
12		8	430	8				6									
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Column Totals				84				41:22	5:30								

IMPORTANT: EMPLOYEES ARE RESPONSIBLE FOR SUBMITTING TIMESHEET CORRECTION FORMS FOR ANY CHANGES TO TIMESHEET AFTER SUBMISSION

For Payroll: Use Only

COST CENTER

HAZARD HOURS STAT HOURS
 5875 10.0
 5876 15.0
 5877 25.0
 5878 Hazardous Materials
 345-3200

R-88

SHIFT DIFFERENTIAL HOURS
 10/11/13
 DATE
 10.14.13
 DATE
 Employee Signature
 Supervisor Signature

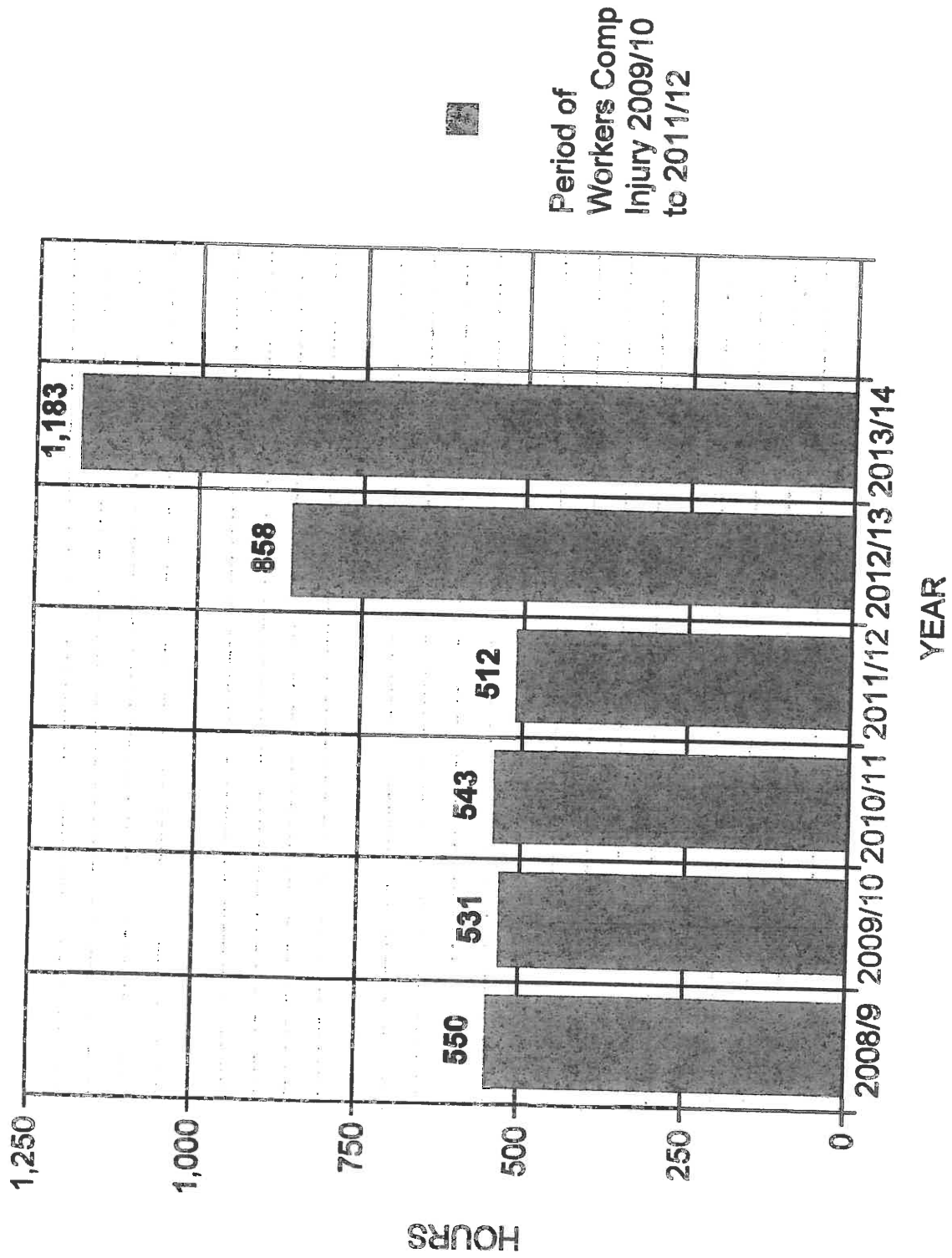
CONTACT PHONE #

SEPTEMBER 2013

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 HOLIDAY	3	4	5	6 (B Off)	7
DL AS LF MD MS TH	AS MH MK PA GL TA	MH *DL TA	MH *DL TA	*TA MK PA GL TA AS	MW LF MS PA DL MW	LF MH MS PA DL MW
8 MS PA DL AS TH LF	9 (DL & MS Off) MK PA DL TA AS TH LF	10 JY TH TH GL JY MH	11 MS MH DL MW LF MD	12 AS TH GL JY MH DL	13 (A Off) PA TA AS JY MK	14 TA AS JY MK PA
15 TA AS MK PA JY	16 (MW Off) TH GL JY MH MK TA	17 GL DL MW LF MD MS	18 GL JY MH PA MD TH	19 AS JY MK PA TH TA	20 (B Off) JY MD TH TH SE MK 2/61	21 MH TH TH TH JY
22 TH MK PA AS JY MH	23 (DL & MS Off) MH MK PA AS TA	24 DL MW LF MD MS	25 MK TH GL JY MH TA	26 MK PA GL TA AS PA DL 9/24	27 (A Off) MW LF MD MS AS DL	28 LF MD MS AS DL MW
29 MD MS DL MW LF	30 (MW Off) TH GL DL MD JY					

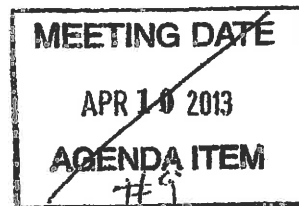
Attachment 6

ANNUAL HOURS 2008/9 to 2013/14



MEMO

Date: April 10, 2013
To: CCCERA Board of Retirement
From: Kurt Schneider, Deputy Chief Executive Officer
Subject: Assessment and Determination of Compensation Enhancements



At the January 9, 2013 meeting, the Retirement Board adopted a Policy Regarding Assessment and Determination of Compensation Enhancements. This policy was established to comply with new Gov. Code §31542, which requires the Board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. Any compensation element which the Board determines was paid to enhance a member's benefit must be excluded from "pensionable compensation" under Gov. Code §7522.34 and "compensation earnable" under Gov. Code §31461 (as amended by AB 197).

The purpose of this memo is to summarize the implementation of staff's review and assessment of final compensation as directed by the Board. The assessment policy requires staff to take the following steps when reviewing compensation for this purpose.

1. Assess whether the item of compensation was earned within the period during which final compensation is to be calculated;
2. Assess whether the compensation exceeds a members' base pay, and if so, whether the earnings codes reported are retirement compensable;
3. Review any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
4. Review information and explanation provided by the member and the employer in response to CCCERA's request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.

The first two steps have always been undertaken by CCCERA staff when calculating retirement benefits and are not new to this policy. The third step is now required for the first time by the new legislation, effective January 1, 2013. The Board has asked staff for an overview of the review process and what factors staff is considering in its determination.

As staff completes steps one and two above, the compensation during the final averaging period is broken out by pay item. The amounts during the final averaging period are then compared to recent periods both by individual pay item and in total. Any increase in compensation (for an individual pay item or in total) above a certain threshold is flagged for further review.

If further review is required, the member's pay history is reviewed as far back as possible to determine how the amount of the pay item varied over time. A statistical analysis is done to determine the likelihood that the increase witnessed in the final averaging period is due to chance alone. If that likelihood is below a certain threshold, the member and the employer are asked for an explanation of the increase. If the explanation provided is insufficient, a written report is prepared and presented to the Board for their determination.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**POLICY REGARDING ASSESSMENT AND DETERMINATION OF
COMPENSATION ENHANCEMENTS**

Adopted: 1/9/2013

PURPOSE:

The CCCERA Board of Retirement is required to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a CCCERA member's benefit. (Government Code Section 31542, eff. January 1, 2013.) In keeping with this requirement, the Retirement Board has set forth the following procedure.

LEGAL AUTHORITY:

Government Code Section 31542 provides:

- (a) The board shall establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member's retirement benefit. If the board determines that compensation was paid to enhance a member's benefit, the member or the employer may present evidence that the compensation was not paid for that purpose. Upon receipt of sufficient evidence to the contrary, a board may reverse its determination that compensation was paid to enhance a member's retirement benefits.
- (b) Upon a final determination by the board that compensation was paid to enhance a member's retirement benefit, the board shall provide notice of that determination to the member and employer. The member or employer may obtain judicial review of the board's action by filing a petition for writ of mandate within 30 days of the mailing of that notice.
- (c) Compensation that a member was entitled to receive pursuant to a collective bargaining agreement that was subsequently deferred or otherwise modified as a result of a negotiated amendment of that agreement shall be considered compensation earnable and shall not be deemed to have been paid to enhance a member's retirement benefit.

Response to February 8, 2017 Memo
Jerry Yoshioka-part 4

RECEIVED
JAN 27 2017
BY:

1
2
3 IN THE MATTER OF
4

5 CCCERA RETIREMENT BOARD
6 MEETING, May 4, 2016, 9:00
7 a.m.
8
9
10

11 At the Retirement Board Conference Room, The
12 Willows Office Park, 1355 Willow Way, Suite 221,
13 Concord, California, beginning at 10:58 a.m.,
14 May 4, 2016, before CONNIE MARTIN DUNNE, RPR, Certified
15 Shorthand Reporter No. 6245.
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A P P E A R A N C E S

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT
ASSOCIATION

BY: WRALLY DUTKIEWICZ, Retirement
Compliance Officer

1355 Willow Way, Suite 221

Concord, California 94520

(925) 521-3960

WDutkiewicz@cccera.org

For: CCCERA

REED SMITH, LLP

BY: HARVEY L. LEIDERMAN, ESQ.

101 Second Street, Suite 1800

San Francisco, California 94105

(415) 659-5914

HLeiderman@reedsmith.com

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT
ASSOCIATION

BY: KAREN LEVY, General Counsel

1355 Willow Way, Suite 221

Concord, California 94520

(925) 521-3960

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A P P E A R A N C E S (Continued)

John B. Phillips, Board Chair

Russell V. Watts, Board Member

Brian Hast, Board Member

Todd Smithey, Board Member

Scott Gordon, Board Member

Debora Allen, Board Member

Candance Andersen, Board Member

Gail Strohl, Board Member

Gabe Rodrigues, Board Member

William Pigeon, Alternate

Jerry Telles, Board Member

Louie Kroll, Alternate

Jerry R. Holcombe, Alternate

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I N D E X

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MR. WEDL	113

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HEARING

1 CONCORD, CALIFORNIA

2 May 4, 2016, 10:58 a.m.

3 ---o0o---

4

5 P R O C E E D I N G S

6 MR. DUTKIEWICZ: Good morning. Good morning,
7 Chair, Trustees, Public, and active and retired members
8 of the Hazmat Materials Department.

9 We're here today, actually, to discuss
10 additional findings going back to the CCCERA Look Back
11 Project, the Compensation Enhancement Project.

12 Back in May of 2014, the Board provided
13 direction to staff to look into any unusual increases in
14 compensation during a member's final average salary
15 year; "final average salary" being that period of time
16 that the retiree could select to base their retirement
17 benefit on. For some individuals that could be a
18 12-month period depending on the tier or a 36-month
19 period depending if they had Tier II service as well.

20 In the case of the Look Back Project, we
21 specifically looked at increases that were unusual, that
22 stood out at the end of their career as they lead into
23 their final average salary year.

24 At that time in May, the Board provided
25 direction to the staff to look into these increases with

HEARING

1 further clarification in July of that year to exclude
2 other items which were more static in nature, such as
3 longevity, certifications, educational and other
4 occupational-related compensation items.

5 So based on that the Board has the authority
6 under Government Code Section 31539 to adjust and make
7 corrections based on any observed enhancements if the
8 fact pattern supports those adjustments to be made.

9 What we're discussing here today specifically
10 is the on-call pay and scheduling practices for the
11 Hazardous Materials Department.

12 The on-call that was paid during that time
13 generally was paid under circumstances that the member
14 having being scheduled actually worked that time or was
15 available for that on-call time; however, under the
16 review of the information that we found -- we looked at
17 the time sheets, the schedules, the payroll records.
18 All were reviewed, tables were built and analytics
19 performed in order to determine why these observed
20 increases at the end of their retirement -- I'm sorry --
21 active period, as they went into their retirement
22 period, occurred.

23 Now, I want to make an important distinction
24 here. You're going to hear the term "voluntary," you
25 know, come up a couple of times in this presentation.

HEARING

1 Now, what we're not talking about is -- the County
2 establishes under its Hazard Materials Area plan a
3 mandate for the Hazardous Materials Department to
4 actually provide this service to the County. That's
5 required. They're required to staff the team -- the
6 Incident Response Team, IRT team -- for periods of 24/7
7 through the entire year. So that creates the mandate
8 for the Department.

9 What we're actually looking at is the actual
10 practice -- the administrative practice that the
11 department and management actually fulfilled that
12 mandate as it pertained to schedule and how members of
13 the Hazardous Materials Instant Response Team who are
14 Hazardous Materials Specialist II, Occupational Code
15 V4VC, were staffed into those schedules.

16 We found that in previous statements to the
17 Board, in written testimony to the Board, documents that
18 were provided to us, review of payroll records,
19 schedules and the agendas of the schedules themselves
20 indicated that there was the ability for each member to
21 actually self-elect in order to receive this on-call
22 time.

23 One of the observations that was made, when
24 there was a departing employee, somebody that left the
25 team, there was a pool of hours that needed to be

HEARING

1 distributed. A memo was sent to the members of the
2 Incident Response Team by the assistant director that
3 the pool of on-call hours had to be filled, and the
4 responses from the members were, you know, "Sign me up."
5 And actually that's a quote from one of the emails.

6 So there was that ability for them to actually
7 place themselves on the schedule. In observation of and
8 looking at the schedules going back in time, the
9 schedules themselves were maintained in a manual manner;
10 basically, a calendar with the individuals' names on it.
11 When they traded shifts back and forth with each other,
12 which was a permissible practice, they would indicate,
13 you know, when they would be available and actually
14 strike their name off and then they would swap with them
15 going forward.

16 There was no tracking for that. We actually,
17 during the review, had to build the tables from those
18 handwritten notes.

19 Okay. Just going forward here.

20 Okay. Going to Item C. That's on page 4 of
21 the memo.

22 Okay. So here we have Table 1, and that just,
23 you know, sets the backdrop.

24 Now, in order to fulfill the schedule, it's
25 important to know that per the MOU during the time going

HEARING

1 from 2006 to 2014, which was the coverage for the
2 retirees that were under review in this study, their
3 standard workweek was 40 hours; so that meant that any
4 time over and above that that they needed to be on-call
5 was over and above the 40 hours.

6 So we actually took a look at -- created, you
7 know, this model, which is actually computed, and it's
8 back tested against the Department of Labor, your
9 standard workweek. It accounts for all federal
10 holidays, that sort of thing, and it breaks out the
11 number of week days and weekend days for the month.

12 Now, this is an important distinction, because
13 for the coverage Monday through Friday, as has been
14 indicated by the materials that was provided by the
15 Department and by the retirees themselves, Monday to
16 Friday the shift -- there was six four-hour shifts; on
17 the weekend, there were four six-hour shifts each day
18 that needed to be covered.

19 Now, it's an important distinction because
20 that creates the pool of available on-call hours, and
21 how on-call was paid was that you -- they received
22 compensation for one hour for every four hours of
23 call -- on-call that they worked -- that they were
24 scheduled for and worked.

25 And the other aspect of this is when they were

HEARING

1 called back there was a question of, Well, would that
2 reduce the amount of on-call that they had received?
3 Well, the answer is yes. If they're called back, you
4 know, they wouldn't receive the on-call; they would
5 actually receive the callback, which -- as the
6 retirement system has indicated and, you know, the
7 retirees are aware of, callback is not a pensionable
8 compensation item. So that would actually detract. And
9 as we go a little bit further, that was one of the
10 arguments why there was some dispersion and why certain
11 individuals may have had an increase later in their
12 career.

13 I'm sorry. I'm running a little bit of a cold
14 today.

15 On top of that, we looked at how, you know,
16 significant the weekend days were to the weekend hours;
17 so, having had this information and having built the
18 tables, we looked at week by week, month by month, and
19 year by year what those hours looked like and compared
20 it to the actual hours that were worked and the actual
21 hours that were scheduled.

22 Now, just to put a backdrop to this, in
23 Table 2, 54.11, we just want to get a baseline -- you
24 know, what was the average during the period for all of
25 the Hazmat Specialists II and the IRT team, which are

HEARING

1 one and the same -- and 54.11 hours was the average
2 monthly.

3 Each of the metrics that you see here -- each
4 of the data points are where were those individuals
5 averaged monthly on-call hours during their fast period.

6 Now, I want -- there's an important
7 distinction to be made. When we get a little bit
8 further and when we calculated the average upon which
9 the individual average was compared to, it's not against
10 the 54.11. We looked at each individual active,
11 rostered, available and scheduled individual during that
12 individual's last period and then compared their
13 individual experience against it.

14 So this is where we get to an important aspect
15 of this. When we look at the exclusion amounts, the
16 question is: How was this calculated?

17 So we based it on the individual average of
18 each of the Hazardous Specialists II during their active
19 Final Average Salary year. We looked at the number of
20 individuals on a weekly basis that were available to
21 work, that were scheduled to work and actually worked.
22 So we got down to some pretty granular detail here.

23 And then based on that we took a month average
24 and then took that average and rolled it up month to
25 month through their entire FAS period.

HEARING

1 So the numbers that you actually see here in
2 Table 3 show the individuals in the first column, their
3 final average salary monthly on-call hours, the Hazmat
4 Specialist II monthly on-call average that were all
5 working, active, rostered, scheduled and worked during
6 that time, and then the last column is the difference
7 between the two.

8 Now, how that's important is, when we go to
9 Table 4 and how the excess was actually calculated,
10 going back to the direction that was provided by the
11 Board last year, we looked at that individual's personal
12 average compared to their average of -- the average of
13 the active, working, rostered, scheduled and actually
14 worked Hazmat Materials Specialists II during that
15 period, and then took that monthly average and then
16 multiplied it by their last hourly compensation rate.
17 So that's where that number comes from.

18 The excess hours is an annualized figure.
19 That's based on the average for the whole period of
20 time.

21 Okay. Just some of -- sorry. Okay.

22 So, again, just to go over one of the other
23 important items here, was that -- there's also the issue
24 that -- the ability and how records were actually kept
25 by the Hazardous Materials Department.

HEARING

1 Looking at the schedules in the payroll
2 records, you know, there was additional submissions and
3 statements made to the Board and -- related to how that
4 work was actually, you know, scheduled and communicated.
5 And through the communications between individuals you
6 have -- and I'm just going to go back up so you can
7 follow along.

8 Go back to the schedule, the call hours on
9 Table 3.

10 The teams are broken up into Teams A, B, and
11 C. There's a, you know, team leader which is not an
12 occupational management class; it's just a senior
13 tenured individual that is, you know, put on the -- each
14 of the teams. And they made sure that they have a
15 tenured senior individual on each of the teams.

16 Based on that, when an incident would come
17 in -- and, you know, this is based on additional
18 statements that were made previously and in written
19 submissions to us, that they had the ability to contact
20 each other, which is right, you know, so they can
21 actually respond.

22 But, in some of the submissions that we
23 received, it indicated that, you know, if they needed to
24 trade for an extended period of time, that blocks of
25 time could be swapped and traded. And, again, that's an

HEARING

1 accommodation, but again it's being driven by the
2 employee. Again, when there is other scheduling
3 requests where an individual was able to request that
4 certain time they're not available for, other members
5 would trade and try and fill that.

6 If there ever was an incident where there was
7 a gap or a shift that could not be filled -- you know,
8 the question was actually posed last year, and
9 management from the Department of Hazardous Services
10 indicated that although it had not actually occurred in
11 their recollection but should it happen, in all
12 likelihood it -- you know, the shift would be swapped or
13 given up by the individual.

14 In all the documentation there is no tie-in
15 that creates the mandate where the individual actually
16 had to work, other than what comes to the department
17 from the area plan.

18 Again, that's a very important distinction to
19 be made here, because it's really that aspect that
20 there's no -- there was no written mandate for the
21 individual to actually work that on-call; and, in fact,
22 in the review of some of the communications -- again,
23 going back to that employee that left and how that
24 on-call was distributed, they had the ability just to
25 sign up for it.

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1 So based on these observations, you know,
2 there were a couple of recommendations that were made.

3 So we'll go to page 8 of the memo.

4 So the first recommendation to the Board is to
5 consider taking possible action to determine that the
6 excess on-call compensation paid to eight of the
7 Hazardous Materials Specialists listed below was for
8 voluntary/non-required work that was beyond the average
9 on-call hours performed by the Hazardous Materials
10 Specialist II during the same pay period; that improper
11 increase of the members' final compensation caused the
12 members -- was caused by the members and obtained by
13 signing up or trading for additional on-call hours in
14 the last year or months prior to retirement in order to
15 boost up the member's final compensation.

16 So there's an important aspect here that
17 there's eight -- and we'll address the other two in the
18 next recommendation, but the Board has this ability to
19 do this and they're empowered to do it under Government
20 Code Section 31539.

21 And the second recommendation is related to
22 the other two. There are two individuals that on the
23 first test their average on-call for their FAS compared
24 to their cohorts and peers was actually below the
25 average; however, in observation and testing it was

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1 found that in the last months of their Final Average
2 Salary year there was a significant increase in the
3 number of on-call hours.

4 So based on that observation we arrive at the
5 second recommendation, which is to consider and take
6 possible action to determine that the excess hours of
7 on-call compensation paid to the two Hazardous Materials
8 Specialists II listed below during their last three
9 months of their final average period was for
10 voluntary/non-required work that was beyond the average
11 of on-call hours performed by the other Hazardous
12 Materials Specialists II, an improper increase of the
13 member's final compensation caused by the members and
14 obtained by signing up or trading for additional on-call
15 hours in the last months prior to retirement in order to
16 boost up the member's final compensation.

17 Again, the Board is empowered to do this
18 pursuant to Government Code Section 31539.

19 And then the third recommendation, based on
20 the observations and the recommendations in I and II,
21 pursuant to the Board's overpayment -- collection of
22 overpayment to members, recover all past overpayments
23 with interest in a manner consistent with our
24 overpayment of benefits policy and adjust future benefit
25 payments accordingly, effective June 1st, 2016.

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1 Does the Board have any questions or items?
2 Okay.

3 So one of the things that -- just to
4 illustrate what these recommendations are based on, if
5 you turn to -- we'll just go to Tab 9.

6 And for illustrative purposes, for each of the
7 retirees we will be looking at Chart B. But just for an
8 example, this retiree -- just to show the difference
9 between the actual and scheduled, you'll see that this
10 is a very important thing to observe, because the dark
11 bars on the charts indicate the actual on-call that they
12 worked; the lighter or patterned bar actually shows what
13 they were scheduled for.

14 So this is a really important thing, because
15 with some of the arguments that have been presented and
16 some explanations why there's this increase in the final
17 average salary, you know, year to year, and why these
18 unusual increases occurred -- you know, as I mentioned
19 previously, sometimes they're called back. They have to
20 actually respond to an incident. And if a number of
21 those happened to occur in their last final average
22 salary year, yeah, that would reduce their on-call;
23 however, that's what was paid when you actually go to
24 the schedules.

25 This is an important observation to make

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1 because from the schedule that's where all the other
2 activity -- payroll activity is driven off of.

3 So although it might, you know, provide an
4 explanation why you have these variances in the number
5 of on-call hours per month during the time period, it
6 doesn't necessarily explain the trending Delta from each
7 period up to and inclusive of their final average salary
8 month. And we see this pattern over and over again.

9 Now, this pattern -- we'll go through another
10 one, and you'll see increases. This one's a little bit
11 fainter, but you'll see that trending up during their
12 FAS period.

13 There's another one. Again, we've got an
14 upward trend.

15 And these are the scheduled compared to actual
16 shifts. Here's another one --

17 CHAIRMAN PHILLIPS: Wrally, allow me to
18 interrupt you.

19 MR. DUTKIEWICZ: Uh-huh.

20 CHAIRMAN PHILLIPS: Is the point of the
21 graphic illustration and the detail in the report to
22 highlight that individual employees improperly inflated
23 their final future amount? Is that the sum and
24 substance of what's being presented?

25 MR. DUTKIEWICZ: It's the observation that

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1 they have the ability to drive the number of shifts
2 scheduled versus actual, you know, during their time.
3 Whether it was improper, that's what the Board will
4 deliberate on. But certainly the observation is
5 consistent.

6 Now, if all of these individuals were retiring
7 during the exact same period of time, okay, then we can
8 explain that there was an event-driven or
9 staffing-driven issue. However, because we looked at
10 week by week and month by month, we accounted for all
11 the available active rostered, scheduled members that
12 were on the team -- which, you know, some of the issues
13 that might have arisen from, you know, someone AWOP'ing
14 or, you know, being absent without leave or being on an
15 extended leave or being sick or ill were all accounted
16 for, because we're actually comparing it to the universe
17 of individuals that actually worked the time.

18 So -- and because they retired at different
19 retirement dates, it's certainly unusual with respect to
20 the actual shifts worked compared to what they were
21 scheduled for, and the pattern repeats itself over each
22 of the retiree's final average salary period.

23 BOARD MEMBER RODRIGUES: Let's say we cut to
24 the chase. It's obvious that that's going on. It's
25 really whether we decide if that was proper or not?

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1 MR. DUTKIEWICZ: Right.

2 CHAIRMAN PHILLIPS: Wrally, sticking with 9
3 for a moment --

4 MR. DUTKIEWICZ: Uh-huh.

5 CHAIRMAN PHILLIPS: -- am I reading correctly
6 that five, six -- '05, '06, '07, the dollar payments
7 attributable to on-call are pretty close to the same for
8 each year?

9 MR. DUTKIEWICZ: Yes. That would -- that
10 would be consistent, yes.

11 CHAIRMAN PHILLIPS: Okay. So a spiking in the
12 last year obviously is not -- doesn't look like it's
13 occurring here.

14 MR. DUTKIEWICZ: In the Adebisi case?
15 Well, it all depends, again, you know, whether
16 or not -- if he was at his last step, you know, then he
17 would have maxed out, but -- as far as compensation.
18 But in this case he's, you know, pretty close to the
19 line here.

20 If you look at the -- the dotted line is the
21 average. The -- looking at -- he's consistently a bit
22 above, and then that spike there. If he had worked more
23 weekend hours -- which we could drill into that data a
24 little bit further -- he would have had longer shifts,
25 more hours. So instead of just getting paid one hour

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1 for four, he'd get one and a fraction because of the
2 other two two hours, for example.

3 CHAIRMAN PHILLIPS: Okay. Where I'm going
4 with the question --

5 MR. DUTKIEWICZ: Uh-huh.

6 CHAIRMAN PHILLIPS: -- is regardless of how he
7 got there, year two, year three preceding --

8 MR. DUTKIEWICZ: Uh-huh.

9 CHAIRMAN PHILLIPS: -- he earned about the
10 same amount as he did in his retirement year. That's
11 what it looks like to me.

