

James R. Wilbanks, Ph.D.
Retirement Administrator



Telephone: (707) 463-4328
(707) 467-6473
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MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
625-B KINGS COURT
UKIAH, CALIFORNIA 95482-5027

Date: May 18, 2016
To: Board of Retirement
From: James Wilbanks, Retirement Administrator
Subject: Request of Member David Pelser for Board Review Regarding
the Application of Reciprocity

David Pelser became an employee of Mendocino County in September, 1984. Prior to this time, Mr. Pelser had been an employee of Contra Costa County. Mr. Pelser left his employment with Mendocino County in May, 1987. After leaving employment with Mendocino County, Mr. Pelser worked for another government in California that participates in the California Public Employees Retirement System (CalPERS). Mr. Pelser's employment with the CalPERS employer ended on June 2, 1991. During the subsequent 10 years Mr. Pelser did not work in the public sector. Mr. Pelser then returned to public sector employment in November, 2001 with Sacramento County and then a CalPERS employer until his retirement in October, 2015.

On behalf of Mr. Pelser, the Mendocino County Employees Retirement Association (MCERA) has an Incoming Reciprocal agreement with the Contra Costa County Employees' Retirement Association and an Outgoing Reciprocal agreement with CalPERS.

Upon receiving a retirement application from Mr. Pelser, a retirement benefit was calculated for Mr. Pelser, effective October 3, 2015 using the three year final average salary provided by CalPERS for the period June 3, 1988 through June 2, 1991.

Reciprocity is an agreement between most California public employee retirement systems that allows members to move between public employers within a specific time limit without losing some valuable retirement and related benefit rights, such as combining service credit to help them meet vesting and retirement eligibility requirements. Also, the highest compensation earned in any of the reciprocal systems will be used by all systems to calculate the employee's service retirement benefit. Employees can establish reciprocity if they terminate employment from one system, leave their contributions on deposit, and within six months enter membership

with a reciprocal retirement system. See Government Code section 31835, attached. Reciprocity is intended to encourage career public service.

Consistent with the above, MCERA staff used the CalPERS compensation earnable through June 2, 1991 for purposes of computing Mr. Pelsner's final compensation and resulting retirement benefit. The break in public service from 1991 to 2001 severs the reciprocity for any subsequent public service in a reciprocal system.

Copies of all communication between Mr. Pelsner and the staff of MCERA regarding this matter are attached for your reference.

Attachments

cc: David Pelsner

31835. The average compensation during any period of service as a member of the Public Employees' Retirement System, a member of the Judges' Retirement System or Judges' Retirement System II, a member of a retirement system established under this chapter in another county, a member of the State Teachers' Retirement System, or a member of a retirement system of any other public agency of the state that has established reciprocity with the Public Employees' Retirement System subject to the conditions of Section 31840.2, shall be considered compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by a member for purposes of computing final compensation for that member provided:

(a) The period intervening between active memberships in the respective systems does not exceed 90 days, or 6 months if Section 31840.4 applies. That period shall not include any time during which the member was prohibited by law from becoming a member of the system of another county.

Notwithstanding anything in this chapter to the contrary, the 90-day or 6-month restriction referred to in this section or any other provision of this chapter affecting deferred retirement shall not be applicable to any members who left county or district service prior to October 1, 1949, and subsequently redeposited.

(b) He or she retires concurrently under both systems and is credited with the period of service under that other system at the time of retirement.

The provisions of this section shall be applicable to all members and beneficiaries of the system.

James R. Wilbanks, Ph.D.
Retirement Administrator



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MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
625-B KINGS COURT
UKIAH, CALIFORNIA 95482-5027

April 29, 2016

David A. Pelsler
14229 Neargrove Rd.
La Mirada, CA 90638

Dear Mr. Pelsler,

As I mentioned in my letter to you dated April 5, 2016, MCERA staff has prepared a memorandum to the Board of Retirement regarding our position in the matter of your benefit calculation. Attached to this letter is a copy of said memorandum which will be distributed to the Board of Retirement in advance of the meeting on May 18, 2016 at which the Board will review this matter.

