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## CalPERS Responds to Pension Spiking

### What Is Pension Spiking?

Although there is no official definition of “pension spiking”, it is generally used to describe methods of illegally manipulating the reporting of compensation with the intent of increasing the member’s retirement benefit.

### CalPERS Response to Pension Spiking

In 1991, CalPERS staff and actuarial consultants advised the Board of Administration (Board) that audits of contracting agencies conducted by the State Controllers’ Office revealed a statewide problem with local agency employers converting various benefits or payments for selected employees, to salary, near or during their final compensation period. This could create an unfunded liability in the retirement trust fund and an inflated benefit to members. Many contracting agencies thought the definition of “compensation” in the retirement law was confusing and both employer and employee groups asked the Board to clarify what constituted compensation earnable.

In response, the Board directed the CalPERS Office of Audit Services (OFAS) to establish a Public Agency Audit Program. Since 1991, OFAS evaluators have reviewed personnel and payroll data for over 800 agencies to validate the integrity and accuracy of data reported to CalPERS.

To more permanently address the issue of confusion in the statutes, the Board took an active role in developing clarifying amendments to the Public Employees’ Retirement Law (PERL) by sponsoring legislation (Senate Bill 53, Stats. 1993, Ch. 1297). SB 53 became effective on July 1, 1994, redefining and providing specifics as to what compensation could be reportable. Under SB 53 compensation earnable was defined to include “payrate” and “special compensation”, which encompassed all other reportable items of compensation that were not payrate. Subsequently, the CalPERS Board developed regulations delineating what constituted “special compensation” which resulted in California Code of Regulations, Title 2, Section 571, which provides an exclusive list of items which may be reported as special compensation.

CalPERS continues to curb spiking through:

- Communicating a concise interpretation of CalPERS laws and policies to all agencies, members and interested parties via the CalPERS web site, Employer News, Circular Letters and e-bulletin emails,

- Conducting employer audits and working with the agencies to resolve compensation audit findings,
- Reviewing final compensation for members whose reported compensation exceeds audit parameters,
- Providing consultation for employers and employee representatives on compensation issues during bargaining,
- Working with agencies to reverse the payroll reporting of items determined to be out of compliance,
- Proactively monitoring compensation trends to address problem areas early on,
- Providing educational sessions with agencies via the web, instructor led classes and at the Employer Educational Forum.