



## District Business & Advisory Services

Judy Lee Kershaw, Director - DBAS: 408-453-6599

Bulletin: 19-006

Date: July 25, 2018

To: District Chief Business Officers  
District Fiscal Directors  
District Personnel and Payroll Directors

From: Nghia Do, District Business Advisor

Re: Out-of-Class Appointment Employer Validation

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The purpose of this bulletin is to inform Districts that California Public Employees' Retirement System (CalPERS) has mailed out their first notification letter to remind Districts to report hours worked by each employee in an out-of-class assignment. This reporting is due **July 30, 2018**.

Government Code (G.C.) section 20480 prohibits out-of-class appointments by a contracting agency or school from exceeding 960 hours within each fiscal year. It further defines out-of-class appointments as an appointment of an employee to an upgraded position or higher classification by an employer or governing board or body in a vacant position for a limited duration.

A vacant position refers to a position that is vacant during recruitment for a permanent appointment. A vacant position does not refer to a position that is temporarily available due to another employee's leave of absence.

### **Actions Needed by Districts:**

- Districts should track the hours worked by each employee in a vacant position when the employee is working in an out-of-class assignment.
- After DBAS issued bulletin 18-028 on April 30, 2018, CalPERS issued a revised Out-of-Class Appointment Employer Validation form (see attached) for use in reporting fiscal year 2017-18 hours worked in out-of-class appointment(s) during the period January 1, 2018 – June 30, 2018
- Fax or mail completed form by **July 30, 2018**  
**California Public Employees' Retirement System**  
**P.O. BOX 942709**  
**Sacramento, CA 94229-2709**  
**Fax: (800) 959-6545**
- Make timely payments of penalties resulting from G.C. section 20480.
- Ensure that out-of-class appointments of a limited term duration is in accordance with a collective bargaining agreement or a publicly available pay schedule.

**Penalties:**

School districts that violate the provision must:

- Make payments to CalPERS equal to three (3) times the amount of the difference between the compensation paid for the out-of-class appointment and the compensation paid and reported to CalPERS for the employee's permanent appointment.
- Pay an additional fee of \$200.00 to cover administrative expenses.

Employees working out-of-Class shall bear no liability, obligation, or expense as a result of the unlawful actions of the employer with respect to G.C. section 20480.

Please refer to CalPERS circular letter 200-021-18 (<https://www.calpers.ca.gov/docs/circular-letters/2018/200-021-18.pdf>) for more information.

*Please distribute this memo within your District as deemed appropriate.*