As a reminder, you also have the opportunity to submit a written report on your position to the Board in advance of the meeting. In order to ensure timely delivery of the materials, we must receive your written report, should you choose to submit one to the Board in advance of the meeting, no later than 5:00 p.m. May 11, 2016. Judy Zeller, Administrative Assistant, will contact you regarding the timing of your agenda item and when you should plan on arriving once the meeting agenda has been finalized. This discussion will take place in open session and you and/or your representative will have an opportunity to address the Board during the meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'James R. Wilbanks'.

James R. Wilbanks, Ph.D.
Retirement Administrator

Enclosures

Katy Richardson - Re: Mendocino Retirement

From: Julie and David Pelser <dj.pelser@gmail.com>
To: Katy Richardson <richardsonka@co.mendocino.ca.us>
Date: 11/28/2015 5:41 PM
Subject: Re: Mendocino Retirement

Katy,

Please note that I had requested previously that you identify for me specifically which rule or law applies in my case. Since you did not answer me before, I did some checking on my own. I found an old copy of County Employees Retirement Law of 1937 (it may not be up to date as my copy says it includes Amendments of 1971). Nevertheless, in my copy, I found Article 15, Section 31830, ff relates to reciprocity.

Section 31831 reads:

"Any member, whether over or under the minimum age of service retirement, who leaves county service and within 90 days thereafter becomes a member of the Public Employees' Retirement System, or a retirement system established under this chapter in another county, regardless of the amount of county service, may elect deferred retirement pursuant to Article 9 of this chapter, except that he may not, after such election, rescind such election or withdraw any of his accumulated contributions while a member of such other system."

It appears to me that I have satisfied the requirements of this chapter when I moved from Mendocino County employment to City of Sacramento (CalPERS) employment within the 90 day period. and I established reciprocity between Mendocino County and CalPERS retirement systems at that time.

Section 31835, reads:

"The average compensation during any period of service as a member of the Public Employees' Retirement System or a member of a retirement system established under this chapter in another county shall be considered compensation earnable by a member for purposes of computing final compensation for such member provided:

(1) The period intervening between active memberships in the respective systems does not exceed 90 days. Such period shall not include any time during which the member was prohibited by law from becoming a member of the system of another county."

Again, it appears to me that I have met this requirement since the period intervening between active memberships in the respective systems (Mendocino and CalPERS) did not exceed 90 days. Also, it appears to me that the final compensation that Mendocino County should use is the final compensation used by CalPERS in determining my CalPERS retirement benefit which has already been reported to you.

I can find nothing in the County 37 Act that says that Mendocino County is to use some final compensation other than that which is used by CalPERS since I did become a member of CalPERS immediately upon separation from Mendocino County as required by the 37 Act sections I quoted above, and I did retire from CalPERS (City of Whittier) as my final public sector employment, and I did

leave on deposit my Mendocino County Retirement contributions and elect a deferred retirement, and I did retire concurrently from CalPERS and Mendocino County as required..

Therefore, I respectfully request that you comply with the 37 Act law and calculate my retirement benefit using the final compensation used by CalPERS. If I am wrong about this, then please identify for me the specific section of the 37 Act or other officials rules or regulations about reciprocity that demonstrate how my benefit is to be otherwise determined.

Thank you,

David Pelser

On Tue, Nov 10, 2015 at 4:27 PM, Katy Richardson <richardsonka@co.mendocino.ca.us> wrote:

David -

We follow the County Employees Retirement Law of 1937 (CERL). There are rules and time lines surrounding Reciprocity eligibility. In your case, the CalPERS reciprocal service ended 6/3/1991 when you left service with them and there was more than a 180 day or 6 month break in public service.

We have not yet received the requested salary data from CalPERS, but will advise when we are ready to produce your first benefit check.

Thank you,

Katy Richardson | Sr. Retirement Specialist
Mendocino County Employees' Retirement Assoc.
[\(707\) 467-6473](tel:(707)467-6473) - Office | [\(707\) 467-6472](tel:(707)467-6472) - Fax
richardsonka@co.mendocino.ca.us

>>> Julie and David Pelser <dj.pelser@gmail.com> 11/10/2015 3:47 PM >>>

Katy,

I'm not sure I follow the logic of your note below. It seems to me that you should use the CalPERS final salary that they used for my retirement from CalPERS.

The fact is there is reciprocity between Mendocino County and CalPERS and I'm retiring from CalPERS. I'm not aware of anything in the reciprocal agreements that allows for a custom calculation using a different salary.

Could you point that out to me?