12 What I would expect as spiking is that in your
13 retirement year you earned considerably more (inaudible)
14 than you did in the earlier -- the preceding years.

15 MR. DUTKIEWICZ: This is true.

16 Looking at, again, the metric, looking at the
17 actual hours and the dollar amount -- you know, if you
18 look at the bottom here, what was in his on-call, you
19 know, used in his retirement versus what would be
20 adjusted -- if you were consistently volunteering for
21 more hours in the preceding year, sure, okay, so that's
22 his norm. It was still over and excess of what the rest
23 of the Hazardous Materials -- Hazmat Specialists II
24 averaged for all of them.

25 So just because -- and this is something that

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1 the Board can consider. If there -- you know, another
2 example -- actually, let's go down one.

3 Okay. So you see here with this retiree, you
4 know, in 2008 we see none. It doesn't even show up.
5 Okay. And then we have a thin line for 2009.

6 This would be the next -- this is top ten, I
7 believe. You see the increase that we're actually
8 showing here in the dollar amount of on-call. This is
9 actually what was paid.

10 Going back to Tab 9 in what you're looking at
11 here, which is Mr. Adebiyi's, you see in 2003 there's a
12 data issue here, because going back to previous to 2004
13 for 2003 there is no breakout. We couldn't see what was
14 paid because at that time the differential wasn't broken
15 out as far as compensation in the data.

16 In 2004, we actually start seeing this. So
17 you can actually see the amount of on-call that's being
18 driven as you go from 2004, 2005, 2006, 2007, isolating
19 the on-call that was actually paid as compensation as a
20 component of their annual compensation.

21 You could actually see by the black -- the
22 dark squares that that was increasing year to year.
23 Although, the ultimate dollar amount of his
24 compensation, you know, was within a bend, but certainly
25 in 2006 and 2007 you could actually see his total

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1 compensation increase.

2 Now, this also does -- because at the time
3 terminal pay was included, that's the top part. Other
4 differentials and terminal pay was included in 2007.

5 BOARD MEMBER WATTS: I have a couple
6 questions.

7 First off, in your illustrations here --

8 MR. DUTKIEWICZ: Uh-huh.

9 BOARD MEMBER WATTS: -- when there's not a bar
10 for scheduled in actual time used, is that because then
11 the person was not assigned to an IRT or Incident
12 Response Team?

13 MR. DUTKIEWICZ: No. There's two instances
14 why that would occur.

15 Midway through 2014 the Hazardous Materials
16 Department changed -- and I'll just bring up an example
17 here.

18 BOARD MEMBER WATTS: Well, let me --

19 MR. DUTKIEWICZ: They changed the way they did
20 the scheduling.

21 Yeah. Go ahead.

22 BOARD MEMBER WATTS: Okay. So look at
23 No. 19 --

24 MR. DUTKIEWICZ: Okay.

25 BOARD MEMBER WATTS: -- in this case.

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1 It doesn't have any scheduled or actual time
2 showing in the bar graph, yet you account for those
3 years above.

4 MR. DUTKIEWICZ: Correct.

5 BOARD MEMBER WATTS: Okay. And I wasn't sure
6 why she is not working in 2007 when the example you
7 showed earlier --

8 MR. DUTKIEWICZ: Uh-huh.

9 BOARD MEMBER WATTS: -- show -- Adebisi --

10 MR. DUTKIEWICZ: Uh-huh.

11 BOARD MEMBER WATTS: -- show him spiking in
12 2007.

13 MR. DUTKIEWICZ: Right.

14 BOARD MEMBER WATTS: So -- and then there was
15 another one where -- again, go up a little bit -- in
16 2007 another person worked a little more.

17 MR. DUTKIEWICZ: Okay.

18 BOARD MEMBER WATTS: How would you explain
19 that?

20 MR. DUTKIEWICZ: Well, in the case of Elaine
21 Glimme, I did take a closer look at this, and she does
22 appear on the schedule, and the schedule does appear to
23 indicate that she worked. However, the time sheets and
24 the hours don't support that.

25 So whether there was erroneous adjustments to

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1 the schedule, they didn't make -- she didn't work it,
2 they didn't adjust the schedule that they provided, the
3 final copy that was provided to me still has her on the
4 schedule for that time. But barring any other
5 explanation and having gone back into my work papers and
6 notes, there was no indication why that occurred other
7 than that explanation.

8 BOARD MEMBER WATTS: Was there anything in the
9 payroll that could have told you whether or not she was
10 paid a D33 or --

11 MR. DUTKIEWICZ: Yeah. I did look at that,
12 too. I looked at her payroll record and then also
13 looked at her time sheets.

14 There was no times -- there was no indication
15 on her time sheet that D33 was claimed, which would be
16 the on-call time, and that would have translated into a
17 payment, you know, for that time.

18 The other instance -- and I know you used
19 Mr. Adebiyi, but if you go to an individual that retired
20 a little bit later, so after 2013 -- so I just want to
21 pull one up here -- is that there was actually -- oh,
22 here we go. Okay.

23 So Mr. Yoshioka retired a little bit later on,
24 after -- so this would be Tab 16. Okay?

25 So you see after June of 2013 there's only the

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1 actual work, and this is due to a change where the
2 department went from the hand-maintained, manual
3 scheduling device that they had to an iCloud calendar --
4 an iCalendar they started using.

5 The unfortunate thing with that is when a
6 change was made there was no archiving of what the
7 original schedule was. So from that point, July 2013
8 on, all we could see is the actual shifts worked.

9 But when you take that metric and you compare
10 that up against the -- the other individuals that worked
11 that time, that were scheduled, and you compare that to
12 the compensation that the individual received during
13 that time, the increase is consistent through the end of
14 their -- their final average salary period. So the same
15 observation is made.

16 BOARD MEMBER WATTS: One last question.

17 For a Specialist II in this classification,
18 all were required to -- all were assigned to an IRT; is
19 that correct?

20 MR. DUTKIEWICZ: That's correct. The -- the
21 information that -- that I received did not indicate
22 there was other individuals. They all were -- they
23 have -- to be on the IRT team, you have to be a Hazard
24 Specialist Class -- Specialist II. They also have to go
25 through the certification training.

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1 There was a mentorship, and, as I mentioned,
2 when they have the different teams, A, B, and C, they
3 tried to -- or tried to schedule a seasoned, tenured
4 individual to be leader on each of those teams.

5 BOARD MEMBER WATTS: And I remember reading in
6 the job classification that they may be assigned to an
7 IRT --

8 MR. DUTKIEWICZ: Right.

9 BOARD MEMBER WATTS: -- not necessarily have
10 to be assigned, so it didn't seem like it was mandatory
11 that every Specialist II be on a team. Is that correct?

12 MR. DUTKIEWICZ: That would be in my reading,
13 too. In the job description and the MOU, there's no
14 mandate that is -- that indicates that they have to
15 actually work the time.

16 They may be requested. It's -- you know, when
17 they're -- they are scheduled -- again, going back to
18 the original observations -- they have that ability to
19 trade, swap, give up, or, you know, exchange boxes,
20 on-call time with each other.

21 BOARD MEMBER WATTS: I do have one more
22 question.

23 Those that were on the IRT, were they
24 originally, when first assigned, given equal hours by
25 their --

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1 MR. DUTKIEWICZ: Yeah, they --

2 BOARD MEMBER WATTS: -- supervisor?

3 MR. DUTKIEWICZ: Yeah. And I'll just go back
4 to the memo, and this is -- if you look at Table -- it's
5 the calendar that actually has the number of shifts, so
6 you'll be looking at Table 1. Okay?

7 This is an important aspect, because when they
8 first would issue the schedule, the director or the
9 assistant director would issue the schedule -- one
10 more -- there would be an equal distribution.

11 And how these are arrived at -- if you look at
12 the -- the last column, up until about 2009 or 2009
13 [sic] the Hazardous Materials -- or the IRT team was
14 staffed with five individuals, so there's a lot of
15 fractional, you know, play here when you distribute the
16 hours, so -- and those would be accounted -- looking at
17 the schedules there was some overlapped time worked.
18 Somebody might stay a little bit longer, somebody would
19 come in -- would be available a little bit earlier. So
20 they compensate for that.

21 After, I believe it's 2009, they went to a
22 six-person team to man each of the shifts, so -- and for
23 the call time; so, you know, on the basis of that, you
24 know, when they issued the schedule, yeah, it would be
25 equally distributed. But in experience, when we look at

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1 the actual and then we look at the time and the hours
2 and what compensation was paid, then we see great
3 dispersions over time.

4 BOARD MEMBER PIGEON: How many hours were
5 like, optional extra shifts, meaning outside -- I mean,
6 do they just offer the extra shifts?

7 MR. DUTKIEWICZ: Well, again, you know, I'll
8 go back to the example where, you know, one of the team
9 members left and resigned and the pool was offered. It
10 wasn't mandated or distributed. The email threads would
11 actually indicate that they were able to sign up for
12 them and --

13 BOARD MEMBER PIGEON: But I guess what I'm
14 getting at is you said at a certain point they were a
15 six-person team that was on call 24 hours; right?

16 MR. DUTKIEWICZ: Right.

17 BOARD MEMBER PIGEON: So could they go beyond
18 six people? Are any of those hours here? If so --

19 MR. DUTKIEWICZ: Going beyond six, the only --
20 the only thing that I'd comment to -- there's statements
21 made last year to the Board. If there was an incident
22 where they had to respond to, the team leader would
23 communicate with the assistant director, and they would
24 actually call.

25 But then that wouldn't be on-call. They'd be

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1 called to the incident. That would be callbacks that
2 they would receive.

3 So other than that initial, you know,
4 scheduling, you know, if someone was unavailable to
5 fulfill their on-call and an incident occurred, then
6 they would call the next person or next available
7 person, but they would respond to the incident.

8 If nothing happened, they wouldn't know that
9 that individual or any of the six weren't available.

10 BOARD MEMBER PIGEON: So they needed six on
11 the team --

12 MR. DUTKIEWICZ: Right.

13 BOARD MEMBER PIGEON: -- on-call?

14 MR. DUTKIEWICZ: Yes.

15 BOARD MEMBER PIGEON: Okay. And then you said
16 there's no policy regarding mandated staffing and that,
17 but there's a county mandate saying that they have to
18 have a 24-hour team --

19 MR. DUTKIEWICZ: The department has to fulfill
20 that. And, again I'm making the distinction between the
21 department's mandate and how administratively the
22 management/supervisors fulfilled that mandate.

23 BOARD MEMBER PIGEON: Okay. Okay. So --

24 MR. DUTKIEWICZ: Go ahead. I'm sorry.

25 BOARD MEMBER PIGEON: No, it's okay.

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1 So in here you say it's voluntary not
2 required, but it sounds like it is required. I mean, it
3 sounds like if there's a mandate to have a 24-hour team
4 of six individuals on-call to provide service to the
5 county, that it is required. Wouldn't it be?

6 MR. DUTKIEWICZ: I would agree, except for the
7 point that they have the availability to give up those
8 shifts voluntarily and trade them directly with another
9 individual.

10 BOARD MEMBER PIGEON: But six people, 24 hours
11 a day are on-call.

12 MR. DUTKIEWICZ: That is the department's
13 mandate.

14 BOARD MEMBER PIGEON: Okay.

15 MR. DUTKIEWICZ: There's no -- the question
16 was actually asked by one of the trustees to the
17 Hazardous Materials officer last May, that exact point,
18 and would there be an eventuality where they would have
19 to mandate that.

20 There's nothing in writing.

21 An occasion hadn't actually occurred, and in
22 most cases what was explained at that time last year was
23 that the shift would be given up and then somebody else
24 would actually volunteer or take it over.

25 BOARD MEMBER RODRIGUES: But you could not

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1 give up that shift if nobody would take it? What if you
2 said, I'm going to give up that shift, and nobody would
3 take it? Then what would happen?

4 MR. DUTKIEWICZ: Again, that -- that question
5 was asked, and there was no -- no affirmative response
6 either way --

7 BOARD MEMBER RODRIGUES: What was the
8 response?

9 MR. DUTKIEWICZ: That it had not occurred and
10 that it would be more probable that it would be traded
11 or another individual would have taken it.

12 BOARD MEMBER RODRIGUES: I get the point,
13 being that you cannot give up a shift unless somebody's
14 willing to take it?

15 MR. DUTKIEWICZ: To fulfill the mandate, I
16 think -- in practice, I think -- you know, to give each
17 of the retirees -- you know, each cared very much about
18 the work they were doing. I agree with that.

19 To fulfill the mandate, it seemed from the
20 evidence -- from the documentation and the items that we
21 reviewed, there's no lack of willingness for individuals
22 to actually volunteer.

23 BOARD MEMBER RODRIGUES: I guess that's why
24 they didn't --

25 MR. DUTKIEWICZ: So that's why they didn't

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1 actually have that issue.

2 BOARD MEMBER RODRIGUES: The question is
3 whether it's required, and it appears it was. If you
4 had it, you can't just give it up. It's required?

5 MR. DUTKIEWICZ: No, no. They were able to
6 give it up.

7 BOARD MEMBER RODRIGUES: Not able, but the --
8 you could not give it up unless somebody's willing to
9 take it, and I think that's the point I don't know if
10 you're getting or not --

11 BOARD MEMBER PIGEON: Someone has to take --
12 somebody has to work it.

13 BOARD MEMBER RODRIGUES: You can't just give
14 it up and say nobody's going to work --

15 BOARD MEMBER PIGEON: Somebody has to work it.

16 BOARD MEMBER RODRIGUES: You can't just give
17 it up.

18 MR. DUTKIEWICZ: Right. I think that's where
19 the -- you know, the team leader and perhaps the
20 retirees will be able to go a little bit further into
21 those --

22 BOARD MEMBER RODRIGUES: Right.

23 MR. DUTKIEWICZ: -- but just based on previous
24 statements and what was being provided, they would
25 coordinate, you know, that amongst themselves.

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1 If there was a real issue, you know, that
2 needed to be addressed, that would be escalated to the
3 assistant director and director. However, based on what
4 was provided to us and what was discussed in statements
5 made to the Board last year as well, that eventually --
6 that eventuality had not occurred. So I think that's
7 something that they would have to work through.

8 BOARD MEMBER RODRIGUES: Okay. I'll let you
9 finish, but I have a question.

10 BOARD MEMBER PIGEON: Last point for now --

11 MR. DUTKIEWICZ: Uh-huh.

12 BOARD MEMBER PIGEON: -- but you said that
13 it's essentially the administrative or the management
14 has not put this in writing, doesn't have a formal
15 policy on this; right?

16 MR. DUTKIEWICZ: Uh-huh.

17 BOARD MEMBER PIGEON: But it is a mandate of
18 the county to have 24-hour, six persons on the --

19 MR. DUTKIEWICZ: It's part of their area plan.
20 And the mandate, just by reading -- and, again, I'm not
21 an expert in this particular area, but the mandate is
22 created by the county under the area plan.

23 How the department fulfills that mandate is on
24 the administrative side, and how they staffed the shifts
25 is actually what we're focusing on but not necessarily

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1 in dispute that there was not a mandate from the county
2 for the service to be provided and for that 24/7
3 coverage to be there.

4 BOARD MEMBER PIGEON: So -- so the
5 administrative or the management said, Okay, no matter
6 what, everyone's just following the schedule, everyone
7 has to work; but these hours still would be on call,
8 still would be required and still be part of their
9 potential income.

10 I mean, it would be spread out amongst all the
11 employees, correct, but we had employees that
12 essentially opted to be on-call because of whatever
13 personal reasons they may have -- maybe they don't have
14 kids or whatever else.

15 MR. DUTKIEWICZ: Right.

16 BOARD MEMBER PIGEON: But the reason I'm
17 bringing this up is it hit a point for me. I thought
18 you said that management, but then Section 31539 says
19 that the member --

20 MR. DUTKIEWICZ: Uh-huh.

21 BOARD MEMBER PIGEON: -- improperly caused,
22 you know, this thing. And I don't see that the member
23 improperly caused anything. I see it as the member
24 properly works on-call.

25 MR. DUTKIEWICZ: Well, they're working

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1 on-call, and -- again, just to make that distinction --
2 there's no question that the hours that were estimated
3 on the time sheets were actually worked. We didn't see
4 anything that would say otherwise.

5 However, yeah, you had -- and this is what the
6 Board will have to deliberate: Even though the
7 management from Hazardous Materials and Health Services
8 Department has this mandate to fulfill, how they
9 communicated that mandate to the members and the
10 retirees and how they went about actually fulfilling and
11 occupying those shifts and hours, that's where there's a
12 disconnect.

13 So, in this case, because there's that ability
14 to self-elect to work the time, you know, that's what
15 the Board will have to consider, whether that's
16 appropriate and voluntary. And that's why I made that
17 distinction between the department's mandate and then
18 the ability for the individual member to self-elect to
19 trade away and exchange their time.

20 So that's the question that's actually before
21 you, whether that is voluntary and appropriate to fill
22 that mandate.

23 BOARD MEMBER RODRIGUES: My point being is
24 that if everybody worked their scheduled hours this, A,
25 would not be in your radar; and, B, we're not

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1 questioning whether the on-call was pensionable. It's
2 whether anything that was above either their scheduled
3 or average is what has brought it to your radar.

4 MR. DUTKIEWICZ: Right. Just by the direction
5 that the Board had given in 2014, and then with respect
6 to the Hazmat Materials Specialists, those unusual
7 increases. We're just displaying a fact pattern based
8 on the direction that the Board gave us, and that's up
9 to the Board to deliberate what that finding is.

10 CHAIRMAN PHILLIPS: Before we start going to
11 individual members, any other questions from the Board?

12 I would suggest -- we have four individuals or
13 counsel who have indicated that they would like to
14 speak, and we can go through those four first of our
15 initial eight on -- with respect to Recommendation
16 No. 31.

17 So let me start with Eric Jonsson.

18 MR. JONSSON: Maybe you could -- I want to --

19 MR. DUTKIEWICZ: I'll set it back up.

20 MR. JONSSON: Thank you.

21 BOARD MEMBER RODRIGUES: Would you please
22 introduce yourself, so we have a record of who's
23 talking.

24 MR. JONSSON: Eric Jonsson, J-o-n-s-s-o-n.

25 CHAIRMAN PHILLIPS: Mr. Jonsson, just to

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1 clarify our Board ground rules on this, this is
2 obviously a special situation. We would normally ask
3 that our speakers limit their comments to three minutes.
4 We're going to give ten minutes to each of our speakers
5 and ask that you do your best to stick within that ten
6 minutes.

7 MR. JONSSON: Yeah. Okay.

8 STATEMENT BY ERIC JONSSON

9 MR. JONSSON: Well, my name is Eric Jonsson.
10 I'm a retired Hazardous Materials Specialist.

11 And this actually takes ten minutes to read,
12 and I was just going to read it; but now that I've heard
13 the presentation, I'd like to address some of the issues
14 that came up, and then I will read some specific items
15 from here, because I think the language is very
16 important.

17 So in the beginning, as proposed, there was a
18 pretty big movement with the Contra Costa County Times
19 of opposing public employee pensions and trying to
20 reduce public employee pensions. And I have a copy of
21 an article that is so lacking in factual items and I --
22 in my understanding there was a relating between the
23 Times and a former manager who worked here. And I bring
24 this up because the methods seem, you know, too closely
25 related to ignore.

HEARING

1 For instance, in the article there was a
2 mess -- one person was brought up in retirement. There
3 was a retirement person brought up -- thank you. I
4 guess that will make the paper, but it was bringing
5 up -- it used the word "spike" so many times, and when
6 the -- the conclusion was reached in this article the
7 pension apparently should have been reduced by about
8 40 percent.

9 But just the language of "spike" repeatedly
10 used, and, in fact, the conclusion that it should have
11 been down at least 40 percent actually included terminal
12 pay, which has nothing to do with spiking. That was
13 something that always counted.

14 The article was so misleading to the -- anyone
15 who read it, if they didn't really know everything,
16 would think, Oh, this person spiked from 72,000 to
17 120,000. Terminal pay wasn't even part of that. Very
18 misleading.

19 Nor was anyone ever approached to talk about
20 it --

21 Oh, there I am. If I'm yelling, sorry. It's
22 because I'm not hearing my voice.

23 -- which is why I brought up this thing from
24 the Society of Professional Journalists, diligently
25 seeks subjects of news coverage to allow them to respond

HEARING

1 to criticisms or allegations of wrongdoing.

2 I never heard from you, and I don't know who
3 did, and I would have liked the same thing here.

4 So listening to this thoughtful presentation,
5 I keep hearing questions asked. You know, why did that
6 happen? Why did that person not work that time? Nobody
7 asked us.

8 As far as the area plan --

9 I will really try and keep this in ten
10 minutes.

11 -- yeah, we took our jobs seriously, and
12 Contra Costa County had to provide a team. In fact, our
13 former manager/director, sitting over here, whenever we
14 did interviews said, Hey, find out if this person will
15 work -- we didn't have a mandated on-call position, and
16 it made the Health Department nervous. So we had to
17 interview people with respect to, Are they going to work
18 on-call?

19 Permissible practice to trade? There's no
20 other way this works. So the way on-call works in
21 Contra Costa County, there's six people on call every
22 third day/every third weekend. You said something about
23 six four-hour shifts and weekends, four six-hour shifts.
24 I don't know what that means. There is six-hour days
25 for Saturdays and Sundays, but there's still six people

HEARING

1 working weekends.

2 MR. DUTKIEWICZ: Right.

3 MR. JONSSON: Somebody asked why didn't Elaine
4 Glimme work. Well, why didn't someone ask her? You
5 know. People have lives; people have families; people
6 have health issues; people have children. These are
7 some of the reasons people aren't working.

8 So I'm going to get into some of the language.
9 The Board's intent is to scrutinize apparently
10 intentional acts of pension spiking through members'
11 receipt of pay items that were not earned as part of
12 their regularly-recurring employment compensation during
13 their careers.

14 That seems misleading to me, because I worked
15 my entire 21 years on call. So that was actually
16 regularly-recurring employment compensation. So I find
17 that language is very important, "my entire 21 years."

18 The second one really gets me. Staff observed
19 that all -- all excess on-call hours were the result of
20 members making adjustments on their own to the
21 department's schedule. These adjustments were made in
22 various ways; for example, crossing off -- crossing off
23 other employees' names or initials from the department's
24 schedule and adding the retiring member's name or
25 initials.

HEARING

1 I sat here and told Lacey, Hey, you remember
2 all those time I crossed your name off and said you're
3 not working, I'm working. This is not anything that can
4 happen.

5 So trading occurred when -- you approach
6 someone, "I can't work this day" -- and, as you could
7 imagine, being on call every third day, lives don't
8 happen that way. Families happen; all lives happen.
9 You have to be able to swap shifts around or this could
10 never function.

11 No one ever -- ever changed the schedule on
12 their own. And I hope that's clear. I could never go
13 up and just cross someone's name off and add mine. And,
14 again, I refer to the article. It's -- it's the
15 approach to this whole thing, the language. We didn't
16 do that. We never changed the schedule on our own.

17 I would approach someone and say, Can you work
18 this shift? I'll work your shift. Someone would be
19 approach me and say, Can you work this shift and the
20 next one? and I can't work your shift again because I
21 have health things, my family is sick, whatever.

22 And when you ask about how it was filled --
23 you know, how do you fill those six spots? Management
24 would mandate it be filled.

25 So the language in the report is -- sorry.

HEARING

1 It's just not right. Nobody can change the schedule on
2 their own. You had to approach somebody, and every
3 schedule was approved.

4 So, again, all excess hours on-call were the
5 result of members making adjustments on their own. I
6 don't know where you came up with that conclusion. That
7 never happened.

8 And that does sound like fraud to me, and I
9 hope somebody from the staff will stand up in court and
10 testify to that. Never happened.

11 And, again, why didn't you come talk to us?
12 Same with newspaper articles. Why didn't you come talk
13 to us?

14 So, yeah, there's three six-person teams.
15 Management made those spots all be filled. Management
16 would assign -- so when somebody had to give up a
17 shift -- I think the question came out, what happened if
18 no one was there to take it? Management assigned it.
19 Now it's your problem. You know, you trade it or you
20 give it to somebody.

21 And at a point -- and it's in the thing that
22 I've handed out to you all -- on a rotating basis each
23 person's name would show up on the schedule twice. They
24 were mandating these spots be filled when there weren't
25 18 people to fill them. Again, now it's my problem or

HEARING

1 someone else's problem to deal with that that day.

2 So we've already discussed the word
3 "voluntary" and how I don't think that applies.

4 I guess the Hazards Materials Area plan is the
5 state-mandated plan that we all took very seriously. We
6 had to respond. We had to fill all those spots.

7 So -- and you wonder maybe how -- okay. So
8 just looking at -- Tab 12?

9 MR. DUTKIEWICZ: 12, yeah.

10 MR. JONSSON: Okay. I wonder why this is even
11 in there. Sure looks bad to me. It sure looks like I
12 really cheated to get so high in my last year, doesn't
13 it? But if you'll notice, most of that is terminal pay
14 for -- in my FAS.

15 So what is the point of this? It sure looks
16 good. You know, a consultant did a really pretty chart.
17 It looks like, Wow, this person really boosted his pay;
18 and if you look, well, that's not showing up.

19 So if you look up here, that just looks really
20 misleading to me. Yep. I had more on-call pay in my
21 last year. How did that happen? So -- and what I've
22 written in here is when people give up shifts and they
23 can't take them back, someone else got -- has to take
24 them. Well, who's more likely to be able to take a
25 shift? Older -- older responders without little kids

HEARING

1 often had more time to pick up shifts.

2 Not only that, if you're retiring -- trust me,
3 being on-call is stressful, even if you're not called
4 out. And, yes, we liked the work and we believed in the
5 work. It doesn't make it not stressful. Just the point
6 of being awakened with your heart thumping a couple
7 times in a night from the pager going off whether or not
8 you get called.

9 So, again, if somebody's picking up extra
10 shifts and they're about to retire, they could
11 recuperate.

12 You know. It is hard for people who -- when
13 we tried to make block trades that were mentioned here,
14 that's hard. It was really hard to find someone to do a
15 long-term trade because that's going to disrupt their
16 life, too, even though they want to help you and they
17 know you need this trade and a retiree can recuperate.

18 So let me go down here.

19 Oh, one more thing that's not been brought up
20 and it's been written by a few people: We were told our
21 entire careers on-call pay would count toward our FAS,
22 whatever it's called.

23 And we were also advised every year -- every
24 one of us -- how to maximize our retirements. We were
25 advised by the very CCCERA who's accusing us basically

HEARING

1 of fraud at this point -- we were advised to be
2 available in our last year for as much on-call as we
3 could get. We were advised by this association to do
4 that.

5 And, again, it's not just that -- yeah. If
6 somebody's got to give up a shift, go to the person
7 who's more likely to take it. People know that. If you
8 need to get rid of a shift and it's hard and your boss
9 is going to give you a hard time if you can't fill it --
10 is that ten already?

11 CHAIRMAN PHILLIPS: It is.

12 MR. JONSSON: It just seems like 30 minutes, I
13 know, because I'm just up here talking, but --

14 BOARD MEMBER RODRIGUES: I have a question --

15 MR. JONSSON: -- you know what? You're really
16 trying to cut my pay, and I just need a couple minutes.

17 CHAIRMAN PHILLIPS: Go ahead and take your
18 last two minutes at this point, and then we'll open up
19 for questions.

20 MR. JONSSON: All right.

21 Oh, so do you have a question?

22 BOARD MEMBER RODRIGUES: No, no, no. I'm --
23 no.

24 CHAIRMAN PHILLIPS: Let's let him go ahead and
25 finish his --

HEARING

1 BOARD MEMBER RODRIGUES: All right, all right,
2 all right.

3 MR. JONSSON: So, anyway, I really want you to
4 acknowledge that the association told us how to maximize
5 our pay, and that was being available for as many
6 on-call shifts as possible.