Thanks,

David

On Mon, Nov 2, 2015 at 4:38 PM, Katy Richardson <richardsonka@co.mendocino.ca.us> wrote:

David -

The CalPERS period of Reciprocal Service ended on 6/3/1991. I am sending a request to CalPERS today to provide a 3 year final average monthly salary using the period 6/13/1987 to 6/3/1991. Once we receive the salary data, we should be able to calculate a retirement benefit retroactive to your chosen date of retirement of 10/3/2015.

Please let me know if you have questions.

Thank you,

Katy

Katy Richardson | Sr. Retirement Specialist
Mendocino County Employees' Retirement Assoc.
[\(707\) 467-6473](tel:(707)467-6473) - Office | [\(707\) 467-6472](tel:(707)467-6472) - Fax

richardsonka@co.mendocino.ca.us

>>> David Pelser <dj.pelser@gmail.com> 11/2/2015 11:37 AM >>>

Katy

Yes. After City of Sacramento I was in the private sector for 10 years. Then I went to the county of Sacramento and then to city of Whittier/calPERS. I established reciprocity between calPERS and Sacramento county. I previously established reciprocity between Mendocino county and city of Sacramento/calPERS.

David

Mobile: [562.298.8476](tel:562.298.8476)

Sent from my iPhone

On Nov 2, 2015, at 10:55 AM, Katy Richardson <richardsonka@co.mendocino.ca.us> wrote:

Hello David -

I am reviewing your file and have a question for you. It appears that you left the City of Sacramento/CalPERS on 6/3/1991 and entered a private sector position for a number of years. It would appear that at some point you re-entered membership with CalPERS. Can you confirm the information above?

Thank you,

Katy

Katy Richardson | Sr. Retirement Specialist
Mendocino County Employees' Retirement Assoc.
[\(707\) 467-6473](tel:707.467.6473) - Office | [\(707\) 467-6472](tel:707.467.6472) - Fax
richardsonka@co.mendocino.ca.us

December 30, 2015

James Wilbanks, PhD
Retirement Administrator
Mendocino County Employees' Retirement Association
625B Kings Court
Ukiah, CA 95482

RECEIVED BY

JAN 04 2016

The Mendocino County Employees'
Retirement Association

Dear Dr. Wilbanks:

RE: Retirement Benefit Determination for Member David A. Pelser

Please refer to recent email correspondence between me and Katy Richardson, Sr. Retirement Specialist, for background on this matter.

Ms. Richardson informed me of the benefit determination made by your office for my deferred retirement from Mendocino County. The issue at hand seems to be how to determine the appropriate final salary to use in the benefit calculation. I requested of Ms. Richardson the specific law or rule that applies to my case and that supports the determination made by your office. So far, that information has not been provided; instead, Ms. Richardson directed me to write to you.

As I previously explained to Ms. Richardson, my own layperson reading of the 1937 Act, particularly Section 31835, indicates to me that the Mendocino County benefit calculation should be based on my final salary at the City of Whittier used by CalPERS to calculate my CalPERS retirement benefit. Again, please refer to the email correspondence for details.

I am now requesting of you that you provide to me in writing the basis for the final salary determination made by your office.

If you have any questions of me, or if you would like to discuss this matter personally, please note my contact information below.

Thank you for your consideration.

Sincerely,



David A. Pelser

Mailing address: 14229 Neargrove Road
La Mirada, CA 90638

Mobile phone: 562.298.8476

Email: dj.pelser@gmail.com

James R. Wilbanks, Ph.D.
Retirement Administrator



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MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
625-B KINGS COURT
UKIAH, CALIFORNIA 95482-5027

Copy

January 7, 2016

David A. Pelsler
14229 Neargrove Road
La Mirada, CA 90638

Dear Mr. Pelsler:

This is in response to your letter to me dated December 30, 2015.

I have reviewed the communications between you and Katy Richardson, MCERA Senior Retirement Specialist. As I understand the facts, you were employed by Contra Costa County from August 1977 to September 1984; Mendocino County from September 1984 to May 1987; and CalPERS from June 1987 to June 1991. You returned as an employee in the CalPERS system from September 2012 to September 2015. You are asking MCERA to calculate your retirement benefit based on the final salary you were earning when you left CalPERS employment in 2015. Ms. Richardson explained to you, however, that your benefit should be based on your salary when you left CalPERS employment in 1991. As explained below, I concur with the decision by Ms. Richardson.

As Ms. Richardson explained, MCERA (and 19 other counties, including Contra Costa) are part of the County Employees' Retirement Law (the CERL) which operates under laws in the California Government Code. The issue you are raising involves reciprocity, which is an agreement between certain California public retirement systems to allow members to move from one public employer to another within a specific time limit. Upon concurrent retirement, all participating public employers will use your highest rate of pay under that system when calculating your final compensation. However, to be eligible for this benefit, you must enter employment in a participating retirement system within 6 months of leaving the employment of a participating system. See Government Code sections 31835 and 31840.4. You meet the 6 month test with your first employment under CalPERS, but then you left employment and did not return for more than 10 years. As a result, the calculation of your retirement benefit can only be based on your salary when you left CalPERS employment in 1991.

Please feel free to contact me if you have any further questions.

Respectfully,

Handwritten signature of James R. Wilbanks in black ink.

James R. Wilbanks, Ph.D.

February 15, 2016

James Wilbanks, PhD
Retirement Administrator
Mendocino County Employees' Retirement Association
625B Kings Court
Ukiah, CA 95482

RECEIVED BY

FEB 19 2016

The Mendocino County Employees'
Retirement Association

Dear Dr. Wilbanks:

RE: Retirement Benefit Determination for Member David A. Pelsler

Thank you for your letter of January 7, 2016. You referred to Government Code Section 31835. However, the approach you applied in your letter is not actually stated in the Code. Section 31835 reads:

"The average compensation during any period of service as a member of [PERS]... shall be considered compensation earnable or pensionable compensation pursuant to Section 7522.34, whichever is applicable, by a member for purposes of computing final compensation for that member provided:

- (a) The period intervening between active memberships in the respective systems does not exceed...6 months...[meaning the period between active membership in Mendocino County and in PERS, which I have satisfied]
- (b) He or she retires concurrently under both systems and is credited with the period of service under that other system at the time of retirement." [which did occur]

I understand your point about the 10-year gap in public service and that may be a reasonable policy to recommend to the State legislature. Nevertheless, that is not what the law says, and that is not the practice with other systems (37 Act Counties and CalPERS). You have made a distinction between "reciprocal employers" and "reciprocal systems" that does not exist in the 37 Act. As you acknowledged, I establish reciprocity between MCERA and the CalPERS system. Also, as you know, CalPERS calculated my retirement benefit on the total of my years of service in CalPERS and my final salary at CalPERS. This final salary is also what CalPERS certified to MCERA when I retired concurrently from several reciprocal systems.

I followed up with Contra Costa County Employees' Retirement Association (CCCERA). They informed me, that similar to CalPERS, they would use the final CalPERS salary in calculating my CCERA retirement benefit if that salary was certified by MCERA to CCCERA. Further, if they were in Mendocino County's situation, they would calculate my benefit in the manner which I requested of you.

I continue to believe that the 37 Act requires Mendocino County to base my benefit on my final CalPERS salary that was first certified to you.

Therefore, I am making the following requests:

1. That you place my case before the Retirement Board for review of your decision;
2. That you inform me of my rights for appeal and the typical process for pursuing appeals at various levels;
3. That you inform me well in advance of the time, date, and location of the Retirement Board meeting during which the Board will review your decision, and whether it will be a closed session or open session item, and whether I or my representative will have an opportunity to address the Board during the meeting;
4. That you provide Contra Costa County Retirement Association with the original final salary that CalPERS certified to you so that they can make their own decision independent of Mendocino County.

Thank you for your cooperation.

Sincerely,



David A. Pelsner

Mailing address: 14229 Neargrove Road
La Mirada, CA 90638

Mobile phone: 562.298.8476

Email: dj.pelsner@gmail.com

James R. Wilbanks, Ph.D.
Retirement Administrator



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MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
625-B KINGS COURT
UKIAH, CALIFORNIA 95482-5027

March 9, 2016

David A. Pelsler
14229 Neargrove Rd.
La Mirada, CA 90638

Dear Mr. Pelsler,

This letter is in response to your letter dated February 15, 2016 in which you made several requests. You requested that the MCERA Board of Retirement review my decision regarding the determination of your retirement benefit. Legal counsel advises me that under the County Employees Retirement Law (CERL), the Board is not required to review such matters.