7 So, as to my specific claim, if you look at my
8 chart, most of mine was in the last three months. How
9 did that happen? Obviously, I'm trying to screw
10 everybody; right? No. That happened because another
11 employee approached me. His mother was sick. He needed
12 time off in the winter. He knew that I was scheduled to
13 retire at the end of March.

14 Our schedules are written January 1st to
15 June 30th.

16 So, again, who's he going to find to cover him
17 in the wintertime when he needed time off? Somebody
18 who's willing to give up a block of time. That would be
19 me. So either I was retiring at the end of March -- and
20 that was always an open subject for me, because I loved
21 my job. And other than the fact of the friendships that
22 I've made with these people, I'm really starting to rue
23 having worked here, because every year I'm up here
24 trying to defend my job and my pay.

25 So he approached me for a trade for two

HEARING

1 reasons: I was either retiring; I could recuperate. I
2 could work extra those last three months and recuperate,
3 and if I didn't -- he knew I had a seven-week trip
4 planned, and I was going to need to find someone to
5 trade with. Now, if you can just assume from that
6 without talking to me, without talking to anyone, that
7 that's fraud, cut my pay. Let's go to court.

8 You know, it's going to cost me a ton of
9 money, and this is really stressful what you guys are
10 doing to us, what you people are doing to us.

11 So, really, who's going to say that that's
12 fraud? That's -- most of my increased time with those
13 three months was when someone approached me because they
14 needed time off and I was the only reasonable person to
15 do it. It is really hard to trade three months' time.

16 And again -- so if this process had really
17 been fair, if you're actually looking for truth to find
18 out what's going on, somebody would have talked to us.
19 Somebody would have figured this out.

20 And, as far as the 45 hours average when I had
21 58, by now maybe you understand there's a huge
22 variability. Statistics are pretty interesting things.
23 You can say anything you want with them. Where's the
24 range when you came up with 45 hours average? Where's
25 the standard deviation?

HEARING

1 Are you really trying to rewrite the rules so
2 if anyone retires if they're anything over the
3 average -- if you're talking an arithmetic mean with a
4 range and a standard deviation, wouldn't you at least
5 have to use the highest of the standard deviation?

6 What I find in this whole process, there was
7 no attempt at fairness. There was no attempt to figure
8 out why people worked when they worked. Nobody
9 approached us. Nobody approached us, gave us a chance
10 to talk about what we were accused of wrongdoing. This
11 process is just wrong.

12 So, yeah, I refer to it as a witch hunt. It
13 is stressful. And, you know, hopefully, the answer will
14 be you will actually consider the reality of the on-call
15 program, how it works. The Board's culpability in --
16 was not the biggest part in this, telling us, Yeah, be
17 available for being assigned extra on-call shifts. You
18 told us to.

19 And, again, hopefully, the answer won't be,
20 Tough, we have the authority under Government Code
21 whatever to cut your pay; or the answer I heard last
22 year from Kurt Schneider, which was, Why do you people
23 care? It's an average of two percent, and you're about
24 to get a two and a half percent COLA.

25 Because we do care. This isn't just attack on

HEARING

1 our pay; this is an attack on our character. So that's
2 why I care.

3 So anyway, questions?

4 BOARD MEMBER RODRIGUES: Yeah. I'll start
5 off.

6 First, I like your candor. It's good.
7 Second, no one's used the word "fraud" that I'm aware of
8 because it's improper.

9 (Simultaneous cross-talk.)

10 MR. JONSSON: What's improper?

11 BOARD MEMBER RODRIGUES: Is "fraud" in there?

12 BOARD MEMBER PIGEON: "Fraud" is in there.

13 BOARD MEMBER RODRIGUES: I missed that.

14 (Simultaneous cross-talk.)

15 BOARD MEMBER RODRIGUES: Well, how about
16 implied?

17 MR. JONSSON: Implied. Okay.

18 BOARD MEMBER RODRIGUES: No one questions
19 anyone's loyalty, service. I don't think we have to
20 explain. I think you all did a great job. It's
21 appreciated. So none of that's in question.

22 The only question -- the only exception is why
23 at the last year there's so much more at the end. Is it
24 because you wanted to increase your FAS? That's fine.
25 That's all we're getting at. It's not -- I'm not saying

HEARING

1 any individual cases. You gave a good example of you.
2 Some have very little within the last year. That's all
3 we're saying. Yes, you did it fine. Was that proper?
4 That's the question we have.

5 MR. JONSSON: Well, so my trade, since you
6 bring me up, was that improper?

7 BOARD MEMBER RODRIGUES: That's what we'll
8 decide.

9 MR. JONSSON: Yeah, I guess you will, and I
10 get no say in that.

11 And, in fact, I forgot to mention the other
12 part. This doesn't get me anywhere. I assume I'm going
13 to end up with a lawyer at \$600 an hour doing something,
14 but the other part I -- so my trade -- yeah, I guess you
15 could just say that was fraudulent, or you can
16 understand that that's how it happened. This fellow
17 approached me, he needed the winter off. Who could he
18 approach who could trade three months' time? Nobody.

19 And as far as the other people that -- I
20 didn't read this part. You know. As people started to
21 retire, there was dwindling experience.

22 And you mentioned six people on a call, and
23 you bring up sometimes, you know, do you need more than
24 six people? Yeah. But when you have six, if you have
25 one or two people with three years or more experience

HEARING

1 and the rest of the people don't, that's a dangerous
2 callout.

3 So another reason -- not just that the
4 association told us to be available and that time --
5 extra time would be assigned to us, you've got to
6 consider the makeup of the team.

7 You know. These calls are dangerous if you
8 have four or five inexperienced people. Who's the more
9 experienced? The people about to retire. And this
10 association told us to be available, maybe because they
11 knew how our program worked and that we should be [sic]
12 more experienced people working.

13 So did I make that trade? Did I meet to make
14 that trade to increase my last year pay? No. Did I
15 realize before I did it that it was going to happen?
16 Yep. And you tell me why that's wrong. You told me to
17 do it. You told us all to do it.

18 I am more experienced than other people who
19 could have taken the trade. No one else could have
20 traded three months.

21 So I guess you call that fraudulent and I get
22 an attorney to protect myself, but -- and, again, the
23 other people after me, when they retired there was less
24 and less experience. Older people had to fill shifts.

25 I know I'm rambling, but did that answer your

HEARING

1 question?

2 BOARD MEMBER RODRIGUES: Yes, it did.

3 BOARD MEMBER KROLL: So did you have a minimum
4 years of service that had to be on that team, in the
5 sense you need at least two people that have five or
6 more years on the team and then the rest could be okay?
7 Did they --

8 MR. JONSSON: No, there was no rule. I just
9 gave that as an example.

10 BOARD MEMBER KROLL: But I'll tell you, did
11 they specify it? That's what I'm asking. It's like --

12 MR. JONSSON: No.

13 BOARD MEMBER KROLL: No. Okay.

14 That's -- I'm just curious if it was specified
15 that, Okay, each team has to have at least two people
16 with five or more years or ten or more years experience
17 on Hazmat and the other --

18 MR. JONSSON: No. But just for a quick
19 example, one member here who hadn't worked as much
20 on-call who had a tear in her suit -- we went to one
21 meth lab where all the chemicals were on plastic before
22 we got there, and our job used to be to identify the
23 chemicals and bring them out. Somebody had laid them
24 out on plastic, which we never like because -- two
25 reasons: It makes a slipping hazard if anything spills;

HEARING

1 and if anything spilled, it's much more chance of
2 exposure. The earth is okay to observe a little bit of
3 stuff.

4 She got acid on her knee, and I took
5 responsibility. I felt responsible for that, because I
6 was the most senior person on this response, and the
7 more you have to look out for the people -- you can
8 imagine, so drilling a hole in a tanker truck -- and I
9 know you people have acknowledged before the work we do
10 and appreciate it, but I'm just trying to explain that
11 the more experienced the less each person's watching out
12 for the least experienced people. I mean, it's a real
13 thing. Obviously, you never considered this in this
14 process, but I -- I would like it to be.

15 BOARD MEMBER SMITHEY: I read your paper that
16 you -- you provided us. Thank you.

17 You mentioned in several instances that you
18 were advised by CCCERA regarding the use of on-call time
19 in your final year of employment.

20 Can you give us a sense of how you got that
21 advice, who gave it to you, when it occurred, and so on?

22 MR. JONSSON: No. Someone else can who went
23 to a seminar and specific -- specifically asked that at
24 a seminar. But no. It's How do we maximize our
25 retirement? And I met with people here a couple of

HEARING

1 times -- although, this chart also conveniently showed
2 my -- my retirement estimate being October the year
3 before I retired, and it left out the other ones.

4 But not -- it would have been during a meeting
5 with -- I forget what they're called, but the people who
6 advised us on retirement.

7 BOARD MEMBER GORDON: What we're trying to
8 understand, did you personally receive that advice from
9 members of this board --

10 MR. JONSSON: How do I maximize -- not this
11 board, but the person I would meet with to get my
12 estimate from retiring. How do I maximize retirement?
13 Maximize your pay category and everything.

14 For instance, I think it's no longer allowed,
15 but the program management positions, they counted
16 toward retirement. If you can get one of those
17 positions, get it. You know. You will maximize your
18 retirement.

19 If there are extra on-call shifts to be had,
20 work them. On-call pay counts, we were always told. I
21 think we are only told about callback pay that was
22 discontinued for ten years, but we were always told
23 on-call pay counts. If there is extra time in there to
24 be had, should I work it? Yes.

25 BOARD MEMBER GORDON: So what I'm trying to

HEARING

1 get at -- let me make my question a little bit more
2 specific.

3 Did you get this advice in one-on-one benefits
4 counseling sessions?

5 MR. JONSSON: Yeah, when I would go talk to
6 them about retirement and trying to get an estimate of
7 what I'd be earning.

8 BOARD MEMBER GORDON: "Them" being the staff
9 here at CCCERA?

10 MR. JONSSON: Yes.

11 BOARD MEMBER GORDON: And do you have any
12 specific guidance counselors in mind that you can recall
13 who gave you that information --

14 MR. JONSSON: I don't remember the names of
15 the people, no.

16 BOARD MEMBER GORDON: Did you get any of this
17 advice in writing?

18 MR. JONSSON: No. I don't think we ever got a
19 written summary. All we got in writing was an estimate
20 of our retirement. I don't think anyone, you know,
21 ascribed a written summary of a meeting, no.

22 BOARD MEMBER GORDON: No, no. And I didn't
23 ask you if you got a handout from somebody at a meeting.
24 What I'm asking you is --

25 MR. JONSSON: You want me to prove that what

HEARING

1 I'm saying is true.

2 BOARD MEMBER GORDON: No. What -- let me
3 finish my question, and then you'll know what I'm asking
4 you. I'm not trying to give you a hard time. I'm
5 trying to understand.

6 You've been testifying repeatedly about advice
7 you were given by CCCERA's staff that you should
8 maximize in your final year of employment for your
9 retirement benefits.

10 I'm trying to drill in a little bit to
11 understand how that advice came to you, what it was, and
12 how often you got it.

13 So what I'm asking you is: Did you get a
14 handout? Was there some sort of material that you were
15 given that told you how to do that?

16 MR. JONSSON: No. But I would meet with them,
17 and -- and -- well, the only -- there were things
18 written how to maximize your retirement, but they were
19 very generic and they weren't written for the Hazardous
20 Materials Programs, that I've ever seen, or to people on
21 call.

22 So when I would meet, my questions would be,
23 how do I maximize -- and, more, it was getting an
24 estimate, but, yes, maximize any of your pay categories.

25 BOARD MEMBER GORDON: Well, specifically with

HEARING

1 respect to on-call, did you get specific advice about
2 using on-call in your final year of employment in order
3 to maximize your retirement?

4 MR. JONSSON: Not using it, but if there are
5 extra shifts to be had, yes, on-call will count. Yes.
6 So if I work more shifts than not, I'll get a bigger
7 retirement benefit, yes.

8 BOARD MEMBER GORDON: And that was advice you
9 got from CCCERA staff here?

10 MR. JONSSON: Yeah. Not just me, other
11 people. And you can talk to other people who have
12 gotten the same advice either during a -- one of the
13 seminars they put on or in private meetings.

14 It's what I heard. It's what I heard, and
15 other people have told me the same thing.

16 BOARD MEMBER GORDON: But, to your knowledge,
17 you didn't get any of that advice in writing, that came
18 through one-on-one meetings or seminars?

19 MR. JONSSON: No. As I said, I never -- I
20 didn't go to the seminars, and when I came here I didn't
21 get a written summary or something in writing back
22 saying you need to do this to maximize your benefits.

23 BOARD MEMBER GORDON: So in your case --
24 because we're looking at all these as individual cases.
25 In your particular case, the advice you got from CCCERA

HEARING

1 came in individual one-on-one meetings with a benefits
2 counselor; correct?

3 MR. JONSSON: Yes. Uh-huh.

4 BOARD MEMBER GORDON: Not seminars?

5 MR. JONSSON: I, in my memory, never went to a
6 retirement seminar.

7 BOARD MEMBER GORDON: Nothing in writing?

8 MR. JONSSON: What do you mean, "nothing in
9 writing"?

10 BOARD MEMBER GORDON: Well, did you receive
11 anything in writing from CCCERA indicating how you could
12 maximize your retirement.

13 MR. JONSSON: Just generic -- as I said, just
14 generic items on how to maximize your retirement
15 benefit, in writing, yeah.

16 Since the only other time I asked was in
17 counselors [sic], and I didn't get a written summary.
18 No, nothing in writing. But I guess -- are you saying
19 that maybe they didn't say that?

20 BOARD MEMBER GORDON: No. I'm just asking
21 what you --

22 MR. JONSSON: Yeah. My only answer is, no,
23 they didn't send me something in writing after I met
24 with them.

25 BOARD MEMBER GORDON: I think Mr. Watts has a

HEARING

1 question for you.

2 BOARD MEMBER WATTS: I was just wondering also
3 if you had also heard about the idea of increasing your
4 on-call pay through your fellow employees or from your
5 director himself suggesting that --

6 MR. JONSSON: Increasing my on-call pay?

7 BOARD MEMBER WATTS: For the benefit of
8 increasing your FAS.

9 Was that a cultural thing in the office to do,
10 to kind of encourage each other last year going out --

11 MR. JONSSON: You know, I retired over five
12 years ago, and no.

13 Cultural? Well -- so looking at my chart,
14 what do you see? Up and down, up and down, up and down,
15 up and down, and then three months with a trade that I
16 did not initiate. And, no, I never went to the
17 calendars, crossed people's names off and filled mine
18 in.

19 But, again, I'll be honest. Yeah. After the
20 trade, that might bump my retirement up 1- or \$200 a
21 month. So how you came up with 433 in my case, I have
22 no idea. But it wasn't the intent of my trade. And,
23 you know, working more on-call shifts that had to be
24 filled, why wouldn't I do it if I'm in my last year?

25 Again, it's hard working extra time. The

HEARING

1 person who's going to be retired and can recover from
2 that -- again, you don't like being awaked with a pager
3 thumping your heart awake.

4 So you can say that reason is just -- that all
5 we did is sat around and tried to, like, take extra
6 money from people. Trust me, that's not what we did.

7 Yeah, I realized that my pay would go up if I
8 worked extra shifts.

9 BOARD MEMBER TELLES: Mr. Jonsson, I have
10 three questions for you.

11 MR. JONSSON: All right.

12 BOARD MEMBER TELLES: First, were you asked to
13 fill an on-call shift by an Incident Response Team
14 leader?

15 MR. JONSSON: Oh, yeah. Well, no. A team
16 leader has no -- no.

17 BOARD MEMBER TELLES: Just a "yes" or "no" is
18 all --

19 MR. JONSSON: No. A team leader was not a
20 management position, so the only person who would do
21 that was the deputy director would go around -- Hey,
22 this spot needs to be filled. That would be a deputy
23 director, not a team ladder.

24 BOARD MEMBER TELLES: That's the first
25 question.

HEARING

1 The second question: Did you have a choice as
2 to whether or not you would accept or not accept that
3 position?

4 MR. JONSSON: I did. But at some point I
5 would just be assigned it, as other people would be, on
6 a rotating basis.

7 BOARD MEMBER TELLES: So at first you had a
8 choice of whether or not you could or you couldn't do
9 it.

10 Okay. When you have an emergency and you
11 cannot cover on your own shift -- your own on-call shift
12 and the IRT lead or the administrator can't find a
13 replacement and you are required to fill that on-call
14 time, are you required -- do you -- even though you're
15 calling in or you're saying I can't do it and they can't
16 find anybody else, what happens in that situation? Do
17 they make you come to work and do it?

18 MR. JONSSON: No. Well, Paul -- pretty much
19 they just assign the time; right?

20 UNIDENTIFIED SPEAKER: It never happened.

21 MR. JONSSON: I mean, there was always someone
22 to take you --

23 UNIDENTIFIED SPEAKER: Someone would step up.

24 MR. JONSSON: Yeah.

25 UNIDENTIFIED SPEAKER: There would be --

HEARING

1 MR. JONSSON: But they would assign you --
2 and, again, as I said, at one point, when we were down
3 people, on a rotating basis our name would show up twice
4 on the schedule, so it was always assigned --

5 BOARD MEMBER TELLES: Okay.

6 MR. JONSSON: -- one way or another.

7 BOARD MEMBER TELLES: Thank you very much.
8 That's all I have.

9 CHAIRMAN PHILLIPS: Any further questions of
10 Mr. Jonsson?

11 BOARD MEMBER HOLCOMB: Not a question so much,
12 but I -- I reviewed the letters, and each one of the
13 individuals who was given an opportunity to come
14 today -- yourself, Mr. Jonsson, and other individuals --
15 got a virtually identical letter.

16 And just to go on the record, there's no
17 allegation or language in that letter that accuses any
18 of these individuals of fraud; and, in fact, it even
19 suggests that that Board is going to scrutinize
20 apparently intentional acts of pension spiking.

21 So I think it's important that the letter that
22 invites you to this meeting doesn't allege or make use
23 of the word "fraud."

24 MR. JONSSON: Okay. I guess you find that
25 offensive.

HEARING

1 BOARD MEMBER HOLCOMB: No.

2 MR. JONSSON: Inaccurate?

3 BOARD MEMBER HOLCOMB: Inaccurate.

4 MR. JONSSON: Okay. Although, when it says,
5 Staff observed that all excess on-call hours were the
6 result of members making adjustments on their own to the
7 department schedule, that never happened and that sounds
8 like fraud to me.

9 BOARD MEMBER HOLCOMB: Sir, I'm just -- I'm
10 just referring to this letter --

11 MR. JONSSON: Well, this came, I think, in my
12 letter. It was either my letter or the binder.

13 So without talking to me, someone said that I
14 made adjustments to the schedule on my own. That never
15 happened.

16 That does sound fraudulent to me, so that's
17 why I used the word "fraud."

18 BOARD MEMBER HOLCOMB: Okay.

19 MR. JONSSON: Again, nobody talked to me, and
20 nobody seemed to have asked the question, Did you make
21 these changes on your own? They just said we did. So
22 that's what I had to work with, is what I've gotten in
23 writing, All excess on-call hours -- which, again, I
24 don't know which ones were excess and which ones
25 weren't -- were the result of members making adjustments

HEARING

1 on their own to the department's schedule.

2 We didn't ever make a change to the schedule
3 on our own, so I find that completely inaccurate. And
4 every schedule is approved by management, so we never
5 did anything on our own.

6 It sounded like fraud to me, and that's why I
7 used the word "fraud."

8 BOARD MEMBER HOLCOMB: Okay.

9 MR. JONSSON: And this does sound like an
10 attack on our characters, so I guess that's why I'm
11 using the word "fraud" too.

12 CHAIRMAN PHILLIPS: Okay. This is something
13 that hasn't already being filled? I'm just trying -- we
14 have got four --

15 BOARD MEMBER PIGEON: Yeah. Okay. You know,
16 I'm just going to ask this question: So in your time
17 there -- 21 years? -- was anyone -- because both MOUs
18 indicate that per policy it's the manager that's
19 responsible for assigning on-call.

20 Was there ever, like, favoritism or, like,
21 everyone would just -- you know, somebody would give one
22 person all the on-call, or -- it sounds like it was all
23 scheduled out and then it was just ad hoc --

24 MR. JONSSON: Well, so it was a process.

25 For a while -- and this is a different

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1 question, but what people would do when they needed to
2 get rid of a day was they'd go to the person most likely
3 to take it, and this has happened my whole career, when
4 people weren't retiring. You go to the -- because
5 you -- it's hard to find someone sometimes, so you go to
6 the person most likely to take it.

7 At one point, one of the persons -- people
8 also not about to retire who wanted more time than
9 others pushed the process to the point where a rotating
10 schedule was written for days that were abandoned back
11 to the team, at which point he realized he lost extra
12 days because people used to go straight to him often --
13 Yeah, he wants it. He wants to work more -- and they
14 had to now go through a list. And when people got
15 asked, it's like, Oh, you know what? I'm -- I'm free
16 the next few weeks. Yeah, I'll pick up that day.

17 So it's been a changing process. You go to
18 the person that you think is most likely to take it
19 until someone demands a list be generated that has to be
20 gone through.

21 Yeah. Did I answer your question?

22 BOARD MEMBER PIGEON: You did.

23 MR. JONSSON: All right.

24 CHAIRMAN PHILLIPS: Okay. Do we have a
25 motion?

HEARING

1 (Simultaneous cross-talk.)

2 MR. JONSSON: A motion to have me sit down, I
3 get that. I wouldn't blame you if you came up with that
4 one.

5 CHAIRMAN PHILLIPS: We're, at this point, just
6 going through our list of --

7 UNIDENTIFIED SPEAKER: If I may clarify,
8 Mr. Chair.

9 Following the order of the agenda, we are now
10 on Item 7(b), an opportunity for the retired members to
11 present to the Board their positions and any information
12 or records relevant to the issue including Board
13 questions.

14 MR. JONSSON: Oh. And if I need to officially
15 ask for a hearing, because -- I'm officially asking for
16 a hearing, because I don't know where you guys are going
17 with this.

18 Thank you.

19 UNIDENTIFIED SPEAKERS: Thank you.

20 CHAIRMAN PHILLIPS: Gabriel Adebisi.

21 MR. ADEBIYI: I'm here. I'm here.

22 CHAIRMAN PHILLIPS: I apologize for the
23 mispronunciation.

24 MR. ADEBIYI: Do I go on up?

25 CHAIRMAN PHILLIPS: Yes, please, go on up to

HEARING

1 the podium.

2 BOARD MEMBER RODRIGUES: Would you please help
3 us, sir, by making sure we pronounce your last name
4 correctly?

5 MR. ADEBIYI: That's good. Adebisi. Adebisi.

6 CHAIRMAN PHILLIPS: Wrally, the tab on this --

7 MR. DUTKIEWICZ: Tab 9.

8 STATEMENT BY MR. ADEBIYI

9 MR. ADEBIYI: I retired from the county -- oh,
10 anyway, by the way, Gabriel Adebisi is my name, and my
11 service with the county ran from 1984 through 2007, for
12 a total of 23 years of service.

13 Of that 23 years, the bulk of that time was
14 spent on Chair ^{Two} II, which is one of those, you know,
15 (indiscernible) chairs that, you know, that doesn't
16 exist anymore.

17 And I had about eight years of (indiscernible)
18 retirement, and I was able to buy back some of my time
19 in Chair II towards the newly-established Chair III at
20 the time. So my -- my retirement payment really, you
21 know, was spread about those three chairs.

22 And that's really very critical, because I
23 want to go through the statistics that have been used to
24 make this comparison, and the one that -- excuse me for
25 a minute.

HEARING

1 Yeah, okay. There we go.

2 Now, the -- the one that (indiscernible)
3 statistics has to do with how the -- this threshold --
4 this threshold was established, and I'm looking at
5 page -- page 5 of -- of this -- of this binder, yeah.

6 This -- this thing was -- this Threshold I
7 believe is 54.11. According to what this gentleman
8 explained, it was established by going through about
9 five -- five -- five years, I suppose. Wait a minute.
10 Yeah.

11 It says, Five years preceding the retirement
12 date for each employee, so (indiscernible) that went
13 from 2006 to 2014. I retired in 2007, so basically they
14 only capture my final year with the county. And that's
15 very, very important, because if you look at the right
16 tables -- this Table 1, for instance, that gives a
17 (indiscernible) you know, how many hours and
18 (indiscernible) for the year; that's where -- that's
19 where I focus.

20 You will notice that 2006, 2007 even up to
21 2009, they -- there wasn't much significant difference
22 in the -- in terms of those hours that
23 (indiscernible) each employee could potentially work.

24 And, like I said, the -- the beginning was
25 2006. Between 2006 and 2007, you've got a difference of

HEARING

1 about 29 hours per year, supposedly. Well, that's --
2 you can't -- you know, you can't use that statistics in
3 my case.

4 You have (indiscernible) documents to my
5 (indiscernible) to make this computation. If you have
6 to do that, you're going to have to go back five years
7 from 2007 back. You don't have documentation to -- you
8 know, to show that, to establish a trend. That's not
9 what I'm seeing here.

10 So, as a result, if you -- your Table 2, it's
11 suspect with regards to using that to apply to
12 everybody.

13 Maybe if these were the right -- you know, if
14 this were the right statistics, maybe this would be
15 (indiscernible), which is supposed to be the threshold.
16 In my case maybe it's going to be close to 61.95.
17 That's (indiscernible). Your statistics is not
18 depicting that, so the record is suspect right there.

19 But, more importantly, this same argument was
20 used throughout the entire data that you have. You
21 can't apply that. You can't even go back and capture
22 the -- the five years prior to my retirement. It's not
23 there, but a lot of this you have here is this or that,
24 and that is a big problem.

25 (Indiscernible) if this was correct, I

HEARING

1 probably wouldn't have -- have to be here to answer any
2 questions in regard to spiking; but, anyway, I will walk
3 through the spiking using these numbers.

4 MR. DUTKIEWICZ: Sir, may I just address,
5 because I just want to clarify Mr. --

6 CHAIRMAN PHILLIPS: Go ahead.

7 MR. DUTKIEWICZ: Table 2 is just indicating
8 the available pool of ours, so -- and, as I mentioned
9 early in the presentation, the 54.11 was just on -- on
10 Table 2 is just an average during the 2006-2014.

11 MR. ADEBIYI: All right.

12 MR. DUTKIEWICZ: However, if you go to
13 Table 3, which is on page 6, these are the individual
14 averages taking into account, as you mentioned, to put
15 it in with that five-year period.

16 MR. ADEBIYI: Uh-huh.

17 MR. DUTKIEWICZ: So we took your individual
18 average and then compared it to all of the Hazardous
19 Materials Specialists II that were active, rostered,
20 scheduled and worked --

21 MR. ADEBIYI: Yeah, but --

22 MR. DUTKIEWICZ: -- so that's exactly the --

23 MR. ADEBIYI: But you don't have five -- you
24 don't have five years preceding my retirement to compute
25 that number. It's not there. It's not that simple.

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1 You don't have it.

2 And everything is from 2006 to 2014. That's
3 your (indiscernible) of my retirement, and -- so from
4 the very beginning the threshold makes everything
5 irrelevant at this point. That's what I think.

6 But, again, let's walk through this, as I go
7 through.

8 Okay. Now, if this were to be correct, you
9 probably would have been going to -- no, up to 2002, and
10 I don't think they have documents for that, because you
11 already mentioned that that was -- I mean, that was a
12 retention policy on those documents, so they don't have
13 it. And I think that (indiscernible), because I don't
14 want to make a decision based on studies that is -- that
15 is faulty. It is faulty, and -- and because of that,
16 you used that same number to establish monthly, you
17 know, hours and -- and other types of total. It doesn't
18 seem like it -- it makes any sense at all.

19 So I'm not even going to make any reference to
20 the dollar amount involved, because, you know, like I
21 said, it's (indiscernible) it's four to one. So I'm
22 going to go on to Tab 9, and I'll go to the Summary of
23 Compensation.

24 Now, if you look at this compensation summary
25 on Chart A, it goes from 2002 to July 2007. Now, there

HEARING

1 is no significant difference. If you look at 2005,
2 2006, there are no -- not -- not -- not insignificant in
3 those years. I didn't join the Incident Response Team
4 until 2004. As you can see, I didn't qualify the first
5 time. I -- I had to train, so I wasn't on-call that
6 many times because I had to go through some training
7 process.

8 Well, right after then everything seemed
9 steady, you know, from 2005, 2006, 2007, the cut-off
10 year. That graph indicates the payout. Of course,
11 (indiscernible) it was shorter. But, more importantly,
12 there was an event that allowed -- you know, make this
13 look like it was spiking when it is actually not, and
14 I'll -- and I'll have to get to that.

15 Again, look at Chart B because that's the most
16 significant as well.

17 Okay. Okay. Thank you.

18 Again, Chart -- this chart goes back to
19 January of 2006, so it just captured 18 months of my
20 work if I retire, and that (indiscernible) very
21 inconsistent, as I said.

22 During the summer months, those are the busy
23 parts of the year for us. People take vacations. You
24 know, we have a whole bunch of reasons. Don't know one
25 from the other, so pick one. So nobody -- yeah, I -- I

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1 probably, you know, put in a lot of, you know, work
2 during the summertime.

3 It looks like -- the picture I'm looking at of
4 on-call is consistent during that time, but, perhaps, if
5 you extrapolate your data and it went beyond January
6 2006, maybe you'll even see a more regular pattern.
7 But, you know, if you look at it -- at my final year,
8 again, during the summer months, everything went up
9 again. And that is the pattern.

10 And what I think is that about -- maybe -- why
11 is it about 20? I have an -- I have an explanation for
12 that. So if you -- I will try and extrapolate this
13 further than 2006. Maybe (indiscernible) in this -- in
14 this graphic depiction that you -- that you have here.

15 CHAIRMAN PHILLIPS: Gabriel, we're at the
16 ten-minute point, so if you could summarize --

17 MR. ADEBIYI: Oh, okay. Okay.

18 Yeah. I'm not -- also what I want to
19 demonstrate has to do with the statistics, and, like I
20 said, a lot of this (indiscernible) on the time I wasn't
21 even around. I don't think it's fair in my case to use
22 the statistics to tell me whether I was (indiscernible)
23 spiking in my final year of office -- employment.
24 It's -- it's just not fair.

25 BOARD MEMBER TELLES: Gabriel, I have one

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1 question for you.

2 MR. ADEBIYI: Sure. Go ahead.

3 BOARD MEMBER TELLES: Why did you decide to
4 retire in July?

5 MR. ADEBIYI: Well, I tell you, that month I
6 had my trip.

7 BOARD MEMBER TELLES: Come again?

8 MR. ADEBIYI: I had -- I had a trip planned
9 that summer --

10 BOARD MEMBER TELLES: Okay.

11 MR. ADEBIYI: -- right after -- well, I had
12 this planned about a year before that time, from July of
13 that year approximately, and that's -- that is the
14 reason I left in July, yes.

15 BOARD MEMBER TELLES: Okay. Thank you.

16 MR. ADEBIYI: Yes.

17 So basically I'm saying this, that the Board
18 needs to be very, very careful how they can
19 (indiscernible) the statistics that's before you.

20 Like I -- if you're going to make a decision
21 based on this, you'll have to be very, very careful. If
22 there is any doubt -- if there is any doubt at all, I
23 think I deserve the benefit of that doubt
24 (indiscernible).

25 As far as my final year is concerned, that --

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1 hold on a minute.

2 As far as my final year is concerned, that
3 summer was very, very, very busy. I didn't -- I
4 didn't -- I didn't sign off to be -- you know, to get
5 hours and stuff like that, but there was a major event
6 that happened that summer in which I was a lead person,
7 and I don't have an interest that that was -- anything
8 like that, you know, was going to be on my watch or
9 anything like that.

10 That was a big problem. You know, that was a
11 big -- (indiscernible) with Chevron, as usual, and I was
12 the lead person on that -- on that response. It took
13 several, several days. And not only the -- you know,
14 the response issue or anything like that, I had to work
15 extra hours because that -- you know, it -- it -- it
16 caused a lot of commitment -- commitment that I was
17 assigned to attend.

18 If you look at my pay, my pay stub indicates
19 that. I'd like to stress that is what is responsible
20 for my peek. So (indiscernible) all I have to say about
21 this is it does not apply to me. If you're going -- if
22 you're going to be referencing this off of 2014
23 (indiscernible), it doesn't have any relevance to me.
24 It doesn't have any relevance.

25 BOARD MEMBER RODRIGUES: Thank you.

HEARING

1 MR. ADEBIYI: Thank you.

2 MR. DUTKIEWICZ: Just for point of
3 clarification, I just looked at my work papers, and we
4 did a complete salary data extract going back to the
5 year 2000 through 2015 for all V4VC Hazmat Specialists
6 II.

7 It's not represented here, because we were
8 focusing on end-of-career increases.

9 CHAIRMAN PHILLIPS: Mr. Scott Hanson.
10 Let me ask you to keep that ten minutes --

11 MR. HANSON: I'll do my best.

12 STATEMENT BY MR. HANSON

13 MR. HANSON: First of all, I'd like to address
14 a couple things.

15 On Tab 6 of your binder, you'll find a MOU
16 from June 30 -- from October 1 to June 30, 2011. I'd
17 like you to read Section 9, the last sentence:

18 "Where on-call arrangements exist, the
19 Department Head shall designate which
20 employees are on-call unless otherwise
21 provided in the supplemental sections of this
22 Agreement."

23 Clearly, it's the -- you know, our deputy
24 chief.

25 And, also, earlier it was talked about what

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1 happens if you wanted to get out of an on-call position
2 and you couldn't. That happened to me several times
3 when I tried to get out, and I had to take it. So I
4 would like go to a birthday party or a funeral knowing
5 that I'd be called away.

6 And, also, the part about fraud. I heard it
7 in this room when Paul Andrews was being discussed, and,
8 Jerry, you used the word "fraud."

9 BOARD MEMBER HOLCOMB: Okay.

10 MR. HANSON: And I can -- I got -- Paul will
11 testify to that fact, and I'm sure there's a recording.
12 You know, if this does make it to trial, you can explain
13 yourself.

14 But, anyway, in my opinion, any error -- and
15 I'm not saying that any error was made -- was made by
16 CCCERA. They are the ones that told us how to maximize
17 our benefit.

18 In this very room, during a group counseling
19 session, I asked if it would be in my best interest to
20 make myself available for as much call as possible in my
21 last year. The CCCERA representative said that that was
22 an excellent idea. And I have witnesses to that.

23 BOARD MEMBER TELLES: So would that be 2011?

24 MR. HANSON: I don't remember when it was, but
25 I -- I'm sure that there's -- one of the bad things

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1 about being called here years later is I threw away all
2 of my work records. I don't have that stuff anymore.
3 And I'm sure there is a record here of some time that --
4 of what time I came to that. I don't know, though.

5 BOARD MEMBER TELLES: Okay.

6 MR. HANSON: Probably it was.

7 So to be absolutely clear, I never traded or
8 took any on-call time. I made myself available for that
9 unfilled shift and was appointed to those shifts by
10 someone of at least the deputy director level.

11 All of my retirement estimates prepared by
12 CCCERA acknowledges additional on-call time. I
13 discussed it with CCCERA counselors assigned to me.
14 Now, I did not pick my counselor. I had no influence
15 over her. We were assigned counselors based upon the
16 first initial of our last name. Everybody was treated
17 the same.

18 CCCERA definitely knew and understood what was
19 happening, and they encouraged it.

20 CCCERA had every opportunity to review my and
21 everybody else's retirement applications and
22 calculations before they approved them. The fact that
23 this did not object -- the fact that they did not object
24 to any of it until years later, after it became an issue
25 in a local newspaper, when my records were lost and

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1 memories are faded, the review came years after the
2 agreements were well-established and memorialized.

3 And, incidentally, that newspaper, due to low
4 and falling readership primarily caused by poor
5 editorial content, no longer exists.

6 With great merit, others in my class have
7 argued that the final average -- the calculations and
8 statistics are wrong. In reality, I don't think it
9 matters at all because they just don't count.

10 So CCCERA says they're going to review all the
11 facts and laws regarding this. I doubt that this is
12 happening. We had a binding contract, consideration was
13 given, and a promise made. All of my actions and my
14 fellow actions were in good faith. All accusations of
15 fraud or any over misconduct were unfounded. CCCERA, as
16 a producer of that contract, should have any
17 ambiguity -- and I don't believe any exists -- construed
18 against them.

19 On this matter, CCCERA board members who in a
20 public forum claimed fraud has been committed should
21 expose that fraud. Lacking that, it stands as a
22 slanderous statement against me and others.

23 It obviously demonstrates hostility by this
24 Board -- by some members of this Board towards
25 members -- towards the retirees. I don't think we can

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1 get a fair hearing here.

2 Detrimental reliance. I and all the other
3 specialists -- the others relied, to our detriment, on
4 the promises made by CCCERA. We made decisions about
5 when we're going to retire, where we lived, where our
6 children go to school, what assisted-living programs
7 we're going to put our parents into based upon the
8 promises. And this, by cutting pension benefits, could
9 cause some severe hardships for some of us.

10 Now, contributory negligence. Well, I already
11 went through how CCCERA told us over and over and over
12 again how to maximize our benefits. Then, also, it was
13 CCCERA's job to review my application. I didn't think
14 it was necessary to hire my own counsel to review my
15 application for retirement, because there's plenty of
16 experts here that were supposed to act in my interest.

17 In regard to the 384 hours of on-call that
18 they claim I worked in my final year that should be
19 excluded, I want to know which exactly -- what shifts
20 exactly they say don't count and which ones do. I could
21 then make a more coherent argument that I, indeed, was
22 on-call, I was assigned on-call those days. What I fear
23 is CCCERA's making a distinction without a difference.

24 So I think all of this is clearly the fault
25 and responsibility of the Board of Directors and CCCERA

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1 and the employees that it selects and supervises, and I
2 think the Board needs to act up to -- or live up to --
3 own up to its own actions in this matter and accept
4 responsibility for its own mismanagement.

5 And in the December 10 memo from Kirk
6 Schneider to the Board, it says: There is no
7 distinction between assigned on-call duty and voluntary
8 on-call duty. That's because there's no difference.
9 Any differences only exist in the minds of some of these
10 board members here.

11 And, also, on a 2006 May 4th memorandum to the
12 CCCERA board, page 3, paragraph 2, one interpretation of
13 on-call duty, Kirk says, Yes, it's one interpretation,
14 but there's others. By indicating that there's only one
15 interpretation accepts the fact that other
16 interpretations exist that have neither been identified
17 or developed. It also says voluntary on-call duty is a
18 form of overtime, and that's just not true. On-call was
19 never a form of overtime.

20 And overtime occurs when you are called back
21 to work. To define any on-call time as overtime is
22 erroneous, and it also goes in there -- it says it's
23 considered to have been paid service due to normal work
24 hours, and that -- that's wrong too.

25 And that's -- that's basically it.

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1 The reason that I picked my retirement date
2 was --

3 BOARD MEMBER TELLES: You've got my questions
4 down already.

5 MR. HANSON: I know that. I've lived next to
6 this guy for 15 years.

7 I was planning on going until I was 55. I
8 retired when I was 52, but there were certain things
9 that were happening at that time. One of them was the
10 county was talking about a five percent pay cut, and we
11 knew that the retirees were going to get a COLA for
12 three percent. That's one of the reasons I went.

13 Also, in -- in March of that year, all my
14 certifications for -- that we have to have or I had to
15 have -- my web consulting, my asbestos consulting, my
16 physical, my education -- all of that was going away.
17 And I knew PERPA (phonetic) was coming, but I didn't
18 know what exactly it was going to be, and I just wanted
19 to be gone by the time it got there.

20 When I entered my last year, I had no idea
21 that it was going to be my last year. I really didn't.

22 Any other questions?

23 Yes, ma'am.

24 BOARD MEMBER ALLEN: Maybe I heard you wrong.
25 Did you just say you live next to one of our trustees?

HEARING

1 BOARD MEMBER TELLES: Across the street.

2 MR. HANSON: We're across the street.

3 BOARD MEMBER ALLEN: Oh, okay.

4 MR. HANSON: We don't know each other very
5 well, really.

6 Any other questions?

7 Thank you.

8 CHAIRMAN PHILLIPS: Thank you.

9 BOARD MEMBER HAST: Scott, you mentioned
10 something.

11 If over the amount of on-call that you were
12 assigned on the regular schedule --

13 MR. HANSON: Uh-huh.

14 BOARD MEMBER HAST: -- say, beginning of
15 January, did you make the statement that the only time
16 you took additional on-call was when you were mandated
17 to do that by the deputy director or someone in upper
18 management?

19 MR. HANSON: All I ever did was make myself
20 available for that on-call, and whether or not I was
21 assigned, it was a deputy director or a director --

22 BOARD MEMBER HAST: Okay.

23 MR. HANSON: -- call. That's --

24 BOARD MEMBER HAST: So you could --

25 MR. HANSON: -- the way it is.

HEARING

1 BOARD MEMBER HAST: So you could've turned
2 down the extra --

3 MR. HANSON: Yeah --

4 BOARD MEMBER HAST: Okay.

5 MR. HANSON: -- but I couldn't reject what I
6 was assigned to if no one else would take it.

7 CHAIRMAN PHILLIPS: Thank you.

8 MR. HANSON: Thanks.

9 CHAIRMAN PHILLIPS: Mr. Isaac Stevens, who is
10 representing Retiree Charles Nicholson.

11 STATEMENT BY MR. STEVENS

12 MR. STEVENS: As you noted, I'm representing
13 Charles Nicholson.

14 BOARD MEMBER RODRIGUES: Sir, what's your
15 name?

16 MR. STEVENS: Isaac Stevens.

17 Before I get started, I was hoping I could ask
18 a question regarding Table No. 1. It may or may not be
19 something, but it would just inform my understanding.

20 I thought you said you got the hours and
21 workdays from the Department of Labor.

22 MR. DUTKIEWICZ: Well, there's -- it's
23 actually imputed two ways.

24 There's a network day function where you can
25 calculate work days and work and weekends, and then that

HEARING

1 was cross-matched to the Department of Labor federal
2 holidays as set forth for the labor standards for each
3 of the respective years, and that was a cross-check
4 that -- the calculated days and hours was --

5 MR. STEVENS: Okay. And that brings up a
6 potential issue with that which stuck out to me when I
7 was just checking the math, and it showed that there are
8 255 days total weekend and workdays throughout the year.

9 I assume those ten days that we're missing
10 were federal holidays.

11 MR. DUTKIEWICZ: That's correct.

12 MR. STEVENS: Okay. Would it impact your
13 average calculations if you were to assume that on those
14 federal holidays the employees were on-call, because
15 were those hours that those employees had to be on-call
16 to cover the federal holidays included in the averages?

17 MR. DUTKIEWICZ: That's correct, but when
18 the -- the fourth column in Table 1 is actually
19 calculated, it's inclusive of that time.

20 The impact actually would be the amount --
21 well, they'd still have to cover the shift, but the
22 regular pay for that time would be a little bit higher
23 when they worked those days.

24 MR. STEVENS: Their regular pay -- what was
25 the last part? I couldn't hear...

HEARING

1 MR. DUTKIEWICZ: That the regular pay -- when
2 they worked those hours, they would have, like,
3 additional time -- an additional factor that would go in
4 because that would be a federal holiday.

5 MR. STEVENS: Okay. So just to be clear,
6 these --

7 MR. DUTKIEWICZ: There's another differential
8 that's paid if they work a holiday.

9 MR. STEVENS: Right. Just to be clear,
10 though, the total hours that you're using as the maximum
11 each person can get reflects the total hours including
12 federal holidays, not just with an incentive added to
13 them?

14 MR. DUTKIEWICZ: That's correct.

15 MR. STEVENS: Okay. Like I said, probably not
16 anything but I wanted to check.

17 My substantive and legal arguments are all set
18 forth in the written statement I sent you last week, so
19 I'm not going to rehash that. I believe that the other
20 retirees spoke -- spoke well as to a lot of the issues,
21 so I can skip a lot of that and not take up your time.

22 What I want to address is how the staff report
23 asked the Board to determine that the hours
24 Mr. Nicholson worked beyond the, quote/unquote, average
25 on-call hours were voluntary -- for voluntary,

HEARING

1 non-required work, an improper increase caused by
2 Mr. Nicholson and obtained by signing up or trading for
3 additional hours to boost pension, because these
4 contentions don't apply in Mr. Nicholson's case.

5 As the other speakers have already addressed,
6 they weren't voluntary. On-call hours had to be
7 covered. In any department where you have a mandate to
8 have people on-call and you can't leave a spot open, you
9 can use the word "volunteer," but you volunteer so you
10 don't get voluntold when no one else agrees to cover it.

11 So moving on to whether these hours caused an
12 improper increase in Mr. Nicholson's final average
13 salary, the records don't reflect that.

14 Yes, his hours of on-call increased during his
15 final average salary period. They increased by less
16 than ten percent. And if you look at the historical
17 trend with his on-call hours, his increase was
18 consistent with an increase that had happened year after
19 year after year throughout the time period that was
20 analyzed.

21 From 2005 to 2006, they increased by 89 hours;
22 from 2007 to 2008, they increased by 55 hours; from 2009
23 to 2010, they increased by 54 hours; from 2010 to 2011,
24 they increased by 64 hours. So what you're seeing is a
25 trend in having to work more on-call hours, not in

HEARING

1 intentionally gobbling up on-call hours to spike
2 pension.

3 BOARD MEMBER RODRIGUES: Am I missing
4 something? I don't see those years on there.

5 (Simultaneous cross-talk.)

6 MR. DUTKIEWICZ: Okay. So this is what you're
7 looking at?

8 MR. STEVENS: Yeah. And this -- this brings
9 up a good point, and it's noted in the footnote that he
10 put there.

11 This is showing his compensation and, for
12 whatever reason, on-call's not listed until the last
13 year. But if you look at his time records, he's got
14 on-call way, way back throughout it.

15 And the number of hours increase that we
16 reached was through Mr. Nicholson reviewing his -- his
17 records and basically compiling all the hours per year
18 to track how they increased over time.

19 Moving to the next point, these hours weren't
20 obtained by signing up or trading for extra shifts, and
21 I discussed this a little bit in my statement as well.
22 The vast majority of the shifts that Mr. Nicholson
23 worked or covered for other employees were at those
24 other employees' requests. He wasn't going out hunting
25 for shifts.

HEARING

1 And, at this point, five to ten years after
2 the fact, it's too late to go shift by shift to see what
3 circumstances led him to cover an individual shift.
4 That info is largely gone. He's been retired for five
5 years already, which brings me to a point that --

6 CHAIRMAN PHILLIPS: Mr. Stevens, could I
7 interrupt for just a moment?

8 Harvey, did you --

9 MR. STEVENS: Sure.

10 MR. LEIDERMAN: Yeah. You made a reference a
11 moment ago -- that's the only reason I'm interrupting
12 you, so it's altogether --

13 MR. STEVENS: No, go ahead.

14 MR. LEIDERMAN: You made a reference to pay
15 records that are not shown in Tab 14, pay records that
16 somehow show that Mr. Nicholson received on-call pay for
17 years other -- prior to 2011.

18 MR. STEVENS: I believe what I stated was --
19 and I misused "pay records." I believe I meant "time
20 records." But they showed that he worked on-call hours.
21 That's what I'm referring to.

22 MR. LEIDERMAN: Do you have those available to
23 give to the Board?

24 MR. STEVENS: The time records?

25 MR. LEIDERMAN: Yes.

HEARING

1 MR. STEVENS: I believe so.

2 (Simultaneous cross-talk.)

3 MR. LEIDERMAN: Why don't they show on here?

4 MR. DUTKIEWICZ: We have -- well --

5 MR. LEIDERMAN: Were they not coded as D33?

6 MR. DUTKIEWICZ: We didn't have the
7 observation that was coded in that way. That's why --

8 (Simultaneous cross-talk.)

9 MR. STEVENS: So it appears that they may have
10 been coded under a different number, but we do have the
11 time records. We can get them to you for analysis.

12 MR. LEIDERMAN: All right. That would be
13 great.

14 Thank you, Mr. Chairman.

15 MR. STEVENS: Sure.

16 CHAIRMAN PHILLIPS: Thank you.

17 MR. STEVENS: I'll save some dramatic wrap up
18 for just pointing out another -- another statistical
19 issue, and that's that the -- the number of hours used
20 as the, quote/unquote, average for each employee during
21 the retiree's final average salary period varied wildly,
22 and that's something to consider when you're looking
23 at -- for example, I believe it's Table 3, perhaps, if
24 you could pull it up. Table 2.

25 It shows the employees' hours plotted out over

HEARING

1 time with an average of 54.11 hours from 2006 to 2014.
2 That varied pretty widely throughout the time, and an
3 example of that I found was that the average given for
4 an employee who retired in February 29th, 2012, was
5 52.59, and an employee who -- who apparently retired two
6 days later, it had already gone up almost a half an
7 hour.

8 And so I bring that to your attention, because
9 when you're looking at, Well, did someone work way more
10 than the average person, that number could vary widely
11 and just the -- the difference could be even a result of
12 just the snapshot you're looking at, at that time.

13 And that goes back to my point that the -- the
14 increase in hours follows a trend of Mr. Nicholson,
15 not -- not some last-year push to boost his retirement.

16 Any questions?

17 BOARD MEMBER WATTS: Table 3 addresses that
18 point; right?

19 MR. STEVENS: Right, it does. And it sets
20 forth -- and that's where I got the information
21 regarding how wildly this average can vary. From even
22 day to day, you're talking a half hour per month.

23 For the person who retired two days earlier,
24 if you're looking at reducing everyone down to the
25 average number of hours, they lost a half hour of

HEARING

1 on-call pay out of their salary into perpetuity for
2 retiring two days earlier.

3 I'll take any questions if you have them;
4 otherwise, I appreciate your -- your attention and the
5 opportunity to speak to you.

6 BOARD MEMBER HAST: With regards to that, that
7 you pointed out, the February 29, 2012 and the
8 March 31, 2012, (indiscernible) average by half an hour,
9 I'm just speculating that that may be as a result of
10 Mr. Hanson's retirement and having one less body
11 available for the allocated hours until another body was
12 promoted or moved into that spot.

13 MR. STEVENS: Right. Which --

14 BOARD MEMBER HAST: I mean, it's -- it's
15 somewhat glaring if you just look at the numbers, but if
16 you --

17 MR. STEVENS: Which brings me to my point,
18 though, that it's not a static number over time.

19 BOARD MEMBER HAST: Right.

20 MR. STEVENS: Any other questions?

21 Thank you.

22 CHAIRMAN PHILLIPS: Thank you.

23 Neal Price.

24 STATEMENT BY MR. PRICE

25 MR. PRICE: My name is Neal Price. I retired

HEARING

1 February 2013 as a Hazardous Materials Specialist.

2 On June 2007 I attended my first retirement
3 group counseling session. At the time I was advised by
4 CCCERA staff to maximize my accrual. This included
5 on-call D33 and call-back D19.

6 My initial retirement date at that time was
7 August of 2017. As stated in this document, the recent
8 letter from CCCERA, this document mentions it reviewed
9 the same class and pay grade. I'd like to restate that
10 when I was retired, I was at Pay Grade 4, not Pay
11 Grade 5.

12 To maximize my retirement, I would've had to
13 work an additional 15 months. Also, I planned, again,
14 to retire August 2017, not February 2013.

15 And as stated previously -- or I would like to
16 address, you know, the fraud and the on-call time that I
17 worked.

18 I was available and worked all my on-call time
19 that I reported on my timesheet. All time sheets were
20 reviewed and signed by my supervisor. And as to my
21 on-call schedule, my supervisor established the on-call
22 duty list. I did not help establish or maintain this
23 list. My supervisor assigned the additional time as
24 employees left the department. I was never solely
25 responsible for establishing this list.

HEARING

1 I know it came up earlier about the CCCERA
2 advising me for maximizing my on-call and callback.
3 When I was at my 2007 basic retirement statement,
4 when -- I would get the group counseling. Then we went
5 into private session. When they went to advise me, they
6 listed out my on-call and callback and they said that to
7 maximize these accruals in these two accounts, and --
8 and so that's where I received that information. That's
9 from my initial group counseling session.

10 And as far as -- as trends in my on-call in my
11 last year, one other -- for -- on October 2012, we had
12 two people retire -- or one person retired from the
13 department and one left. That left two spots available
14 or that left two vacancies.

15 Those two people were not on my response team,
16 so what happens with that is that I become -- I'm more
17 available to pick up their slots, because I'm not their
18 team. You can't have, you know, two people -- or the
19 same person doing -- covering twice on a team.

20 So, for myself, you'll see November/December I
21 had increased time. That was because of the two people
22 leaving the department and that I was not on their
23 teams. They were on separate teams, I believe, and so I
24 was -- when my supervisor asked me to fill those dates,
25 I had -- I was not on-call those dates, so it's easier

HEARING

1 for me to accept those dates and it didn't impact my --
2 my other time. So it's on -- there are -- so there
3 could be instances where there could be additional time
4 available for the person.

5 I believe in the last two years, primarily
6 when a person would -- had to give up time, they had to
7 give that time to your -- the supervisor, and they would
8 put that on the seniority list, and they would go down
9 the seniority chart to distribute that, and it was up to
10 the individual person if they could accept it without
11 prior commitments. So there was that for distributing
12 time.

13 BOARD MEMBER GORDON: There was that for what
14 again?

15 MR. PRICE: What's that?

16 BOARD MEMBER TELLES: There was that for
17 what -- you said --

18 BOARD MEMBER RODRIGUES: Your last sentence.
19 (Simultaneous cross-talk.)

20 BOARD MEMBER TELLES: For distributing time.

21 MR. PRICE: To distribute time there was a
22 seniority list for -- that the -- my supervisor provided
23 for that.

24 Is there questions?

25 CHAIRMAN PHILLIPS: Any questions for

HEARING

1 Mr. Price?

2 BOARD MEMBER GORDON: No. But thank you for
3 clarifying the group counseling session --

4 MR. PRICE: One other -- well, as far as being
5 mandatory, when I first started being on-call, I was
6 actually a Hazard Material Technician.

7 At the time Jim Hadam (phonetic) went out on
8 back injury -- and that was 2001, I believe -- Lew
9 Pascalli, who was the director at the time, assigned me
10 that position. At the time only Hazardous Materials
11 Specialists could be in that position, so -- but because
12 I was a technician, he assigned me that position. So
13 it's pretty much been a -- you had to be assigned -- or
14 you were assigned on-call. So...

15 BOARD MEMBER HAST: With regard to the
16 seniority list --

17 MR. PRICE: Yes.

18 BOARD MEMBER HAST: -- is it on-call --
19 additional on-call hours are sought after, I assume, so
20 the more senior people are at the top of the list --

21 MR. PRICE: No. It goes -- well, it goes
22 by -- it goes by years of service and just rotates
23 through. So it's -- you know, you start at the top of
24 the list with seniority, and then it just rotates
25 through, and then it gets back to the top as -- as it --

HEARING

1 whether you accept it or not.

2 BOARD MEMBER HAST: Now, to be on -- to be on
3 this list, do you voluntarily --

4 MR. PRICE: No. Everybody that was on the
5 team was on that list.

6 BOARD MEMBER RODRIGUES: If somebody gives it
7 up, does it automatically go to the next person?

8 MR. PRICE: Yes.

9 BOARD MEMBER RODRIGUES: So you don't get a
10 second chance --

11 MR. PRICE: Yes. Yes.

12 And, like I said, for myself, I was not
13 planning on retiring until August 2017. And with --
14 with PEPRA, it put the uncertainty in for myself. I did
15 not maximize my hours. I was still on Pay Grade 4. I
16 would have -- I should have worked another 15 months
17 before I retired, so that's...

18 BOARD MEMBER GORDON: Thank you.

19 CHAIRMAN PHILLIPS: Thank you.

20 (Indiscernible.)

21 CHAIRMAN PHILLIPS: I think right after this
22 speaker.

23 Mr. Jerry Yoshioka.

24 MR. YOSHIOKA: Yoshioka.

25 Not that I want to be offensive or anything,

HEARING

1 but, Wrally, you're sick, and I'm going to -- for
2 Mother's Day, I'm seeing my 94-year-old mother this
3 Sunday, so I --

4 MR. DUTKIEWICZ: I thoroughly understand.

5 MR. YOSHIOKA: It doesn't take much.

6 STATEMENT BY MR. YOSHIOKA

7 MR. YOSHIOKA: My name is Jerry Yoshioka. I'm
8 a retired Hazardous Materials Specialist. My employee
9 number is 55631. My presentation will respond to
10 CCCERA's recommendations regarding my pension.

11 However, first I must ask: Is CCCERA saying
12 that fraud was committed? I ask this since at a
13 previous meeting I attended there was some loose talk
14 using the term by some of the board members.

15 There was no fraud.

16 I would also like to preface the rest of my
17 presentation with this statement: Throughout what
18 became my final several years, it was not my intention
19 to retire at the time of my actual retirement in March
20 of 2014.

21 With the new pension laws, I can't say I
22 hadn't thought about retirement. I just wasn't ready.
23 I loved my job. My wife was planning on working for
24 several more years, and I was actually afraid of
25 retiring. There were those stories about county workers

HEARING

1 dying within a few years after retirement. So actually
2 retiring was a scary thing that I was putting off.

3 The ultimate decision to retire was based on
4 my health. My blood pressure had become dangerously
5 high in the beginning of 2014. Additional medicines
6 were not controlling it. My wife, my doctor, and I made
7 the decision at that time it was time to leave.

8 Now I will address the assumptions that
9 Mr. Dutkiewicz cited in his May 4, 2016, memo to the
10 CCCERA board to support his recommendation that you
11 consider and take possible action to determine that
12 Hazardous Materials Specialists were paid excess on-call
13 compensation.

14 I will use the generic term "the County" in
15 the place of naming management or specific managers.

16 On page 8 of Mr. Dutkiewicz's May 4, 2016,
17 memo, he suggests that the Board take possible action
18 based on the assumption that some Hazardous Materials
19 Specialists performed voluntary non-required work that
20 was beyond the average on-call hours performed by other
21 HMS II's during the same pay period.

22 That assumption is inaccurate and fails to
23 take certain facts into account.

24 My agreement to work when asked to do so
25 doesn't make the on-call work voluntary. I came to the

HEARING

1 county in 1997 in order to be on the Hazmat Team. I was
2 a professional, and I took my duties and
3 responsibilities as a team member seriously. When there
4 was a need to cover more shifts, the county came to me
5 and other experienced senior staff and asked us to cover
6 this required work. I agreed to work when I was asked.

7 The county has provided the Board with
8 statements of previous meetings, as well as written
9 responses to Mr. Schneider's questions that establish
10 that the on-call time was not voluntary; it was required
11 work. I have included the county's response to some of
12 Mr. Schneider's questions in Attachment 1.

13 During what became my final year, all HMS II's
14 in my pay grade were performing on-call. During my
15 employment with the county, there was no way for me to
16 know the number of on-call hours for the rest of the
17 team members. We did not sit around the table and
18 compare hours; however, the county knew the numbers
19 since the county made the on-call assignments. The
20 county reviewed the on-call calendars and the county
21 approved the time sheets.

22 No one from the county or CCCERA told me that
23 my on-call hours were above the average or what the
24 average was or what the average numbers should be.

25 Most important is the fact that the on-call

HEARING

1 was not voluntary. My on-call duty work was required
2 work and all in my pay grade worked on-call during my
3 last several years.

4 Next, on page 8 of the May 4 memo,
5 Mr. Dutkiewicz suggests that the Board should take
6 possible action to exclude what he calls excess on-call
7 pay based on the improper assumption that some Hazardous
8 Materials Specialists caused an improper increase in
9 their final compensation.

10 The county was responsible for the shortage of
11 staff due to lack of planning, tedious hiring practices,
12 and a lack of trained staff that caused my on-call hours
13 to be increased in order to meet the needs of the
14 county. I did not cause an improper increase in my
15 final compensation. I did not cause a shortage of team
16 members which caused my hours to rise.

17 My on-call hours increased as I recovered from
18 an injury, which is not improper. In Attachment 2 you
19 can see that my hours increased at the end of 2012 after
20 I was medically cleared from a workers' comp injury
21 which occurred in late 2009. I have the workers' comp
22 letter in there, but Wrally informed me that they were
23 taking it out. This increase in time corresponded with
24 the recent retirement of several team members who had
25 retired.

HEARING

1 Also included is an email from the county
2 indicating the distribution of open shifts. This is in
3 Attachment 2. There's nothing improper on my part about
4 that situation.

5 I did not set the payroll codes, and I did not
6 determine which hours were pensionable and which were
7 not. The county provided me with one pay code for all
8 on-call hours. No one from the county or CCCERA told me
9 this hour was pensionable and that hour was not, and
10 there was no way to record it either way. You had one
11 pay code.

12 In Attachment 3 is a graph of the percent
13 increase by team members in my pay grade who worked the
14 full time period in what became my final year.
15 Conservatively, the average was a 30 percent increase
16 over the previous year.

17 I also have two additional graphs showing the
18 total of all HMS II's in the same pay grade for the
19 final year and the year prior.

20 By the way, I'm No. 9. I call your attention
21 to Employee No. 10, who has similar hours for both years
22 and that person had not retired. This would be in
23 the --

24 MR. DUTKIEWICZ: Is this in the handout?

25 MR. YOSHIOKA: Yeah. It has a paper clip,

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1 yeah.

2 That was in Attachment 3.

3 I did not cause the conditions which increased
4 my final compensation. I did not create the county's
5 practice to trade on-call duty. Trading on-call shifts
6 has been an approved practice by the county even before
7 I was hired in 1997.

8 Attachment 4 is an early departmental policy
9 titled "Incident Response Team Scheduling," written by
10 then-director Lewis Pascalli; also an email from the
11 county stating to trade on-call shifts. Trading was
12 allowed and approved. From what I understand, trading
13 shifts is a common practice amongst emergency services
14 in order to maintain sufficient staffing. Also in that
15 email is the requirement to trade but also the threat
16 that if you did not find an adequate trade the county
17 would take back the time and resign it.

18 Once again, not only did the county approve
19 the practice of trades, it was a requirement.

20 Attachment 5 is a copy of one of the on-call
21 calendars that was contained in the syllabus I received
22 on April 1. I have circled days in which the county has
23 assigned individuals twice on the same shift. The
24 county required me to make trades. Beginning around
25 2010, the County began to require each on-call team

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1 member to check in by radio at 8:00 a.m. and 5:00 p.m.
2 so the county could verify the on-call calendar.

3 Before my retirement was approved, the county
4 gave Mr. Schneider the on-call calendars and the county
5 answered his questions. Mr. Schneider was aware of the
6 practice to trade on-call duty when he approved my
7 retirement. Had there been a problem, I would have
8 hoped Mr. Schneider would have worked with the county to
9 develop solutions prior to my retirement.

10 The county allowed trades and required trades
11 before I was hired and also during my employment with
12 the county. Following the county's practices, I traded
13 on-call duty. However, until early 2014, I had not
14 decided on retirement, and I did not trade on-call duty
15 for the purpose of enhancing my retirement.

16 At the December 2014 meeting I asked the Board
17 to evaluate my pension individually as the law required.
18 The contents of the syllabus I reserved from CCCERA
19 establishes that my pension has not been evaluated
20 individually. My situation has been lumped together
21 with every other retired Hazardous Materials Specialist,
22 even though our situations are all different.

23 In the May 4 memo, on page 6, under Section D,
24 the second test was the comparison of my time with all
25 HMS IIs on-call. I believe if there is to be a

HEARING

1 comparison, the comparison should have been with those
2 HMS II's in the same pay grade during my time period.

3 The number 63.69 was used in my case. My
4 research shows that the average on-call hours for those
5 in my pay grade during that period of time was
6 approximately 70 hours per month.

7 And why was I even included?

8 My pension was evaluated by CCCERA under the
9 January 1, 2013, evaluation criteria. According to
10 CCCERA staff, a review of three years was conducted.

11 Attachment 6 is a graph of my on-call hours
12 over the last six years along with the policy status
13 report from Mr. Schneider and the CCCERA policy. CCCERA
14 staff saw that my increase in the prior year was --
15 corresponded with the increased need caused by the loss
16 of team members and found no enhancement in the final
17 year. My file was forwarded to Mr. Schneider, and
18 Mr. Schneider recommended approval of my pension to the
19 Board. I was approved by the Board on June 11th, 2014.
20 In fact, Mr. Schneider signed the check on June 1st,
21 2014.

22 CHAIRMAN PHILLIPS: Mr. Yoshioka, just to let
23 you know, you're over your ten. If you would attempt
24 to --

25 MR. YOSHIOKA: Yeah. I've got half a page.

HEARING

1 CHAIRMAN PHILLIPS: I'm sorry?

2 MR. YOSHIOKA: Half a page left.

3 CHAIRMAN PHILLIPS: All right.

4 MR. YOSHIOKA: Okay. I'll just try to speed
5 through it.

6 CCCERA's evaluation of my pension and the
7 criteria used to conduct it must be considered in your
8 decision.

9 In conclusion, there has never been any --
10 never been voluntary on-call. All the on-call duty I
11 worked was required work.

12 I did not create the county's policies and
13 practices, but I followed them. I did not create the
14 on-call schedules or the trade systems. I did not
15 create the pay codes. I was not authorized to approve
16 payroll. I did not cause an increase in my final
17 compensation.

18 As I stated previously, I had intended to work
19 much longer; how long, I did not know. It was not my
20 intent to enhance final compensation because it was not
21 my intent to retire at that time.

22 You assume to know when I decided to retire.
23 You assume to know my intent for working on-call. As
24 I've shown in the graphs in Attachment 3, there was an
25 approximate 30 percent increase of hours from the

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1 previous time period for all in my pay grade. There was
2 an individual listed as No. 10 who had similar hours as
3 mine in the final time period and that employee did not
4 retire.

5 Why would you assume I had an improper intent
6 to enhance my retirement based on my hours when the
7 hours of an employee who did not retire were comparable
8 to mine during the last two years?

9 And I ask, what should I have done differently
10 to avoid being here?

11 I hope you take all this into consideration,
12 and I hope I can maintain my pension.

13 Thank you.

14 CHAIRMAN PHILLIPS: Do you have any questions?

15 BOARD MEMBER TELLES: I keep coming back to
16 the question whether or not your participation in the
17 IRT was required, because as I look back at the
18 Hazardous Materials Specialist II job description
19 nothing says that you were required to participate.

20 I understand it was needed, but as far as the
21 job description goes, it doesn't say you were required
22 to.

23 MR. YOSHIOKA: It's -- it's -- beyond the
24 duties and responsibilities, it's economics.

25 BOARD MEMBER TELLES: But it actually says,

HEARING

1 "May serve as a member."

2 MR. YOSHIOKA: Right, "may serve," but
3 everybody was sort of forced to be on-call.

4 BOARD MEMBER TELLES: So that should be
5 changed?

6 MR. YOSHIOKA: Yeah.

7 BOARD MEMBER TELLES: I mean, if that's the
8 case, if every Specialist II in Hazardous Materials --

9 MR. YOSHIOKA: I -- I understand that, you
10 know, during a, like, ten-year period there were no
11 raises. In fact, in the recession we gave back
12 5 percent and, you know, we took all the health
13 increases. And during my time here, I've paid between
14 19 to 27 percent into the pension.

15 You had to work on-call. So it was a
16 mandatory thing in order to pay bills, because if you --
17 if you calculate everything out, we probably make less
18 than Solano County, maybe on par with maybe San Joaquin
19 because of the high pension contribution and the medical
20 that we pay.

21 BOARD MEMBER TELLES: But, again, during your
22 time on the IRT, were there any Specialists II who did
23 not participate?

24 MR. YOSHIOKA: No.

25 BOARD MEMBER TELLES: Everybody participated?

HEARING

1 MR. YOSHIOKA: Which periods of time?

2 BOARD MEMBER TELLES: Any time that you were
3 on the IR team, was there anybody that never
4 participated? Or at one point during your time, there
5 was a Specialist II out there that never participated or
6 did not participate at the same time you did, let's put
7 it that way.

8 MR. YOSHIOKA: Yes.

9 BOARD MEMBER TELLES: Okay.

10 MR. YOSHIOKA: But as the staff dwindled --

11 BOARD MEMBER TELLES: Right.

12 MR. YOSHIOKA: -- we were forced to.

13 BOARD MEMBER TELLES: Sure. I could see
14 that --

15 MR. YOSHIOKA: When I retired, there were nine
16 people who were on-call covering 18 spots, so...

17 BOARD MEMBER TELLES: The question begs,
18 though, should that change the status, then, of the
19 on-call pay to something mandatory because you are
20 limited in staff.

21 MR. YOSHIOKA: But see, that's
22 management/union.

23 BOARD MEMBER TELLES: Right.

24 MR. YOSHIOKA: You know, I'm a grunt -- I was
25 a grunt. You know, I don't make decisions.

HEARING

1 BOARD MEMBER TELLES: Right. Right.

2 MR. YOSHIOKA: And at that time -- is anybody
3 from Local 1 here?

4 Bad -- bad union. Really bad. You know,
5 that's the truth.

6 UNIDENTIFIED SPEAKER: Could you repeat the
7 amount that you paid for your pension? I didn't quite
8 hear you.

9 MR. YOSHIOKA: Between 19 to 27 percent into
10 the pension fund --

11 UNIDENTIFIED SPEAKER: Mandatory?

12 MR. YOSHIOKA: -- and, you know, I had no say.

13 CHAIRMAN PHILLIPS: Thank you.

14 MR. YOSHIOKA: Thank you.

15 CHAIRMAN PHILLIPS: This concludes the Board's
16 representation.

17 We have one more speaker that is also one of
18 those impacted by today's deliberations, and then we'll
19 take a moment to consider a quick motion and then break.
20 With that --

21 UNIDENTIFIED SPEAKER: Are we going to take a
22 motion on this and then break, or break and then --

23 CHAIRMAN PHILLIPS: It's Mike Wedl? Wedl?

24 MR. WEDL: Yeah, Wedl.

25 CHAIRMAN PHILLIPS: Wedl.

HEARING

1 MR. WEDL: Yeah.

2 CHAIRMAN PHILLIPS: I'm sorry.

3 Would you like to --

4 MR. WEDL: And I will make this brief. I'm
5 hungry myself.

6 STATEMENT BY MR. WEDL

7 MR. WEDL: Now, I was the very last to retire
8 of this group, and by the time I retired, like Jerry
9 said, there were nine Hazmat Specialists II covering 19
10 spots, and management was trying to cover those spots
11 with the nine of us. And at times they would assign us
12 to be on-call twice in one day, and it was up to us to
13 cover that and make the changes.

14 My intention wasn't to retire when I did. I
15 had planned to work a couple more years because I had
16 reciprocity with CALPERS and that reciprocity -- it
17 would have been better for me to retire at 55, but as
18 the judge was making his decision it basically forced me
19 to retire when I did, at the end of this day.

20 So I believe you're voting on whether to take
21 away the three months' worth where my numbers were
22 higher. I believe those numbers were higher because of
23 the shortage of staff and that -- at the time I felt I
24 was doing a service to the county by stepping up and
25 taking the on-call that was being offered to me, and I

HEARING

1 feel that I should be paid that extra amount.

2 Thank you.

3 CHAIRMAN PHILLIPS: Thank you.

4 UNIDENTIFIED SPEAKERS: Thank you.

5 BOARD MEMBER GORDON: Mr. Chairman, at this
6 point we've digested a lot of information, heard a
7 lot -- I know there are other people who want to
8 testify, but we've heard from, I think, all the retirees
9 present who were mentioned in the staff report.

10 I'm going to move that we table this item for
11 a further discussion at a meeting to be determined and
12 that, in the interim, we fully digest what we've heard
13 so far and get additional advice from counsel because
14 we've heard several references to potential litigation
15 here, and schedule this as soon as practicable for
16 further discussion in a public meeting.

17 But I move that we continue the item from
18 today.

19 UNIDENTIFIED SPEAKER: Could I speak for two
20 minutes? My name's on there.

21 CHAIRMAN PHILLIPS: I -- I know your name's on
22 there, but not as a -- I'm reluctant to take more time.
23 It's after lunch. All public are allowed to speak, but
24 not right now.

25 BOARD MEMBER SMITHEY: Does Counsel have

HEARING

1 anything --

2 MS. LEVY: I'd like to know, is there anybody
3 on behalf of the employer that would like to make any
4 statements today or public comments before a decision is
5 made?

6 UNIDENTIFIED SPEAKER: The County has no
7 additional information to present.

8 CHAIRMAN PHILLIPS: Is there a second to the
9 motion?

10 (Simultaneous cross-talk.)

11 BOARD MEMBER ANDERSEN: I've got to agree with
12 the direction we're going. I have some serious concerns
13 about -- about what we have heard today and wanting us
14 to, in a closed session study, be able to discuss some
15 potential pending litigation issues before we move --
16 move forward.

17 CHAIRMAN PHILLIPS: Yes.

18 BOARD MEMBER ANDERSEN: So --

19 CHAIRMAN PHILLIPS: The comments before this
20 board for discussion --

21 (Simultaneous cross-talk.)

22 BOARD MEMBER RODRIGUES: A couple were out, so
23 could you repeat the motion.

24 BOARD MEMBER GORDON: The motion was to table
25 the item for further discussion at a meeting to be

HEARING

1 established, and in the interim receive additional
2 advice from counsel given that we had several identified
3 threats of litigation, and then schedule this as soon as
4 practicable thereafter for another public meeting at
5 which point we can make any final decisions on how we're
6 going to proceed.

7 So, essentially, continue the item from today.

8 BOARD MEMBER RODRIGUES: Did you get a second
9 to that.

10 BOARD MEMBER TELLES: We did, and a third.

11 CHAIRMAN PHILLIPS: Any further -- oh, Harvey?

12 MR. LEIDERMAN: Mr. Chairman and maker of the
13 motion and the second, would you like to reconvene in
14 closed session before voting on this motion to table?

15 BOARD MEMBER RODRIGUES: I -- I would. In
16 other words, could we get it done today if we do so.

17 MR. LEIDERMAN: It may impact whether you
18 table or how you handle that or when you schedule --

19 CHAIRMAN PHILLIPS: I'm certainly prepared to
20 do that.

21 BOARD MEMBER RODRIGUES: I think -- with
22 everybody being here and the audience, I think it would
23 be good to get it done today.

24 CHAIRMAN PHILLIPS: All right. At this point,
25 we will adjourn the public meeting, go into closed

HEARING

1 session --

2 UNIDENTIFIED SPEAKER: And then come back and --

3 CHAIRMAN PHILLIPS: Do we need to vote on
4 that? Is that something we have to --

5 MR. LEIDERMAN: You could do it as a chair.

6 CHAIRMAN PHILLIPS: I can.

7 So let's reconvene to closed session now.

8 (Recess from 1:21 p.m. until 1:57 p.m.)

9 CHAIRMAN PHILLIPS: We can resume.

10 At our break to go into closed session, we had
11 a motion and a second on the floor. We began the
12 discussion; we went into closed session to discuss legal
13 advice.

14 Any further discussion --

15 UNIDENTIFIED SPEAKER: I was going to make a
16 substitute motion that we take no action and do not
17 reduce the benefits of the members in question.

18 Thank you.

19 BOARD MEMBER HAST: Just one -- one comment.

20 Although Mr. Andrews was not on today's
21 agenda, he was mentioned in the report. If we do vote
22 to take no action with regards to the eight or ten
23 members in today's report, I believe that the same
24 action should be taken with regard to Mr. Andrews and
25 restore his --

HEARING

1 UNIDENTIFIED SPEAKER: Amen.

2 BOARD MEMBER HAST: But I'm not sure if we
3 could do that because he wasn't an agenda item today.

4 BOARD MEMBER GORDON: Which speaks in favor of
5 the original motion, which is to continue the item to
6 get additional legal advice and schedule this as soon as
7 practicable at the next available public meeting to
8 handle this position.

9 I think we have additional items to discuss,
10 so that would, to me, vote in favor of the original
11 motion in favor of --

12 (Simultaneous cross-talk.)

13 BOARD MEMBER GORDON: With all due respect.

14 BOARD MEMBER RODRIGUES: No, I know. I don't
15 take it personal.

16 BOARD MEMBER STROHL: And -- and I would
17 prefer to go with Scott in this, as well. I think there
18 are some outstanding legal issues that need discussing
19 in both sessions, and I would like to have it brought
20 back --

21 CHAIRMAN PHILLIPS: First, let me ask: Is
22 there any desire of the maker of the second to
23 substitute motion to withdraw?

24 BOARD MEMBER RODRIGUES: No.

25 CHAIRMAN PHILLIPS: Okay. We have a

HEARING

1 substitute motion that's been moved and seconded.

2 I have been asked to do this more formally for
3 the formal record, so I'll run down names and ask for
4 your vote here today.

5 BOARD MEMBER TELLES: On the original motion
6 or on the substitute motion?

7 (Simultaneous cross-talk.)

8 MR. LEIDERMAN: Mr. Chairman, you may call for
9 public comment on the motion after the Board has
10 indicated their position.

11 CHAIRMAN PHILLIPS: Before the vote?

12 MR. LEIDERMAN: Yes.

13 CHAIRMAN PHILLIPS: Is there public comment on
14 the motion?

15 BOARD MEMBER HOLCOMB: The substitute motion?

16 CHAIRMAN PHILLIPS: I'm sorry, the substitute
17 motion at this point.

18 Gabe, do you have something you want to say?

19 BOARD MEMBER RODRIGUES: Yeah, that we take no
20 action and that we do not reduce the pension benefits of
21 the ten members in question.

22 CHAIRMAN PHILLIPS: Okay. Which has been
23 seconded by Todd.

24 All right. No public comments?

25 MR. YOSHIOKA: A comment? My name is Jerry

HEARING

1 Yoshioka.

2 I hope you vote for the substitute motion. I
3 pray that you do.

4 CHAIRMAN PHILLIPS: Okay. Allen?

5 BOARD MEMBER ALLEN: Substitute motion? No.

6 CHAIRMAN PHILLIPS: Andersen?

7 BOARD MEMBER ANDERSEN: No.

8 CHAIRMAN PHILLIPS: Gordon?

9 BOARD MEMBER GORDON: No.

10 CHAIRMAN PHILLIPS: Hast?

11 BOARD MEMBER HAST: I support the substitute
12 motion, but I'm going to vote no at this time until we
13 get Mr. Andrews on the agenda at the same time.

14 CHAIRMAN PHILLIPS: Kroll?

15 BOARD MEMBER KROLL: I don't vote.

16 CHAIRMAN PHILLIPS: Oh, I'm sorry.

17 Phillips, no.

18 Rodriguez?

19 BOARD MEMBER RODRIGUES: Yes.

20 CHAIRMAN PHILLIPS: Smithey.

21 BOARD MEMBER SMITHEY: Yes.

22 CHAIRMAN PHILLIPS: Telles?

23 BOARD MEMBER TELLES: Yes.

24 CHAIRMAN PHILLIPS: Watts?

25 BOARD MEMBER WATTS: No.

HEARING

1 CHAIRMAN PHILLIPS: All right. So we are back
2 to the original motion.

3 Do you want to restate the original motion?

4 BOARD MEMBER GORDON: Yes, that we continue
5 the item to a further hearing and to receive additional
6 legal advice in the interim, after which we would set
7 the matter for hearing as soon as practicable at our
8 regularly-scheduled public meeting and take final action
9 at that time.

10 CHAIRMAN PHILLIPS: Allen?

11 BOARD MEMBER HAST: And that actually would
12 also include Mr. Andrews --

13 (Simultaneous cross-talk.)

14 BOARD MEMBER GORDON: Yes. Certainly.

15 CHAIRMAN PHILLIPS: Andersen?

16 BOARD MEMBER ANDERSEN: Yes.

17 CHAIRMAN PHILLIPS: Gordon?

18 BOARD MEMBER GORDON: Yes.

19 CHAIRMAN PHILLIPS: Hast?

20 BOARD MEMBER HAST: Yes.

21 CHAIRMAN PHILLIPS: Phillips? Yes.

22 Rodriguez?

23 BOARD MEMBER RODRIGUES: Yes.

24 CHAIRMAN PHILLIPS: Smithey?

25 BOARD MEMBER SMITHEY: Yes.

HEARING

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CHAIRMAN PHILLIPS: Telles?

BOARD MEMBER TELLES: Yes.

CHAIRMAN PHILLIPS: Watts?

BOARD MEMBER WATTS: Yes.

CHAIRMAN PHILLIPS: It's unanimous.

All right. So the original motion passes
unanimously.

(Hearing concluded at 2:02 p.m.)

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REPORTER'S CERTIFICATE

I, CONNIE MARTIN DUNNE, a Certified Shorthand Reporter, hereby certify that I was appointed to act as stenographic reporter in the above-entitled proceedings; that I reported the same in stenotype and thereafter had transcribed the same as appears by the foregoing transcript; that said transcript is a full, true and correct statement of the proceedings and evidence in said matter to the best of my ability.

I FURTHER CERTIFY that I am not of counsel or attorney for either or any of the parties in the foregoing hearing and caption named or in any way interested in the outcome of the cause named in such caption.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my signature this 13th of October, 2016.



Connie Martin Dunne
CSR 6245, RPR
State of California

Response to February 8, 2017 Memo
Neal Price



January 24, 2017

Contra Costa County Employees' Retirement Association
Att: Wrally Dutkiewicz
1355 Willow Way, Suite 221
Concord, CA, 94520

Re: Includable Compensation for Retirement Purposes

Mr. Dutkiewicz

This correspondence is to confirm that I did use compensatory time off from July 2007 to December 2010. I utilized this compensatory time to complete my college education that was completed in 2009. This college degree was required so that I could advance from Hazardous Materials Technician to Hazardous Materials Specialist. After receiving my degree, I should have changed this and not have waited until 2010. I did contribute to my on-call (D33) retirement prior to July 2007. The majority of this compensatory time off was utilized while I was employed as a Hazardous Materials Technician.

Very Respectfully

A handwritten signature in blue ink, appearing to read "Neal Price", written over a horizontal line.

Neal Price

Response to February 8, 2017 Memo
Scott Hanson

January 26, 2017



TO: CCCERA Board of Retirement
FROM: Scott A. Hanson

Procedural History

Mr. Dutkiewicz seems confused about the procedural history and the Board's action on this controversy. I would like to take this opportunity to clear up that confusion. On May 4, 2016, the Board did continue this item with instructions to staff to provide additional legal advice and to "definitely include Mr. Andrews". The Feb. 8, 2017 Memorandum from Mr. Dutkiewicz to CCCERA Board of Retirement, is neither legal advice nor does it include Mr. Andrews. It is obvious that staff did not follow the Board's instructions.

One of two things occurred.

1. Mr. Dutkiewicz went rogue, without direction from the Board, did unauthorized work, spent association money and attempt to answer a question that no one asked.
2. Someone from this Board instructed Mr. Dutkiewicz to do it. A likely violation of the Brown Act.

The Feb. 8th memo is a complete change of course. It should have been put on the agenda in a discussed public forum.

Rule of Law

"The member caused his or her final compensation to be improperly increased or otherwise overstated at the time of the retirement and the system applied that overstated amount as the basis for calculating the member's monthly retirement allowance or other benefits under this chapter."

Mr. Dutkiewicz tries to confuse something that appears unusual with improperly.

This language is far too vague to support the heavy handed and draconian actions proposed by Mr. Dutkiewicz. Would this include any causation where there was no intent or even knowledge by the HMS?

In his attempts to argue that I caused improper increase in my final salary, Mr. Dutkiewicz repeatedly discusses unusual increases almost to the exclusion that I caused anything improper with my final annual salary. In the entire May 8th, 2016 memo Mr. Dutkiewicz never argues that

I caused an improper increase only that in his opinion, something appears unusual. The report from Segal Consulting continues and confirms this. It discusses alleged unusual increases. Nowhere does it say that any increase is improper.

MY LUNCH WITH MELVIN BELLI

Many years ago, when I was an inspector at the BAAQMD, I was subpoenaed to testify at a civil trial. It seems that one of Mr. Belli's client's ex-husband was attempting to kill her, by forcing her to live in an old mansion in Sea Cliff. The insulation on the furnace contain asbestos which rendered the place not only unfit for occupancy, but dangerous. I finished early and the Court was adjourned for hours. Mr. Belli offered to buy me lunch.

Mr. Belli was generous with his knowledge. Lunch discussion included torts, negligence and fraud. Fraud is deliberately presenting something to be a fact when you know it is not. He also said, in any written instrument any ambiguity is to be construed against the writer of the instrument or the person trying to use that instrument to effect a change.

Mr. Dutkiewicz wants to use the written code to effect a change. Does CCCERA need a trial court to tell them that someone's perception of what might appear to be an unusual increase is not the same as a person that "caused something to be improperly done". Unusual and improper mean different things. Nowhere in this document did Mr. Dutkiewicz point out that I did anything improper. Only that in his opinion something appears unusual.

ATTACHMENT F, DISCUSSION

This situation involves a member resigning. As IR scheduled is written six months in advance these on-call shifts were not filled. Mr. Morioka clearly states in this memo that he, Mr. Morioka, will be assigning the on-call time to specialists. Mr. Dutkiewicz obviously does not understand what this memo says. Clearly specialists cannot self select for on-call shifts as Mr. Dutkiewicz constantly asserts.

ATTACHMENT G, A TIMESHEET AND A CORRECTION

Mr. Dutkiewicz provides this timesheet as evidence that specialists had the ability to increase their on call time. But this example shows it is not so. This timesheet was turned in before the pay period because timesheets are required to be turned in before the last day of that timesheet period. On Feb. 15th, the end of the pay period, also President's Day holiday, this person was scheduled to work on call from 8 am to midnight. In his timesheet correction he indicated that he wanted to get this paid as Holiday Time (TIMESHEET CORRECTION FORM) because this day was President's Day. On the TIMESHEET - it clearly showed that the correction caused 4 hours of comp time to be **reduced** to 2 hours and 52 minutes.

This person was on call from 8am to midnight on Feb. 15th, which was a holiday. He normally would have gotten paid for 4 hours of comp time, if he never had to go to an incident response

(IR) during this period. However, on that day he got called out on an incident response from 7:30 pm to midnight. His TIMESHEET CORRECTION form clearly states that he took 4 ½ hours as holiday pay. And looking at the TIME SHEET CORRECTION form there was a notation “**2/15 NOTE REDUCTION OF ONCALL HOURS**”.

In other words, when he got called out at 7:30 p.m., he stopped accruing comp time. His 4 hours of comp time was changed to 2 hours 52 minutes, a loss of comp time of 1 hour and 8 minutes. The reduction of comp time was because he was called out to an incident response.

Mr. Dutkiewicz’s thesis here is that this is an example a specialist can improperly increase their on call time. Unfortunately for Mr. Dutkiewicz, the example that Mr. Dutkiewicz provided proves the opposite. It clearly shows a reduction in comp time pay, most definitely this HMS did not manipulate this system to increase his on call time. Any such “manipulation” did the opposite.

ATTACHMENT D, CHART 3

Mr. Dutkiewicz does not approve of the circumstances and timing of my parents’ deaths.

Towards the end of his life my father was suffering from several health conditions, including kidney failure and on dialysis and early onset Alzheimer’s. I elected to take all my on call time as comp time so that I can visit my parents, 3 or 4 times a year, usually for 3 weeks per visit. The flexibility of the IR schedule allowed for this. The peaks and valleys in Chart 3 reflects this. When I was working I was usually on call. When I was visiting my parents in North Dakota I was not on call. My father passed away Oct. 2009. I switched from overtime to comp time pay for two reasons. I didn’t need to go visit my father anymore and I turned 50 that month. I wanted to take advantage of the over 50 catch up provisions of our deferred compensation plan. I used the on call compensation to pay for this. My mother became sick in the winter of 2010 and she passed away in March of 2011. And the chart indicates, at that time, there was a significant drop in my on call earnings caused by my visits to my mother. When I returned to on call in April 2011, HazMat was down by at least 2 people and more on call shifts were available to be assigned due to retirement. Also, note that in my final annual salary, I retired on February 2012, I was not on call March 2011. I was only on call eleven of the twelve months. If I was really going to scam the system on my final year why would I have skipped one month of on call time entirely. I could have worked the month of March 2012 and accrued additional 1/12 or about 8% of comp time pay.

It would have been very difficult to work at Hazmat had it not been for the flexibility in on call and scheduling. In my final year I worked many on call hours during the summer and November and December holidays and not so much in the fall and spring. This was due to colleagues with children wanting more family time during the summer and holiday periods. Without this flexibility it would have been impossible for single women who was the sole provider for her children to join the Hazmat team. The effect would be illegal discrimination based on gender and family status. Most Americans would find this sort of discrimination,

based on gender and/or family status offensive and outrageous. Mr. Dutkiewicz is entitled to feel this is acceptable if he wants to.

One final observation about this chart, we were allowed to accumulate 120 hours in our comp bank. A three week trip to visit my parents would have exhausted 120 hours in my comp bank. When I returned to work the first 120 hours earned of comp time would have gone into filling my comp bank. Only after that 120 hours would we be paid for excess comp time. The chart ignores the first 120 hours. If these hours were included, as it should be, the chart would reflect a different reality. If I visit my parents 3 or 4 times a year for 3 weeks, that is 360-480 hours of leave that would have been exhausted. Some of this time would have been vacation and holiday. Just as a guess perhaps 300 - 350 hours of comp earned is not in this chart in the year preceding my final year. Giving the false impression that I greatly increased my final year of on call hours.

2016 SACRS SPRING CONFERENCE

In what can only be described as a waste of CCCERA resources, CCCERA sent Mr. Dutkiewicz to the 2016 SACRS conference. I'm at a loss to why people would even listen to anything he says but they did. In a power point presentation, he made regarding "COMPENSATION EARNABLE", Mr. Dutkiewicz indicates that Stanby or Oncall pay requires individual assessment. Neither I, or any other HazMat specialist, received an individual assessment.

CCCERA COUNSELING CHECKLIST

1. **RETIREMENT DATE** – What is the best time for you? A personal decision.

This is a joke. Personal decisions are private matters, not to be debated in the proceedings of an agency, tape recorded and put on the internet. In making this decision I retired based on the best time for me. Now CCCERA says that is not a valid reason. CCCERA clearly believes this is most definitely subject to open public debate, false insinuations and is to be second guess years later. For example, when Mr. Dutkiewicz makes these completely unjustified and unsupported accusations that I caused inappropriate calculations, I am required to respond regarding my comp time use by revealing some of the most private details of my life. This is outrageous.

2. **YOUR MONTHLY BENEFIT** -

You should have an idea of what your monthly retirement allowance will be. The figure is based on your age, final average salary and years of retirement service (for each tier, if applicable) at retirement.

This of course is nonsense. For CCCERA, this is a semi final retirement calculation. The final calculation will be calculated by Mr. Dutkiewicz in secret using an undisclosed method without the knowledge or input of the member. So what we have here is perhaps or perhaps not, I may

CONTRA
COSTA
COUNTY **CCCERA**
Employees' Retirement Association

MINUTES

RETIREMENT BOARD MEETING MINUTES

REGULAR MEETING

May 4, 2016
9:00 a.m.

Retirement Board Conference Room
The Willows Office Park
1355 Willow Way, Suite 221
Concord, California

Present: Debora Allen, Candace Andersen, Scott Gordon, Brian Hast, Jerry Holcombe, Louie Kroll, John Phillips, William Pigeon, Gabe Rodrigues, Todd Smithey, Jerry Telles and Russell Watts

Absent: None

Staff: Gail Strohl, Chief Executive Officer; Karen Levy, General Counsel; Wrally Dutkiewicz, Compliance Officer; Christina Dunn, Administrative/HR Manager; Tim Hoppe, Retirement Services Manager; and Alexis Cox, Member Services Manager

Outside Professional Support:	Representing:
Harvey Leiderman	Reed Smith LLP
Susan Hastings	Laughlin, Falbo, Levy & Moresi LLP

1. **Pledge of Allegiance**

Kroll led all in the *Pledge of Allegiance*.

2. **Accept comments from the public**

Karen Bennett, retiree, stated she received a letter from CCCERA stating that the COLA on her account had been overpaid and that she would have to pay it back with interest. She stated she doesn't feel she is responsible because she didn't do anything to cause the overpayment and shouldn't have to pay the interest. She distributed a letter she wrote to CCCERA outlining her questions noting her concerns with the legality of paying back the overpayment as well as the tax ramifications for the years she was overpaid.

William Gregory, retiree, reiterated what Bennett said. He had no idea he was being overpaid. He asked what interest rate would be applied and also questioned the tax ramifications.

The Board felt this item needs to be on a future agenda very soon. Strohl stated there are 14 retirees that are affected and all 14 will be properly noticed of the meeting.

3. **Routine Items**

It was M/S/C to approve the routine items of the May 4, 2016 meeting. (Yes: Allen, Andersen, Gordon, Hast, Phillips, Rodrigues, Smithey, Telles and Watts)

CLOSED SESSION

The Board moved into closed session pursuant to Govt. Code Section 54957 and 54956.9(d)(2) to discuss Items 4 and 6. Item 5 will be discussed later in the meeting.

The Board moved into open session.

4. It was M/S/C to approve the Service Connected Disability for Rhonda Williams as recommended by the Hearing Officer. (Yes: Allen, Andersen, Gordon, Hast, Phillips, Rodrigues, Smithey, Telles and Watts)
5. This item was tabled for a future meeting.
6. There was no reportable action related to Govt. Code Section 54956.9(d)(2).
7. **Consider and take possible action to adjust the retirement allowance of CCCERA retired Hazardous Materials Specialists IIs pursuant to Government Code Section 31539 to exclude compensation improperly increased by the members.**

- a. Dutkiewicz reviewed the background of the lookback project that reviewed the past incidents of unusual compensation increases at the end of employment. He reviewed the department practice of how Hazardous Materials Specialists IIs were scheduled to work on-call hours during the period of 2006-2014. He reviewed how the records were kept by the department commenting on how shifts were scheduled and how employees were able to sign up for additional shifts or trade shifts. He reviewed the average monthly on-call hours during the Final Average Salary (FAS) period noting a consistent pattern that all active members on the Incident Response Team (IRT) increased their on-call hours during the FAS period as compared to the twelve month period immediately preceding it and the pattern repeated itself over and over. It was determined that some of the on-call shifts worked by the IRT members were on a voluntary basis above and beyond what was originally scheduled by the department and therefore were not required work of all Specialists IIs during the same time period and should be excluded from pensionable compensation on this basis.

Dutkiewicz reviewed his recommendations to determine that the excess on-call hours were voluntary, that the excess on-call pay was an improper increase in the members' final compensation caused by the member, obtained by signing up or trading for additional on-call hours in order to boost up the members' final compensation.

There was a lengthy discussion on whether the shifts were voluntary, how they were assigned, the requirements of having six members on the work schedule, and how the work schedules were traded and additional sign-ups were allowed.

- b. In public comment, Eric Jonsson, retired Hazardous Materials Specialist II, distributed a letter to the Board. He commented on an article from the Contra Costa Times stating he felt it was very misleading. He described how the on-call schedule was made and how changes were made to the schedule noting nobody ever changed the schedule on their own. He didn't feel the on-call shifts were voluntary as it is a state mandated program which was taken seriously. He stated he worked on-call the entire 21 years he was employed and that they were told their entire careers that on-call pay would go towards their FAS and were advised by CCCERA to be available in their last year to get as much on-call pay as they could. He asked why didn't anyone come and talk to them before and that this is very stressful to them.

Pigeon was no longer present for subsequent discussion and voting.

Gabriel Adebisi, retired Hazardous Materials Specialist II, worked for the County from 1994-2007, noted that on Table 2 on page 5 of the memo shows retirees compared to active employees average monthly on-call hours from 2006-2014 yet he retired in 2007 and he doesn't feel it is fair in his case to use statistics from when he was already retired. Dutkiewicz stated Table 2 is just the average from 2006-2014 but Table 3 on page 6 are the individual on-call averages compared to the average of all the rostered Hazardous Materials Specialist IIs that were active during each month of their FAS period. Mr. Adebisi again stated the statistics are not relevant to him personally.

Scott Hanson, retired Hazardous Materials Specialist II, referenced Tab 6, the MOU from October 1, 2008-June 30, 2011, the last sentence of section 9 states "Where on-call arrangements exist, the Department Head shall designate which employees are on-call" noting it is the Department Head that schedules the on-call. He also stated he has tried to get out of being on-call when he had plans but was not able to. He stated he was told during a group counseling session to make himself available to work on-call in order to maximize his on-call pay. He felt CCCERA encouraged working on-call and did not object to it until the newspaper article came out. He also felt they can't get a fair hearing by the Board. He stated all of his estimates included on-call pay and that it was CCCERA's job to review his retirement application.

Isaac Stevens, representing retiree Charles Nicolson, asked if Federal holidays were included in the total hours on Table 1. He stated his legal arguments were in the statement he sent to the Board last week. He commented the staff report asked the Board to determine if the hours worked were voluntary and caused an improper increase by Mr. Nicolson noting it does not apply in Mr. Nicolson's case, the hours were not voluntary. On-call hours had to be covered. He stated any department that has a mandate can't be voluntary. He stated Chart A doesn't show on-call hours but he did work them and they may have been coded incorrectly. He felt the number of hours showing as average for each employee during their FAS period varied wildly.

Neal Price, retired Hazardous Materials Specialist II, stated he retired in February of 2013 and was not going to retire until August of 2017 but retired earlier because of PEPRA. He attended group counseling and was advised by CCCERA staff to increase his accruals including on-call and call back pay. He stated he changed his retirement date and wasn't responsible for establishing the schedule. At the end of 2012 two people from other teams retired and he was available to fill those slots. He stated the supervisor had a seniority list and on-call was assigned.

Jerry Yoshioka, retired Hazardous Materials Specialist II, distributed a handout of his presentation. He stated he wasn't ready to retire but did in March of 2014 because of the new pension laws and changes in his health. He felt the statement on page 8 of the memo "that excess on-call compensation paid was for voluntary non-required work that was beyond the average on-call hours performed by other Hazardous Materials Specialists IIs during the same pay period" was inaccurate. Agreeing to work when asked to doesn't make it voluntary. He was a professional and took his duties and responsibilities seriously. During his final year, all HMS IIs in his pay grade were performing on-call work. He didn't know how many on-call hours others were working. The County was aware of the hours because they made the assignments, reviewed the calendars and approved the time sheets and they did not tell him his hours were above the average. The memo also suggests the excess on-call pay was an improper increase caused by the members. He didn't cause the increase, the County was responsible for the shortage of staff which caused the increase in on-call hours. He stated trading on-call shifts has been a common practice of the County since before he worked there. He did not create the County's policy on on-call pay, he did not cause an increase in on-call, and it was not his intent to increase his final compensation. His pension was not evaluated individually but lumped together with others even though their situations are all different. Trustee Watts asked if there was any time that Hazardous Materials Specialist IIs did not serve on the IRT. He said yes but when staff dwindled down they were required to be on the team.

Mike Wedl, retired Hazardous Materials Specialist II, stated there were 9 Hazardous Materials Specialist IIs covering 19 spots when he retired and at times they were assigned to be on-call twice in one day. He had planned to work a couple of more years but was forced to because of legislation. He believes his numbers were higher because of the shortage of staff. At the time he felt he was doing a service to the County by stepping up and taking the on-call that was offered to him.

It was M/S to table this item for further discussion at a meeting to be determined and in the interim to fully digest what the board has heard so far, get some additional advice from legal counsel because of the several references to potential litigation against the Board, and schedule this item as soon as practicable thereafter for discussion in a public meeting.

- c. Levy asked if any employer present had any comments. Lisa Driscoll, County Finance Director stated that the County has no additional information to present.

The Board reconvened into closed session pursuant to Govt. Code Section 54956.9(d)(2) to discuss this item.

The Board moved into open session.

A substitute motion was M/S to take no action and do not reduce the pension benefits of the 10 members in question.

- d. In public comment, Jerry Yoshioka, stated he hoped the Board votes for the substitute motion.
- e. The Board voted on the substitute motion:

It was M/S to table this item for further discussion at a meeting to be determined and in the interim to fully digest what we've heard so far and get some additional advice from counsel because we've heard several references to potential litigation and schedule this as soon as practicable thereafter for discussion in a public meeting. (Yes: Rodrigues, Smithey and Telles. No: Allen, Andersen, Gordon, Hast, Phillips and Watts). Motion Failed.

The Board voted on the original motion:

It was M/S/C to table this item for further discussion at a meeting to be determined and in the interim to fully digest what the board has heard so far, get some additional advice from legal counsel because of the several references to potential litigation against the Board, and schedule this item as soon as practicable thereafter for discussion in a public meeting. (Yes: Allen, Andersen, Gordon, Hast, Phillips, Rodrigues, Smithey, Telles and Watts).

The Board directed staff to include Paul Andrews with this item when it returns.

Gordon and Watts were no longer present for subsequent discussion and voting.

8. Consider and take possible action to direct the CCCERA Board voting delegate to vote in support of the 2016 SACRS legislative proposal at the May 2016 SACRS Conference

Levy reported on the two SACRS legislative proposals noting the first proposal has been receiving opposition from the labor unions and that the bill is in the process of being amended by the author. The proposal may be on the SACRS business meeting agenda on Friday.

It was M/S/C to abstain from voting on Proposal 1 until further information is received. (Yes: Allen, Andersen, Hast, Holcombe, Phillips, Rodrigues, Smithey and Telles)

Levy reported Proposal 2 will allow CERL systems to maintain the requirement of receiving sworn statements from members when they enroll and also allow the board to accept electronic enrollment data from the employers. She noted that CCCERA is already doing this in some situations. Leiderman commented this is already a bill that is pending, Bill 2376, and SACRS is adding to it and since it is already a bill it doesn't need a sponsor. Levy explained that SACRS is seeking to sponsor only the portion of the bill pertaining to Section 31526, receiving electronic enrollment data from employers.

It was M/S to abstain from voting on proposal 2.

A substitute motion was M/S that if the proposal is limited to what is in the agenda, the CCCERA Board delegate is authorized to vote in favor of the proposal. If it expands to include any other items on AB 2376, the delegate will abstain.

Andersen was no longer present for subsequent discussion and voting.

The substitute motion was withdrawn.

It was M/S/C to abstain from voting on proposal 2. (Yes: Allen, Hast, Holcombe, Phillips, Rodrigues, Smithey and Telles).

9. Miscellaneous

(a) Staff Report –

Strohl reported the external auditors are on site this week conducting the 2015 field audit; she is working on the CAFR; she is working with departments on strategic planning; and current recruitments are Accounting Manager, Deputy Chief Executive Officer, Member Services Technician, and Office Specialist.

Hoppe reported they have identified an error that affected the COLA's of 14 benefit recipients. This happened during the conversion of CPAS in 2006. 9 recipients were underpaid and 5 recipients were overpaid.

Dutkiewicz thanked staff for their help putting together his item on this agenda.

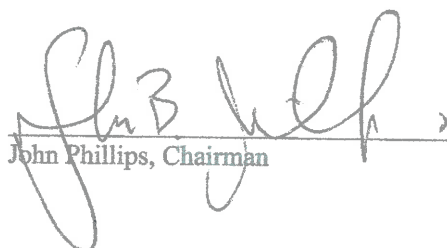
(b) Outside Professionals' Report -

None

(c) Trustees' comments –

Telles recognized and thanked Dutkiewicz for all his work.

It was M/S/C to adjourn the meeting. (Yes: Allen, Hast, Holcombe, Phillips, Rodrigues, Smithey and Telles)


John Phillips, Chairman


Scott Gordon, Secretary

HEARING

1 CHAIRMAN PHILLIPS: All right. So we are back
2 to the original motion.

3 Do you want to restate the original motion?

4 BOARD MEMBER GORDON: Yes, that we continue
5 the item to a further hearing and to receive additional
6 legal advice in the interim, after which we would set
7 the matter for hearing as soon as practicable at our
8 regularly-scheduled public meeting and take final action
9 at that time.

10 CHAIRMAN PHILLIPS: Allen?

11 BOARD MEMBER HAST: And that actually would
12 also include Mr. Andrews --

13 (Simultaneous cross-talk.)

14 BOARD MEMBER GORDON: Yes. Certainly.

15 CHAIRMAN PHILLIPS: Andersen?

16 BOARD MEMBER ANDERSEN: Yes.

17 CHAIRMAN PHILLIPS: Gordon?

18 BOARD MEMBER GORDON: Yes.

19 CHAIRMAN PHILLIPS: Hast?

20 BOARD MEMBER HAST: Yes.

21 CHAIRMAN PHILLIPS: Phillips? Yes.

22 Rodriguez?

23 BOARD MEMBER RODRIGUES: Yes.

24 CHAIRMAN PHILLIPS: Smithey?

25 BOARD MEMBER SMITHEY: Yes.

"Compensation Earnable" :

- Regular base salary
- FLSA premium pay for regularly scheduled work assignment (fire and law enforcement)
- Longevity pay
- Cash payments for special skills and qualifications and unique services, such as:
 - Bilingual pay
 - Shift differential
 - Special assignment differential
- Educational incentive pay (e.g. POST, CPA)
- In-service leave cash outs (earned and payable each year, regardless of when actually paid)
- Allowances (e.g. uniform, automobile)

Compensation That May Require Individual Assessment:

- Standby or On-Call Pay
- Note that compensation that is a payment for services rendered outside of a member's normal working hours is generally excluded.

COUNSELING CHECKLIST

1. _____ **RETIREMENT DATE** – What is the best time for you – a personal decision.
2. _____ **YOUR MONTHLY BENEFIT AMOUNT** – You should have an idea of what your monthly retirement allowance will be. The figure is based on your age, final average salary and years of retirement service (for each tier, if applicable) at retirement.
3. _____ **SOCIAL SECURITY CARDS.** A copy of your Social Security card, as well as a copy of your beneficiary's card, is needed for identification purposes. ***A copy of your 1040 Form (tax return) will suffice in lieu of a Social Security card.*
4. _____ **COPIES OF YOUR BIRTH CERTIFICATE (or passport) and your beneficiary's birth certificate (or passport).** If you are currently married, we will also need a copy of your marriage certificate.
5. _____ **PREVIOUS MARRIAGES** – Is there a Joinder on file? Were you married and divorced during your membership? If so, we need a copy of the court order stating whether your ex-spouse has any entitlement.
6. _____ **SOCIAL SECURITY ESTIMATE FOR TIER II** – If your total retirement income is calculated using Tier 2 only – or - multiple tiers and one of the tiers is Tier II, you must provide the Retirement Office with an estimate from the Social Security Administration before your final benefit calculation can be completed. Or you may also visit www.ssa.gov and create an account at “My Social Security”. Estimate must include your full name and/or tax ID number and be at least 1 year current.
- 6a. _____ **PLEASE NOTE: If you are retiring older than the age of 65, please provide us with a copy of what your Social Security benefit was when you FIRST started receiving it.**
7. _____ **PURCHASE ADDITIONAL SERVICE CREDIT.** Have you received information for service purchases (i.e. Leave of Absence, Time Prior to Membership {Pickup}, Redeposit, Public Service) that you want to buy prior to your date of retirement? **If so, please contact a Retirement Counselor.** Please note: You are also allowed to complete service purchases **after** you retire, provided your payment is received **NO LATER THAN 120 DAYS** from your date of retirement.
8. _____ **FINAL ADJUSTED CALCULATION** – The final retirement benefit calculations are processed after your employer has issued your final check. Frequently, your payroll department makes lump sum payments at termination in a separate check after the last regular paycheck has been issued. If a final calculation is processed, retroactive adjustments to your monthly pension, if any, will be made.
9. _____ **OPTIONS** – Unmodified – no reduction to member and 60% continue to qualified surviving beneficiary. The following are all reduced benefit options; Option 1- reduced benefit for member with lump sum amount (not monthly) to surviving beneficiary, Option 2 - reduced benefit for member with surviving beneficiary receiving same amount, Option 3 - reduced benefit for member and 50% continuance to surviving beneficiary.
10. _____ **OPTION PACKAGE** – Options will be sent to you for signature approximately **6-10 weeks** after your retirement date. The option selection **must** be signed, witnessed and received in our office before the first pension check can be issued. **Important: Once you sign your option selection, it is irrevocable.** If the final calculation changes the amount of your monthly retirement benefit, you cannot change your option selection.
11. _____ **YOUR FIRST RETIREMENT CHECK** – It takes between **8-12 weeks** FROM YOUR DATE OF RETIREMENT to receive your first check. After the first check is received, retiree payroll is processed monthly and released on the last working day of the month.

APPLICATION CHECKLIST

12. _____ Applications cannot be accepted any earlier than **60 days** prior to your date of retirement.

MEMORANDUM

Date: February 8, 2017

To: CCCERA Board of Retirement

From: Wrally Dutkiewicz, Compliance Officer

Subject: Consider and Take Possible Action Pertaining to Member Paul Andrews:
Prior Board Exclusion of Excess On Call Pay From Pensionable Compensation

Background

At its May 4, 2016 meeting, the Board directed that Mr. Andrews' excess on-call pay be brought back to the Board at a future meeting. The purpose of this item is to seek clarification and direction from the Board pertaining to this item, in light of the Board's anticipated consideration of other former Hazardous Materials Specialists IIs' excess on-call pay.

On May 6, 2015, the Board conducted a publicly-noticed review of the information available to the Board, including information provided by Mr. Andrews, his employer, and CCCERA. (May 6, 2015 Board Meeting, Agenda Item 9). Mr. Andrews had retired in 2014 and CCCERA had ***already excluded*** excess on-call pay from his retirement calculations, pending the Board's consideration of the item. On May 6, 2015, the Board determined that: 1) the on-call pay excluded from Mr. Andrews' benefit calculation was not required and worked by all in the grade or class during the same time period and is excludable as non-pensionable overtime pay and 2) the on-call pay is not to be included in Mr. Andrews' pension because the member caused his final compensation to be "improperly increased" by voluntarily signing up for on-call work at the end of his career beyond what was required of all during the same time period. The Board further determined that in conducting Mr. Andrews' benefit calculation, CCCERA is to use the average of the minimum number of on-call hours that were required and worked.

The Board's May 4, 2016 direction that Mr. Andrews' excess on-call pay be brought back to the Board requires further direction and clarification. Specifically, if the Board seeks to shift the methodology of calculation, there appear to be two calculation options:

Option 1 - using the average of the minimum number of on-call hours that were required and worked by all Hazardous Materials Specialists IIs.

Option 2 - using the increase in on-call pay received by the member in the year preceding his Final Average Salary 12-month period.

If the Board wishes to re-examine the pensionability of Mr. Andrews' excess on-call pay without changing the calculation methodology, staff does not anticipate additional data will be needed.

The member will be provided with sufficient notice and an opportunity to provide information at a later date should the matter be considered by the Board of Retirement.

Recommendation

Consider and take possible action to provide additional clarification and direction pertaining to future review of Mr. Andrews' pension.

MEMORANDUM

Date: February 8, 2017
To: CCCERA Board of Retirement
From: Tim Hoppe, Retirement Services Manager
Subject: Consider and Take Possible Action to Adopt a Cost-of-Living Increase for Retirees as of April 1, 2017.

In accordance with Government Code §§31870, 31870.1 and 31870.3, the Board must determine the annual cost-of-living adjustments (COLAs) to be effective April 1, 2017.

Determination of COLA

Based on the statutes noted above, the increase or decrease of the retiree allowances must “approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated.” The only difference in the three COLA statutes that apply to CCCERA members is that the annual maximum adjustment is either 2%, 3%, or 4% depending on which section is applicable.

The consumer price index values used by CCCERA are the December values from the San Francisco-Oakland-San Jose, California table. The increase in the index from December 2015 to December 2016 was 3.53%. In accordance with the statute this is rounded to 3.5%.

When this value is greater than the annual allowable maximum increase, the excess above the allowance increase is accumulated or “banked”. When the value is less than the annual allowable maximum increase, retirees with sufficient bank will receive the maximum allowable increase and have their banks reduces accordingly.

The attached Segal letter shows the determination of the consumer price index increase and the annual adjustment retirees will receive depending on Tier and bank. The letter also shows the adjustments to the banks.

Recommendation

Consider and take possible action to adopt a cost-of-living increase for retirees as of April 1, 2017.



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John W. Monroe, ASA, MAAA, EA
Vice President & Actuary
jmonroe@segalco.com

January 19, 2017

Ms. Gail Strohl
Chief Executive Officer
Contra Costa County Employees' Retirement Association
1355 Willow Way, Suite 221
Concord, CA 94520

**Re: Contra Costa County Employees' Retirement Association
Cost-of-Living Adjustments (COLA) as of April 1, 2017**

Dear Gail:

We have determined the cost-of-living adjustments for the Association in accordance with Sections 31870.1, 31870.3 and 31870, as provided in the enclosed exhibits.

The cost-of-living factor to be used by the Association on April 1, 2017 is determined by comparing the December CPI for the San Francisco-Oakland-San Jose Area (with 1982-84 as the base period) in each of the past two years. The ratio of the past two December indices, 269.483 in 2016 and 260.289 in 2015, is 1.0353. The County Law sections cited above indicate that the resulting percentage change of 3.53% should be rounded to the nearest one-half percent, which is 3.5%.

Please note the above cost-of-living adjustments calculated using established procedures for CCCERA may result in adjustments different from those calculated using alternative procedures by other systems.

The actual cost-of-living adjustment is dependent on tier. The CPI adjustment to be applied on April 1, 2017 is provided in Column (4) of the enclosed exhibits. The COLA bank on April 1, 2017 is provided in Column (5).

Please give us a call if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "John Monroe".

John Monroe

TJH/bbf
Enclosures

5467983v1/05337.001

Contra Costa County Employees' Retirement Association
 Cost-Of-Living Adjustment
 As of April 1, 2017

Retirement Date	(1)	(2)	(3)	(4)	(5)		
Retirement Date	April 1, 2016 Accumulated Carry-over	CPI Change*	CPI Rounded**	CPI Used***	April 1, 2017 Accumulated Carry-over****		
Tier 1, Tier 3 (service retirement only), Tier 4 (3% COLA), Tier 5 (3%/4% COLA and service retirement only), Safety Tier A and Safety Tier D Section 31870.1							
<u>Maximum Annual COLA</u> <u>3.0%</u>							
On or Before 3/31/1982		9.000%	3.53%	3.5%	3.0%	9.500%	
04/01/1982	to	03/31/1983	2.527%	3.53%	3.5%	3.0%	3.027%
04/01/1983	to	03/31/2016	0.000%	3.53%	3.5%	3.0%	0.500%
04/01/2016	to	03/31/2017		3.53%	3.5%	3.0%	0.500%

* Based on ratio of December 2016 CPI to December 2015 CPI for the San Francisco - Oakland - San Jose Area.
 ** Based on CPI change rounded to nearest one-half percent.
 *** These are the cost-of-living adjustment factors to be applied on April 1, 2017.
 **** These are the carry-over of the cost-of-living adjustments that have not been used on April 1, 2017.

Contra Costa County Employees' Retirement Association
 Cost-Of-Living Adjustment
 As of April 1, 2017

		(1)	(2)	(3)	(4)	(5)
Retirement Date		April 1, 2016 Accumulated Carry-over	CPI Change*	CPI Rounded**	CPI Used***	April 1, 2017 Accumulated Carry-over****
Tier 2, Tier 3 (disability retirement only) and Tier 5 (3%/4% COLA and disability retirement only)						
Section 31870.3						
<u>Maximum Annual COLA</u>		<u>4.0%</u>				
04/01/1984	to	03/31/2016	0.0%	3.53%	3.5%	3.5%
04/01/2016	to	03/31/2017		3.53%	3.5%	3.5%

* Based on ratio of December 2016 CPI to December 2015 CPI for the San Francisco - Oakland - San Jose Area.

** Based on CPI change rounded to nearest one-half percent.

*** These are the cost-of-living adjustment factors to be applied on April 1, 2017.

**** These are the carry-over of the cost-of-living adjustments that have not been used on April 1, 2017.

Contra Costa County Employees' Retirement Association
 Cost-Of-Living Adjustment
 As of April 1, 2017

			(1)	(2)	(3)	(4)	(5)
Retirement Date			April 1, 2016 Accumulated Carry-over	CPI Change*	CPI Rounded**	CPI Used***	April 1, 2017 Accumulated Carry-over****
Tier 4 (2% COLA), Tier 5 (2% COLA), Safety Tier C and Safety Tier E Section 31870							
<u>Maximum Annual COLA</u>			<u>2.0%</u>				
04/01/2007	to	03/31/2012	3.0%	3.53%	3.5%	2.0%	4.5%
04/01/2012	to	03/31/2014	2.0%	3.53%	3.5%	2.0%	3.5%
04/01/2014	to	03/31/2015	1.5%	3.53%	3.5%	2.0%	3.0%
04/01/2015	to	03/31/2016	1.0%	3.53%	3.5%	2.0%	2.5%
04/01/2016	to	03/31/2017		3.53%	3.5%	2.0%	1.5%

* Based on ratio of December 2016 CPI to December 2015 CPI for the San Francisco - Oakland - San Jose Area.
 ** Based on CPI change rounded to nearest one-half percent.
 *** These are the cost-of-living adjustment factors to be applied on April 1, 2017.
 **** These are the carry-over of the cost-of-living adjustments that have not been used on April 1, 2017.



Public Funds Roundtable

April 26-28, 2017 ■ The Beverly Hilton ■ Los Angeles, CA

Meeting Date
02/08/17
Agenda Item
#12a.

Roundtable Co-Chairs:

Aoifin Devitt
Chicago Policemen's Annuity and Benefit Fund

Scott Evans, CFA
New York City Retirement System

Advisory Board

Christopher J. Ailman
CalSTRS

Timothy Allen
Tacoma Employees' Retirement System

Cheryl D. Alston
Employees' Retirement Fund of the City of Dallas

Arn Andrews
City of San Jose Department of Retirement Services

Jagdeep Singh Bachher
University of California

Carlos Borromeo
Arkansas Public Employees' Retirement System

Derek M. Brodersen, CFA
Alberta Teachers' Retirement Fund

Gary Bruebaker
Washington State Investment Board

Jerome Burns
Michigan Municipal Employees Retirement System

T.J. Carlson
Texas Municipal Retirement System

Vijoy Paul Chattergy
Hawaii Employees' Retirement System

Matthew Clark, CFA
South Dakota Investment Council

William J. Coaker
San Francisco City & County Employees' Retirement System

Elizabeth Crisafi
San Diego City Employees' Retirement System

Bruce H. Cundick
Utah Retirement Systems

Michelle Cunningham, CFA
CalSTRS

Steve Davis
Sacramento County Employees' Retirement System

Jonathan Grabel
New Mexico Public Employees' Retirement Association

Robert Jacksha
New Mexico Educational Retirement Board

Rodney June
Los Angeles City Employees Retirement System

Farouki Majeed
School Employees Retirement System of Ohio (SERS)

Sam Masoudi
Wyoming Retirement System

Robert M. Maynard
Public Employee Retirement System of Idaho

Christopher McDonough
State of New Jersey Investments

Andrew Palmer
Maryland State Retirement and Pension System

David Peden
Kentucky Retirement Systems

Mansco Perry, III, CFA, CAIA, CIPM
Minnesota State Board of Investment

Donald Pierce
San Bernardino County Employees' Retirement Association

Timothy Price, CFA
Contra Costa County Employees' Retirement Association

Sarah Samuels
Massachusetts Pension Reserves Investment Management Board (Mass PRIM)

Stephen Sexauer
San Diego County Employees Retirement Association

J. Scott Simon
Fire & Police Pension Association of Colorado

Ajit Singh
Houston Firefighters' Relief and Retirement Fund

Jon Spinney
New Brunswick Investment Management Company

Lorrie Tingle
Public Employees' Retirement System of Mississippi

Tom Tull, CFA
Employees Retirement System of Texas

David Villa
State of Wisconsin Investment Board

Ashbel C. Williams
State Board of Administration of Florida

Steve Yoakum
Public School & Education Employee Retirement Systems of Missouri

The Twilight Zone

Narrator: You're traveling through another dimension, a dimension not only of sight and sound but of mind. A journey into a wondrous land whose boundaries are that of imagination. That's the signpost up ahead - your next stop, the Twilight Zone!

- Rod Sterling, introduction, The Twilight Zone (season 2)

Introduction

During a period of unprecedented geo-political challenges, negative real interest rates and low yields across all asset classes, investment portfolios have become particularly complex to manage. Faced with the dilemma of either lowering expectations and/or increasing risks, how can plan sponsors best balance their forward-planning investment strategies for the long term when the near and intermediate-term assumptions are meaningfully lower? If a more aggressive approach is required to meet mandated obligations, will investors pay for these strategies or, instead, build out their passive allocations? And how will the capital markets and, subsequently, public plan portfolios be impacted by the new Trump administration in tandem with a Republican-controlled Congress?

The 2017 Public Funds Roundtable will explore trending sets of challenges amid a backdrop of continuous industry disruption. Through a combination of plenary sessions, workshops, case studies and discussion groups, delegates will focus on innovative ways that plan sponsors are managing their portfolios amid economic and financial uncertainty. The Roundtable program will provide a closed-door, private forum for participants to candidly exchange ideas with colleagues and peers on how to most effectively utilize the resources at their disposal to successfully guide their plans forward while also sharing intelligence and insight to share with committees, boards and staff. Learn from the best about how to adapt in an ever-revolutionizing industry.

Tuesday, April 25, 2017 (Pre-Roundtable)

4.30

Registration for Public Plan Sponsors

5.00

Private Session for Public Plan Sponsors: Case Study & Conversation

Join us for a special investor-only private conversation to be held on the eve of the Roundtable's official start. Share ideas, review the program, get the lay of the land, and meet your peers in an informal and private setting before the event starts. This session will be followed by cocktails & dinner at The Beverly Hilton Aqua Star Pool.

6:00 -8:00

Welcome Reception & Dinner for All Delegates at the Beverly Hilton Aqua Star Pool

Wednesday, April 26, 2016

7:15 – 8.15

Buffet Breakfast and Registration

8:15 - 8:30

Welcome and Introductory Remarks

Robin Coffey, *Executive Director*, Institutional Investor Memberships

Kip McDaniel, *Chief Content Officer and Group Editorial Director*, Institutional Investor

Leanna Orr, *Global Content Director*, Investor Intelligence Network

8:30- 9:15

It's a Mad, Mad, Mad, Mad World

Tectonic shifts around the globe continue unabated. This has been highlighted by the recent U.S. elections, Brexit, an uptick in terrorism, growing political instability, persistent low growth and interest rate uncertainty. Along with this continuous parade of impactful events comes more frequent and severe spikes of volatility. Changing demographics and accelerated information cycles only further serve to stress the process. And at the end of the day mandated pension obligations must be met. This panel will discuss and debate the investment implications of this new world order. Specifically, how can investors parse through the noise, identify the opportunities resulting from key events and know when it's time to pivot, or not?

Moderator: Kristopher 'Kip' McDaniel, *Chief Content Officer and Group Editorial Director*, Institutional Investor

Derek Broderon, *Chief Investment Officer*, Alberta Teachers Retirement Fund

Dame Amelia C. Fawcett, *Chairman*, Hedge Fund Standards Board

Joel Greenblatt, *Managing Partner & Co-CIO*, Gotham Asset Management

Additional panelist to be announced

9:15 - 10:05

Alternative Investments: The Devil You Know?

Despite the prospect of rising interest rates, increasing inflation, and diminished returns in the equities market, alternative investments remain a big draw for those seeking attractive returns. But in a market that remains characterized, compared to the public arena, by significant fees and opaqueness, investors continue to debate whether the returns on alternatives justify the high fees and illiquidity risks. Some see the tide turning on alternatives as several major public funds have turned away. But others see a necessary culling of the alternative herd that will increase opportunities for the survivors and rebuild investor interest. And how one defines the non-traditional aspects of their portfolio is often subject to disagreement. Is it a strategy, an asset class or just a fee structure? This panel of investors will take a deep dive into the trials and tribulations being generated by current market trends and report on the factors that are shaping their decisions about the all of the investment strategies and instruments they are focusing on, with a focus on those deemed alternative/diversifying.

Nathanael Benzaken, *CEO*, Lyxor Asset Management Inc.

Adam Berger, *Asset Allocation Strategist*, Wellington Management

Bruce Cundick, *Chief Investment Officer*, Utah State Retirement Systems

David Villa, *Chief Investment Officer*, State of Wisconsin Investment Board

Moderator to be announced

10:05 - 10:25

Table Top Discussions

Seated in small groups, delegates will share their views on the previous panel conversation. Do they agree or disagree, and what are the reasons for their views? Are there other factors which should also be taken into consideration? Which factors have contributed to investors taking their respective positions and how are they changing their allocations and reconstructing their portfolios? As well as sharing knowledge and opinions, each table will be tasked with coming up with a set of questions or comments which they must be prepared to pose to the speakers in the subsequent session.

10.25– 10.40

The Last Word: Table Top Discussion Wrap-Up

The original speakers will retake the stage, answer questions, and react to comments from the table discussions.

10.40– 11.05

Coffee Break

11:05 – 12:00

Idea Labs: Portfolio Construction – When There is No Alternative...

In small “Idea Lab” breakout discussion groups, delegates will share creative ways they are using alternative strategies in their portfolios.

Arn Andrews, *Chief Investment Officer*, City of San Jose Department of Retirement Services

Derek Drummond, *Managing Analyst*, State of Wisconsin Investment Board

Shaun Martinak, *Portfolio Manager*, Ontario Teachers' Pension Plan

Jason Rector, *Funds Alpha Analyst*, State of Wisconsin Investment Board

Additional Idea Lab leaders to be announced

12:00 -1:30

Seated Lunch and Featured Speaker

A Candid Look at Today's Headlines

As one of the most prominent and significant political strategists in the country, Schmidt gives audiences a candid insider's perspective on the political news of the day and what it all means from Main Street to Wall Street to Capitol Hill and beyond. With no subject off-limits, Schmidt brings his experience, passion, wit and behind-the-scenes anecdotes to the table for a lively discussion on today's headlines and the issues facing the new Trump Administration.

Steve Schmidt, *Political Analyst*, MSNBC and Renowned Political Strategist

1:30-1:45

Transition Time

1:35-2:20

Private Opportunities

As lower returns have crept into the private marketplace, public pensions are re-evaluating these investments alongside sustained high fees. How would the prospect of a market correction or recession affect how the investment community is assessing current high valuations, low interest rates and fee flexibility? Is the cost of private equity worth increased

scrutiny from the SEC and other regulatory bodies? The panelists will discuss what their market stance and strategy look like, based on their take on liability, assumed rate of return and valuations.

Moderator: Patrick Adelsbach, *Founding Partner and Head of Credit Strategies*, Aksia LLC

Jonathan Grabel, *Chief Investment Officer*, State of New Mexico Employees Retirement System

Brett Hickey, *Founder & CEO*, Star Mountain Capital

Rick J. Noel, *Partner and Head of Global Specialty Finance*, Varde

Steve Sexauer, *Chief Investment Officer*, San Diego County Employees Retirement Association

2:20-3:00

Featured Speaker

Senior Portfolio Strategist, Bridgewater Associates, LP

3:00- 3:30

Coffee Break

3:30-4:15

Case Study: Can Co-Investments Give You the Best of Both Worlds?

Despite all the negative press surrounding alternative investments, there are still very positive stories to share. Using a case study format these speaker, representing both the pension and allocator sides of the arrangement, will provide insight on their partnership. Particularly how it leveraged each other's core competencies, while, at the same time, emphasized greater alignment of interests to effectively meet shared objectives.

David E. Francl, *Managing Director, Absolute Return*, San Francisco Employees' Retirement System

Senior Portfolio Strategist, Blackstone

4:15-5:00

Concurrent Workshops:

1. Leveraging Volatility

Leveraging volatility can pay off in spades, but for those public plans that are facing funding challenges, getting volatility wrong may prove too high a bet. How dynamic is too dynamic? When and where does volatility become too risky? This panel will discuss what strategies investors are using to benefit from volatility, dampen it or otherwise thinking about how to relate or abandon it altogether. This panel will discuss the opportunities and risks when including allocations to volatility-based strategies, the landscape of available solutions, in addition to the key elements for successful implementation.

Moderator: Chris DeMeo, *Founding Partner*, Nu Paradigm Investment Partners, LLC

Tarik Dalton, *Director of Multi-Strategy*, North Carolina Department of State Treasurer

Michael Warsh, *Managing Director*, DGV Solutions

Additional panelists to be announced

2. Real Assets

Allocations to real assets—like real estate, agriculture, timber, energy and infrastructure —can potentially help with many investment goals, while adding valuable diversification to a traditional stock and bond portfolio. However, adding real assets requires a well-defined investment objective, as well as a clear plan for implementation, including the size of

the real assets allocation within the overall portfolio, the mix of real assets exposures, and the vehicles by which these exposures will be delivered. Whether a real assets allocation is attained through direct exposures or through a liquid real assets portfolio, skilled asset allocation capabilities are required to maintain portfolio objectives and react to changing market regimes over time. Within this broad group of investments – including energy, real estate, infrastructure, natural resources and commodities – many questions need to be addressed. Among these are: What will be the effect of rising interest rates? How can dislocations in the energy sector be exploited? Where are we in the real estate market cycle, publically and privately? Why are institutions continuing to allocate money to core infrastructure and how does one obtain better transparency, lower fees, and more flexible terms? Are there buying opportunities in the commodities

David Kaposi, *Chief Investment Officer*, Ontario Power Generation

Mary Ludgin, *Global Head of Research*, Heitman Real Estate Investment Management

Tom Tull, *Chief Investment Officer*, Employees Retirement System of Texas

Additional panelists to be announced

5:45

Meet in Hotel Lobby for Departure to *Spago Beverly Hills*

6:00

Reception & Dinner at *Spago Beverly Hills*

Thursday, April 27, 2017

7:15 - 8:30

Private Breakfast and Conversations:

- **Canadian Plan Sponsors:**

At this year's Roundtable, there will be a private sessions designed to provide an informal dialogue among Canadian plan sponsors. Issues for discussion will be designated in advance, based upon audience suggestions.

James Davis, *Chief Investment Officer*, OPTrust

Additional co-chair to be announced

- **Women in Investing**

Recognizing the depth of talent among the women who attend this gathering, we welcome those asset allocators and investment consultants to join us in a closed-door session. During this time we will encourage discussion of common professional and personal experiences in order for female peers to build a stronger network of relationships and support, thereby maximizing their impact and contributions to the industry.

Sharmila Kassam, *Deputy Chief Investment Officer*, Employees Retirement System of Texas

Additional co-chair to be announced

7:30 – 8:30

Buffet Breakfast and General Registration

8:30 - 8:45

Welcome and Introductory Remarks

Robin Coffey, *Executive Director*, Institutional Investor Memberships

Aoifinn Devitt, *Chief Investment Officer*, Chicago Policemen's Annuity and Benefit Fund

Kip McDaniel, *Chief Content Officer and Group Editorial Director*, Institutional Investor

Leanna Orr, *Global Content Director*, Investor Intelligence Network

8:45 - 9:30

The Macroeconomy and Global Affairs

Megan Greene, the Chief Economist at Manulife Asset Management, will approach global growth—or the recent lack thereof—through the prism of oversupply. While there is an intellectual consensus around the idea that a globally coordinated fiscal stimulus is necessary to create enough aggregate demand to sop up this oversupply, politics is going to continue to preclude that from happening. Despite recent market hopes that a Trump victory means the US will have a massive fiscal stimulus, greater growth, higher inflation and higher rates, the stimulus is likely to disappoint and potential growth is unlikely to budge. This period of oversupply and with it low growth, low inflation and low rates, is likely to persist for a number of years. She will use this framework to provide a macroeconomic overview for most major economies.

Megan Greene, *Chief Economist and Managing Director*, Manulife Asset Management

9:30-10:15

Oh Canada!

Tales from the Great North

As U.S. pensions look toward a sustained low return environment, the public pension community may look north of the border toward Canada's trademark multi-asset, global oriented approach to asset allocation. Although they are unfettered by stringent U.S. financial regulations, challenges abound. With a keen understanding that adaptation and structural transformation are required for pension fiscal sustainability and the long-term fund management process, there's much U.S. plan sponsors can learn from their North American neighbors. And vice-versa!

Moderator: Alain Bergeron, *Senior Vice President, Investments*, Mackenzie Investments

Ed Cass, *Senior Managing Director and Chief Investment Strategist*, Canada Pension Plan Investment Board (CPPIB)

Daniel Garant, *Chief Investment Officer*, PSP Investments

Michael Wissell, *Senior Vice-President, Portfolio Construction*, Ontario Teachers' Pension Plan

10:15-10:35

Table Top Discussions

Seated in small groups, delegates will share their views on the previous panel conversation. Do they agree or disagree, and what are the reasons for their views? Are there other factors which should also be taken into consideration? Which factors have contributed to investors taking their respective positions and how are they changing their allocations and reconstructing their portfolios? As well as sharing knowledge and opinions, each table will be tasked with coming up with a set of questions or comments which they must be prepared to pose to the speakers in the subsequent session.

10.35– 10.45

The Last Word: Table Top Discussion Wrap-Up

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10:45-11:05

Coffee Break

11:05-11:50

Innovative Asset Allocation: Managing Expectations and Assumptions

Traditional approaches to asset allocation are coming under intense scrutiny, yet there seems a dearth of new paradigms beyond the overused “solution”. The crux of the problem remains: how can allocators increase the probability of earning required rates of return, mitigate the risk of loss, and improve funded status? This panel will explore how industry leaders are re-thinking their asset allocations, investment policy, and strategy in an environment when the only certainty is uncertainty.

Moderator: Laura B. Wirick, *Principal/Consultant*, Meketa Investment Group

Robert Jacksha, *Chief Investment Officer*, New Mexico Educational Retirement Board

Timothy Price, CFA, *Chief Investment Officer*, Contra Costa County Employees' Retirement Association

Andrew Susser, *Executive Managing Director, Head of High Yield*, MacKay Shields

Additional panelists to be announced

11:50 - 12:45

Idea Labs: Innovative Asset Allocation

These think tank discussion groups will discuss and debate the merits of various asset allocation strategies. Delegates will explore how the current market experience impacts thinking about diversification, liquidity, and other portfolio attributes that result from the asset allocation process.

Jay Kloepfer, *EVP, Director of Capital Markets and Alternatives Research*, Callan Associates Inc.

David Ourlicht, *Commissioner*, New York State Insurance Fund

Mansco Perry, *Executive Director & Chief Investment Officer*, Minnesota State Board of Investment

Teresa Troy, *Chief Executive Officer*, Halifax Regional Municipality Pension Plan

Additional Idea Lab leaders to be announced

12:45 – 2:00

Seated Lunch & Featured Speaker

Zachary Karabell, *President*, River Twice Research

2:00 – 2:10

Transition Time

2:10 – 2:45

Big Data, Machine Learning and the Implications for Investment Management

Exponential growth in the scale of computation, networking, and usage—and the rapid progress in machine learning and related technologies—has been greatly expanding the reach of information technologies. Resulting data-driven approaches have led to extremely powerful prediction and optimization techniques that hold great promise in many fields, though there are always great challenges. We'll illustrate those opportunities and challenges, but then discuss how well-designed investment solutions that harness advanced technologies can drive a meaningful evolution of the entire investment process. They can empower allocators to devote time to the highest-value activities, while leveraging

curated portfolio, market, and community insights to unlock significant “organizational alpha”—latent value forfeited to organizational inefficiencies.

Karyn Williams, *Head of Client Solutions, Two Sigma*

Alfred Spector, Ph.D., *Chief Technology Officer and Head of the Engineering Organization, Two Sigma*

2:45 – 3:20

Case Study: Teamwork is Dreamwork!

Creating Opportunities Through Collaboration

In the constantly shifting ecosystem of financial markets, institutional investors strive for ingenuity, adaptability and innovation. Collaboration and cooperation is central to all those qualities. Jagdeep Singh Bachher, Chief Investment Officer, VP of Investments at the University of California Endowment, will provide an in-depth overview on how he and his team have integrated collaboration into every facet their program. This framework has supported the investment office’s overall mission to optimally meet the long-term objectives of their various constituents while also fostering an environment that is both efficient and innovative.

Jagdeep Singh Bachher, *Chief Investment Officer, University of California*

Dr. Ashby Monk, *Executive and Research Director, Stanford Global Projects Center; Senior Research Associate, University of Oxford; fmr Senior Advisor to the Chief Investment Officer, University of California*

3:20-4:00

The Innovators

Panelists to be announced

4:00 - 4:15

Coffee Break

4:15- 5:00

The Shark Tank

Entrepreneurs need more than just a good idea. An in order to turn their dream ideas into reality they must be able to clearly pose the value proposition of their idea to potential investors (i.e., The sharks). But the Sharks have a goal, too — to get a return on their investment and own a piece of the next big business idea.

Moderator: Cheryl Alston, *Executive Director, Employees' Retirement Fund of the City of Dallas*

Nico Sand, *Founder & CEO, Zanbato*

Additional panelists to be announced

6:00

Departure from Beverly Hilton to Beverly Hills Hotel

6:30 - 9:00

Reception & Dinner at the Beverly Hills Hotel

Cocktails and dinner will be served at one of the most glamorous venues in Beverly Hills, the renowned Beverly Hills Hotel.

Friday, April 28, 2017

7:15 – 8:30

Private Breakfast for Heads of Investment Offices

Rodney June, *Chief Investment Officer*, Los Angeles City Employees' Retirement System (LACERS)

Sam Masoudi, *Chief Investment Officer*, Wyoming Retirement System

7:45 – 8:45

Buffet Breakfast and Registration

8:45– 9:30

The Search for Alpha: Top Investors Tell You Their Best Ideas

This panel of senior investment executives will put forth, discuss and debate their views regarding the best sources for excess return, while still leaving plenty of time for audience members to poke holes in, or validate, these ideas.

Moderator: Kristopher 'Kip' McDaniel, *Chief Content Officer and Group Editorial Director*, Institutional Investor

Andy Palmer, *Chief Investment Officer*, Maryland State Retirement and Pension System

Panelists to be announced

9:30 – 10:15

Retirement on the Rocks

Why Americans Can't Get Ahead and How New Savings Policies Can Help

Last year, the elections made it clear that many Americans are angry and worried about their economic security. Families are feeling what we've known for years — they face a number of growing risks today and in their retirement years. Jobs and wages have become less secure over the past thirty years while stock and housing markets have been volatile. All key economic risks have gone up, making economic security in retirement all the more difficult, if not impossible, for many Americans. While the public sector too has experienced retirement challenges, most public employees are poised to be self-sufficient in retirement thanks to the continued prevalence of pensions. But for middle class private sector workers, policy changes have largely made retirement harder by forcing Americans to face economic risks associated with saving for the future on their own. Social Security offers fewer protections because of an increasing retirement age, and employees receive less help from their employers than in the past for saving for the future. More people have to figure out complex "do-it-yourself" savings options while those who least need to save, because they have little risk exposure, tend to receive the greatest tax breaks for saving. The result is massive retirement savings shortfalls, uncertainty, and a dire retirement outlook for most Americans. But, there is a way forward. The presentation will give a sense on the most promising policy avenues in the changed political landscape to re-build retirement security for American families. Implementation will provide a multi-pronged approach to solving the multi-layered retirement economic security crisis.

Christian E. Weller, *Senior Fellow*, Center for American Progress; *Professor of Public Policy*, McCormack Graduate School of Policy and Global Studies, University of Massachusetts, Boston

10:15 - 10:45

Coffee Break

10:45 - 11:30

Concurrent Workshops:

I. ESG or OMG

What does the outlook for ESG (before and after the U.S. election)? How does ESG factor into planned sponsors' philosophy and/or portfolio management? How should investors start or adjust thinking about emerging compliance to UNPRI standards with regard to their relationship with their board and/or investment committee? These are a few questions as climate change has begun to emerge as an increasingly important consideration, which the panel will discuss, alongside asset manager selection, investment process, and internal and external pressure.

Dominic Byrne, *Director, Global Equities, Standard Life Investments*

Additional panelists to be announced

II. Emerging Markets: On the Rise or Out of Bounds?

Although emerging markets looked to be on the rise last year, they've been pushed to the sidelines as the Chinese market has stalled temporarily, Brazil has fallen off the map as the country picks up the pieces after ousting President Dilma Rousseff and India steps to make itself more investor-friendly. Considering how much China contributes to the global markets, what can we expect from the perpetual and literal elephant in the room? Can Latin America regain its footing as the new hotbed of growth? This panel will discuss what's on the horizon for emerging (and non-emerging) markets – and what investors can look forward to or be ready for in the year ahead.

Moderator: Andy Iseri, *Senior Vice President, Callan Associates Inc.*

Aoifinn Devitt, *Chief Investment Officer, Chicago Policemen's Annuity and Benefit Fund*

Don Pierce, *Chief Investment Officer, San Bernardino County Employees' Retirement Association (SBCERA)*

Michael Rosborough, *Investment Director, CalPERS*

Additional panelist to be announced

11:30 – 12:30

Plan Governance: Walking the Walk vs. Talking the Talk

Although public plans differ from one another in many regards, the issues surrounding plan governance remain a common thread. With returns expected to remain low for the foreseeable future, coupled with rising pension obligations, the strengths and weaknesses of a particular governance plan will only become more glaringly obvious. And at the end of the day behind all investment portfolios are the people who are involved in the decision-making process and operation. How can these various players - investment staff, Board and Committees, external consultants/advisors and plan participants – best align their efforts and interests in order to achieve the optimal outcome? This panel of innovative governance thinkers will discuss how they are approaching the landscape with regard to investment policies, roles and fiduciary responsibilities, trustee education and communication, staff compensation and talent retention. Have their efforts paid off and what work is there still left to do?

Moderator: Allan Martin, *Partner, NEPC LLC*

Steve Russo, *Executive Director, Indiana Public Retirement System*

Ruth Ryerson, *Executive Director, Wyoming Retirement System*

Scott Simon, *Chief Investment Officer, Fire & Police Pension Association of Colorado*

Additional panelist to be announced

12:30 - 1:30

Buffet Luncheon

Roundtable Concludes

Investment Programs Through Wharton Executive Education

In partnership with the International Foundation of Employee Benefit Plans

Meeting Date
02/08/17
Agenda Item
#12b.

 #IFWharton



2017 Offerings

Portfolio Concepts
and Management
May 1-4, 2017
Philadelphia, Pennsylvania

Refresher Workshop in
Core Investment Concepts
September 24, 2017
Philadelphia, Pennsylvania

Advanced Investments
Management
September 25-28, 2017
Philadelphia, Pennsylvania



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The Wharton School Investment Programs 2017

Investment programs offered in conjunction with the Wharton School provide investment management education for those with differing educational needs and levels of experience. These programs can build your skills in portfolio oversight and give you the tools you need to make informed investment decisions.

Who Should Attend

The Wharton investment programs are designed to meet the needs of fiduciaries from both defined benefit and defined contribution plans who represent various industries, sizes and geographic areas (United States and Canada), including:

- Multiemployer and public plan trustees
- Administrators and staff
- Human resources and benefits professionals
- Corporate officers and executives
- Finance personnel
- Investment professionals.

The programs are independent units that may be completed in any sequence. However, we recommend individuals with little investment experience complete the Portfolio Concepts and Management program prior to attending the Advanced Investments Management or specialized programs.

Why You Should Attend

Learn the core concepts and tools needed for effective portfolio oversight and continue to refine and heighten your knowledge with advanced and specialized programs—all led by faculty of the prestigious Wharton School.



About the Wharton School Partnership

The Wharton School is recognized globally as the most comprehensive source of business knowledge in the world. For nearly 40 years the International Foundation has partnered with the Wharton School to create a number of educational opportunities, including the prestigious Certified Employee Benefit Specialist® (CEBS®) program in the United States* and high-quality investment programs.

For over 60 years, the International Foundation of Employee Benefit Plans has served as the largest educational association providing a premier source of objective, accurate and timely benefits education and information.

The International Foundation offers membership with services such as personalized research, live and recorded webcasts, online peer networking, publications, survey results and daily industry news delivery. In addition, members receive discounts on educational programs, e-learning and books for all levels from basic concepts to advanced strategies. The International Foundation also sponsors the CEBS designation program with the Wharton School of the University of Pennsylvania in the United States and Dalhousie University in Canada. Learn more about how the International Foundation can help you— Visit www.ifebp.org or call (888) 334-3327, option 2, to request information by mail.

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*Canadian CEBS partner is Dalhousie University.

Portfolio Concepts and Management

TUESDAY, MAY 2 (Cont.)

8:30 a.m.-12:00 noon

Performance Evaluation

- Elements of manager monitoring
- Risk-adjusted measures
- Factors behind the numbers
- Role of investment style
- What do the numbers in a performance evaluation report mean?
- Using your performance measurement tools (practical framework)
- Impact of investment policy

12:00 noon-1:00 p.m.

Lunch

Provided at the conference center

1:00-2:30 p.m.

The Current Markets

- Recent trends
- Determining the discount rate
- Historical risk and return patterns
- The capital asset pricing model
- Price distortions

2:45-4:15 p.m.

Matching Assets and Liabilities in Public Pension Plans

- The economist approach to discounting
- Motivation
- The numbers
- Bonds vs. stocks

4:15-5:00 p.m.

Introduction to Case Study

WEDNESDAY, MAY 3

7:30-8:30 a.m.

Breakfast

Provided at the conference center

WEDNESDAY, MAY 3 (Cont.)

8:30 a.m.-12:00 noon

Macroeconomic Issues and Financial Markets

- Basics of price and return
- Monetary and fiscal policy structures and current stances
- Exchange rates and international factors

12:00 noon-1:00 p.m.

Lunch

Provided at the conference center

1:00-4:15 p.m.

Fundamentals of Valuation

- How does an analyst determine the price of stock?
- What determines the volatility of a bond?
- Mechanics of compounding and discounting
- Valuation of annuities
- Present and future value

4:15-5:30 p.m.

Case Study Group Work

(Dinner on your own)

THURSDAY, MAY 4

7:30-8:30 a.m.

Breakfast

Provided at the conference center

8:30-11:00 a.m.

Asset Allocation and Impacts of Risk on Return

- Trends in pension management
- Investment policy
- Overall asset allocation and allocation within asset class
- Rebalancing vs. reinforcing asset allocation

11:00 a.m.-12:00 noon

Case Study

Attendance required to earn a certificate.

Refresher Workshop in Core Investment Concepts

Sunday, September 24, 2017 | 1:00-5:00 p.m.

Sheraton Philadelphia University City Hotel | Philadelphia, Pennsylvania

If you plan to register for the Advanced Investments Management program and it has been some time since you participated in investment-related coursework, we strongly encourage you to also register for the refresher workshop. The workshop is scheduled for the Sunday afternoon immediately preceding the Advanced Investments Management program and will be held at the Sheraton Philadelphia University City Hotel. This is an optional workshop—Separate registration and additional fee are required. See the registration form for details.

In this refresher workshop, you will review

- Basic principles of portfolio theory
 - Risk and return
 - Diversification
- How bonds and stocks are evaluated
 - Discounted value of coupons
 - Price/earnings (P/E) and other ratios
 - Mechanics of compounding and discounting
 - Duration
- Styles of management used by fund managers for achieving investment objectives
- Basic benchmarks used for measuring fund performance
 - Sharpe ratio
 - Alpha and beta
- Benefits of global diversification
- Types of real estate investments
- Alternative investments
 - Hedge funds
 - Private equity
 - Commodities
- The efficient market principle.



Advanced Investments Management

Monday, September 25-Thursdays, September 28, 2017

The Wharton School | University of Pennsylvania | Philadelphia, Pennsylvania

Advanced Investments Management is a 3½-day program that includes lecture/discussion and an interactive case study, which demonstrates our commitment to setting the highest quality standards in investment management education. Advanced Investments Management is held every other year at the Wharton School on the University of Pennsylvania campus.

Objective

This program is for those who have a solid grasp of investment management fundamentals and **seek to learn more** or have taken the Portfolio Concepts and Management program and are looking for the “next step.” It is assumed participants will already understand the basic principles of portfolio theory, performance evaluation and risk/return.

While there are no formal prerequisites for this program, those without prior knowledge of fundamental investment theory will most likely find this program too advanced and are encouraged to register for the Portfolio Concepts and Management program.

Outline

MONDAY, SEPTEMBER 25

7:30-8:30 a.m.

Breakfast and Registration

Steinberg Conference Center

8:30-10:00 a.m.

Introduction and Performance Analysis

- Structure and design of benchmarks
- How to use benchmarks to measure fund performance and evaluate investment managers

10:15 a.m.-12:00 noon

Advanced Bond Management

- Bond pricing
- Interest rate risk
- Risks faced by bond portfolios
- Duration and convexity
- Portfolio immunization and dedicated portfolios

12:00 noon-1:00 p.m.

Lunch

Provided at the conference center

MONDAY, SEPTEMBER 25 (Cont.)

1:00-2:15 p.m.

Advanced Bond Management

- Bond pricing
- Interest rate risk
- Risks faced by bond portfolios
- Duration and convexity
- Portfolio immunization and dedicated portfolios

2:30-5:45 p.m.

Advanced Asset Allocation

- Asset allocation strategies
- Asset allocation and the financial crisis
- Weighting strategies

Advanced Investments Management

TUESDAY, SEPTEMBER 26

7:30-8:30 a.m.

Breakfast

Provided at the conference center

8:30-10:00 a.m.

Evaluation of Managers

- General risk-adjusted and style-based measures
- Strengths, weaknesses and possible misuses of the measures
- Latest trends in performance analysis

10:15-12:00 noon

Real Estate in a Pension Fund Portfolio

- Risks and returns of different types of real estate investments
- Long-run returns, risk and portfolio allocation to real estate
- Growth of the REIT market

12:00 noon-1:00 p.m.

Lunch

Provided at the conference center

1:00-4:15 p.m.

Alternative Investments: A Discussion and Overview of Hedge Funds

- Alternative investment allocations
- Selecting the right manager and monitoring performance
- Overall outlook for alternative investments
- Pros and cons of hedge funds

4:15-6:15 p.m.

Introduction to Case Study and Case Study Discussion with Groups

(Dinner on your own)

WEDNESDAY, SEPTEMBER 27

7:30-8:30 a.m.

Breakfast

Provided at the conference center

WEDNESDAY, SEPTEMBER 27 (CONT.)

8:30 a.m.-12:00 noon

International Investing

- How to measure the performance of foreign assets
- International diversification and currency risk
- Risks and returns on international bonds for a pension fund
- Strategies to invest internationally with an exchange rate view

12:00 noon-1:00 p.m.

Lunch

Provided at the conference center

1:00-3:30 p.m.

Pension Fund Valuation in the New World of Risk

- The economist approach to discounting
- The case for bonds vs. stocks
- Matching assets and liabilities

3:45-5:15 p.m.

Macroeconomy

- Impact of the macroeconomy on the environment in which financial markets operate
 - Key macroeconomic indicators; financial market responses

5:15-6:30 p.m.

Wrap-Up and Case Study

Group work

(Dinner on your own)

THURSDAY, SEPTEMBER 28

7:00-8:00 a.m.

Breakfast

Provided at the conference center

8:00-10:00 a.m.

Investment Policy

10:15 a.m.-12:00 noon

Case Study Discussion

Required to earn a certificate

Earning Your Certificate

A certificate of completion from the Wharton School will be awarded to those who attend all sessions (please note, programs have early-evening group work sessions).

If you wish to earn a certificate, please make your travel plans accordingly and leave early evenings open as indicated on the program schedule.



Registration Includes

- A curriculum binder including teaching materials and up-to-date resources
- A certificate from the Wharton School upon fulfilling attendance and participation requirements
- Daily breakfasts, lunch on all days that programs extend into the afternoon and refreshment breaks in the mornings and afternoons.

Additional Class Notes

- Registrants will be notified by e-mail when select materials are posted on the Wharton website that will serve as prereading for the program.
- Please note that the scheduling of specific sessions and/or faculty is subject to change.
- For questions on curriculum, please e-mail tiffanyu@ifebp.org or call (262) 373-7652.

Continuing Education Credit

Most state boards/departments that license professionals will accept International Foundation courses for their continuing education requirements if the course content is applicable. As a service to attendees, CE accreditation procedures have been implemented. This additional service is provided at a nominal administrative fee (\$25) and must be paid by those requesting the service. If you are an insurance professional, please note that state insurance departments do not consider investment topics as appropriate for insurance continuing education credit. Therefore, insurance credit is not available for the Wharton investment courses. Visit www.ifebp.org/education/continuinged for information regarding earning continuing education credit for your profession.

I have always walked away from the Wharton courses with more information than I expected.

Brian Myers Cooper
Union Trustee
Equity League Benefit Funds

Experience the Wharton School— Transforming Insight Into Practice

Founded as the first U.S. business school in 1881, the Wharton School of the University of Pennsylvania has consistently driven change in business education and research.

Wharton has approximately 4,600 undergraduate, M.B.A. and doctoral students and an alumni network of more than 80,000 worldwide. Wharton's Aresty Institute of Executive Education serves up to 8,000 mid- to senior-level executives annually. Taught by acclaimed Wharton faculty, more than 200 open enrollment and custom programs are offered in such areas as finance, leadership, strategy/management and marketing. World-class faculty teaching the courses include skilled educators and researchers, award-winning authors and leading authorities in the investment management field.

Wharton Investment Programs

The International Foundation's partnership with the Wharton School includes four investment programs, which are offered on a rotating schedule.

Core Programs (Held at the Steinberg Conference Center in Philadelphia, Pennsylvania)

- Portfolio Concepts and Management (*held annually*)
- Advanced Investments Management (*held every other year*)

Specialty Programs (Held at the Wharton | *San Francisco* facility)

- Alternative Investment Strategies (*look for offering in 2018*)
- International and Emerging Market Investing (*look for offering in 2019*)

The Wharton School Learning Environment

Steinberg Conference Center
Wharton School—University of Pennsylvania
Philadelphia, Pennsylvania

The Steinberg Conference Center on the University of Pennsylvania campus offers a state-of-the-art, comfortable environment conducive to adult learning. Breakout rooms allow for small group discussions. Direct interaction with faculty is encouraged and aided by the limited class size. You will have access to the university bookstore and recreation facilities as well.



Program Location and Hotel Information

The Wharton School of the University of Pennsylvania

Portfolio Concepts and Management and Advanced Investments Management

The Wharton School
University of Pennsylvania
Aresty Institute of Executive Education
Steinberg Conference Center
255 South 38th Street
Philadelphia, PA 19104-6359
Phone: (215) 386-8300
Fax: (215) 573-3426

A ten-minute walk from Sheraton Philadelphia University City Hotel.

Hotel Reservation Information

(Refresher Workshop in Core Investment Concepts is held at the hotel.)

Sheraton Philadelphia University City Hotel

3549 Chestnut Street
Philadelphia, PA 19104
Phone: (215) 387-8000
Fax: (215) 387-7920
Reservations phone: (888) 627-7071
www.philadelphiaSheraton.com

Portfolio Concepts and Management—\$179 single/double occupancy (15.5% tax)

Advanced Investments Management—\$169 single/double occupancy (15.5% tax)

(Credit card guarantee will be required.)

The Sheraton is conveniently located on the campus of the University of Pennsylvania.

Amtrak's 30th Street Station is just steps from the hotel.

Please contact the hotel directly to make your reservation. Be sure to mention the International Foundation when booking your hotel stay to ensure you receive the negotiated conference guest room rate.



Wharton Faculty

Wharton faculty members are skilled educators and researchers, award-winning authors and leading authorities in the investment management field.

Following are the biographies of faculty members who taught sessions in the International Foundation/Wharton programs in the recent past.

Gordon M. Bodnar

*Morris W. Offit Professor of
International Finance and
Director of the International
Economics Program*



*The Wharton School
Paul H. Nitze School of Advanced
International Studies (SAIS)
The Johns Hopkins University*

Dr. Bodnar teaches international finance in Wharton's Executive M.B.A. program and is a frequent lecturer in several of its executive education programs. He has held appointments as a research fellow at the National Bureau of Economic Research and as a visiting scholar at the International Monetary Fund. His research focuses largely on the intersection of international finance and corporate finance.

*Portfolio Concepts and Management
Advanced Investments Management
International and Emerging Market Investing*

Christopher C. Geczy

*Adjunct Associate Professor
of Finance
Academic Director of
Wharton Wealth
Management Initiative
The Wharton School*



Dr. Geczy researches and consults for clients in the areas of asset allocation, hedge fund portfolio analysis and development, financial risk management and the development of investment and trading strategies. He has a Ph.D. degree in finance and econometrics from the Graduate School of Business of the University of Chicago.

*Alternative Investment Strategies
Advanced Investments Management*

*Excellent teachers—stimulating in terms of content and delivery.
They were skilled at ensuring that a wide range of backgrounds in
the class are capable of following complex investment principles.*

*Harold Redekopp
Management Trustee
Musicians' Pension Fund of Canada*

Wharton Faculty

Geoffrey Gerber

*President & Chief Investment
Officer
TWIN Capital Management
Faculty Member
The Wharton School Aresty
Institute*



As founder of TWIN Capital Management, Dr. Gerber is responsible for overseeing the management of the firm and the entire investment process and is recognized as a specialist in institutional quantitative investment management. Dr. Gerber is a faculty member for the Aresty Institute's Wharton Executive Education Program on pension funds and investment management. He received his Ph.D. degree in economics and finance from the University of Pennsylvania.

*Portfolio Concepts and Management
Advanced Investments Management*

Jeffrey F. Jaffe

*Associate Professor of Finance
The Wharton School*



Dr. Jaffe is an active researcher, with particular interest in the effect of inflation on the returns of stocks and bonds, valuation of the firm and the effect of regulation on trading by corporate insiders. His articles have appeared in the *Quarterly Economic Journal*, the *Journal of Finance*, the *Journal of Financial and Quantitative Analysis*, the *Journal of Financial Economics* and the *Financial Analysts' Journal*.

*Portfolio Concepts and Management
Advanced Investments Management*

A. Craig MacKinlay

*Joseph P. Wargrove
Professor of Finance
The Wharton School*



Dr. MacKinlay is a research associate of the National Bureau of Economic Research, a member of the *Journal of Investment Consulting* Advisory Board and a member of Morgan Stanley Institutional Equity Trading Academic Board. He received his doctorate and an M.B.A. degree from the University of Chicago and an M.B.A. degree from the University of Western Ontario. His research interests include asset pricing models, measuring investment performance and statistical methods in finance.

*Portfolio Concepts and Management
Advanced Investments Management*

Todd Sinai

*Associate Professor
of Real Estate, Business
Economics and Public
Policy*



The Wharton School

Dr. Sinai is a faculty research fellow at the National Bureau of Economic Research and a visiting scholar at the Federal Reserve Bank of Philadelphia. Current research projects include housing prices, public policy and housing markets, the airline industry and real estate investment trusts. He received his Ph.D. degree from the Massachusetts Institute of Technology.

Alternative Investment Strategies

REGISTRATION POLICIES

- See our policies regarding your registration/cancellation/refund/record retention/photo release and privacy at www.ifebp.org/policies.
- Cancellation/transfer requests must be in writing and are subject to a fee of \$50 per meeting day for cancellations and \$50 for transfers.
- Cancellation fee is 50% of registration fee for registrations canceled within 30 days of meeting.
- Cancellations received on or after the opening day of a program are subject to forfeiture of all registration fees.
- For more information regarding administrative policies such as complaint and refund, please contact Registrations at edreg@ifebp.org or (262) 786-6710, option 2.

FEATURED BOOKS

The books in the International Foundation Bookstore cover the entire spectrum of benefits. Industry professionals offer in-depth information on health care, pension, multiemployer trusts, government benefit programs and more. Get the insight and know-how to succeed.

Visit www.ifebp.org/bookstore to view books offered.

Employee Benefits Glossary

13th Edition

International Foundation

International Foundation of Employee Benefit Plans. 2016.

\$75 (Members: \$49). Prices include shipping/handling.

www.ifebp.org/books.asp?7570



The Tools & Techniques of Investment Planning

Stephan R. Leimberg; Robert J. Doyle, Jr.;

Thomas R. Robinson; Robert R. Johnson

623 pages. National Underwriter. 2014.

\$196.50 (Members: \$188.) Prices include shipping/handling.

www.ifebp.org/books.asp?9029



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 Special assistance?
 Yes No

Portfolio Concepts and Management | Early fee until March 20 (04-1704)

May 1-4, 2017 | The Wharton School, University of Pennsylvania | Philadelphia, Pennsylvania

Early Member fee \$5,095 Member fee \$5,395

Early Nonmember fee \$5,535 Nonmember fee \$5,835

Advanced Investments Management | Early fee until August 14 (63-1763)

September 25-28, 2017 | The Wharton School, University of Pennsylvania | Philadelphia, Pennsylvania

Early Member fee \$5,095 Member fee \$5,395

Early Nonmember fee \$5,535 Nonmember fee \$5,835

Refresher Workshop | Early fee until August 14 (63-PC01)

September 24, 2017 | Sheraton University City Hotel | Philadelphia, Pennsylvania

Early Member fee \$435 Member fee \$585

Early Nonmember fee \$545 Nonmember fee \$695

CANCEL POLICY: Early cancel fee is \$50/meeting day. Within 30 days of meeting, cancel fee is 50% of registration fee.

Hotel

Mention the International Foundation for special rate. After the deadline, reservations and rate will be based on availability (credit card will be required).

May: Sheraton Philadelphia University City Hotel, Philadelphia, Pennsylvania

Reservations phone: (888) 627-7071 Rate: \$179 single/double (15.5% tax) Reservation deadline: **April 10**

September: Sheraton Philadelphia University City Hotel, Philadelphia, Pennsylvania

Reservations phone: (888) 627-7071 Rate: \$169 single/double (15.5% tax) Reservation deadline: **September 5**

Continuing Education Credit

\$25 continuing education service charge due at time of registration (if applicable).

The International Foundation will apply for CE credit based on requests. You must indicate the profession(s) for which credit is requested.

Actuary Attorney CFP CIMA CPA

PHR/SPHR/GPHR Other, specify _____

Licensed in the state(s) of _____ License/NPN/BAR/CPA # _____

NOTE: Requests made for CE credit on this form do not guarantee administration of credit.

CEBS CPE \$25 CE fee does not apply. Visit www.cebscpe.org for additional information on reporting CEBS CPE credit hours.

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Full payment in U.S. funds must accompany order.

Make check payable to International Foundation.

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Cardholder's name (print) _____

Registration/Order Summary


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Registration fee \$ _____


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Total (U.S. funds) \$ _____

 Register online at www.ifebp.org

 Mail the registration form with check or credit card number to:
 International Foundation—Conference,
 P.O. Box 689954, Chicago, IL 60695-9954

 Fax your registration with credit card number:
 (262) 364-1818

 For information, e-mail edreg@ifebp.org, or phone toll-free
 (888) 334-3327, option 2, or (262) 786-6710, option 2.



2017 Program Offerings

Portfolio Concepts and Management

May 1-4, 2017

Philadelphia, Pennsylvania

Refresher Workshop in Core Investment Concepts

September 24, 2017

Philadelphia, Pennsylvania

Advanced Investments Management

September 25-28, 2017

Philadelphia, Pennsylvania

Register by March 20 to save \$300

on the Portfolio Concepts and Management
program with the early registration discount.

Visit www.ifebp.org/portfolio to register
or call (888) 334-3327, option 2, for more information.

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