However, I plan to discuss the question of whether the Board wishes to review my decision with the Board at the regularly scheduled meeting on March 16, 2016. The discussion will take place in open session and you and/or your representative will have an opportunity to address the Board during the meeting. To reiterate, the Board will not review my decision regarding your retirement benefit calculation during this meeting but will focus on the question of whether they wish to review my decision at a future meeting.

While the Board will not be reviewing the merits of your case at the March meeting, I did want to take this opportunity to inform you that following receipt of your letter contact was made with CCERA and we were informed that staff does agree with the proposed approach MCERA is prepared to take.

The March 16, 2016 MCERA Board Meeting begins at 8:30 a.m. and will be held in the MCERA offices located at 625-B Kings Court, Ukiah, CA.

Sincerely,

A handwritten signature in black ink that reads "James R. Wilbanks".

James R. Wilbanks, Ph.D.
Retirement Administrator

Honorable Board of Directors - Mendocino County Employees' Retirement Association, and
James Wilbanks, PhD, Retirement Administrator:

The staff report to the Board provides incorrect information about my employment history in reciprocal systems. Please note the correct history shown below. I have nearly 30 years of combined service in reciprocal retirement systems.

I am unable to attend the March 16 Board Meeting. However, with all due respect to Dr. Wilbanks' previous decision, I request the Board review my situation at a future Board meeting with respect to pensionable pay within the CalPERS retirement system used in the determination of the final salary in my benefit calculation (which also impacts my Contra Costa County retirement benefit). I believe the decision of your Retirement Administrator is based on a distinction between employers and retirement systems that is not made in the 1937 Act retirement law. Therefore, I believe that decision is contrary to a plain reading of the law as applied to my very unusual case.

Due to my childrens' medical issues, I had to relocate and change jobs in a way that was detrimental to my public sector career and my subsequent retirement from public service. The issue that I am requesting you now review has a significant personal impact on my combined retirement benefits from both Mendocino County and Contra Costa County and will impact whether I can afford to remain in State during my retirement years.

Thank you for considering my request.

Very truly yours,

David A. Pelser

Employer	Retirement System	Dates of Employment	Years Service Credit
Contra Costa County	37 Act General Tier I	8/1/77 - 9/1/84	7.0833
Mendocino County	37 Act Tier 3	9/23/84 - 5/22/87	2.6667
City of Sacramento	CalPERS	6/13/87 - 6/3/91	4.023
Harding Lawson Associates		1991-2001	N/A
Sacramento	37 Act		

County	SCERS Misc Tier III	11/01-8/07	5.8429
City of Whittier	CalPERS	9/07-10/15	<u>8.581</u>
			28.1969

James R. Wilbanks, Ph.D.
Retirement Administrator



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MENDOCINO COUNTY
EMPLOYEES' RETIREMENT ASSOCIATION
625-B KINGS COURT
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March 23, 2016

David A. Pelsler
14229 Neargrove Rd.
La Mirada, CA 90638

Dear Mr. Pelsler,

At the regularly scheduled meeting held March 16, 2016, the MCERA Board of Retirement considered your request that the Board review my decision regarding the determination of your retirement benefit. Following a 5-3 vote the Board agreed to review the decision regarding your retirement benefit calculation during a future board meeting that is convenient for the MCERA Administration and you.

I would propose to schedule this discussion during the April 20, 2016 Board of Retirement meeting. The discussion will take place in open session and you and/or your representative will have an opportunity to address the Board during the meeting. Please let me know if that date is acceptable.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Wilbanks".

James R. Wilbanks, Ph.D.
Retirement Administrator

April 2, 2016

James Wilbanks, PhD
Retirement Administrator
Mendocino County Employees' Retirement Association
625B Kings Court
Ukiah, CA 95482

Dear Dr. Wilbanks:

RE: Retirement Benefit Determination for Member David A. Pelser

Thank you for your letter of March 23, 2016 in which you reported the MCERA Board's decision to review my case. Unfortunately, I am unable to travel to Ukiah for the April 20 meeting as you had proposed in your letter. Therefore, I request the matter be placed on the agenda for the May 18, 2016 Board meeting.

Sincerely,



David A. Pelser

14229 Neargrove Road, La Mirada, CA 90638

James R. Wilbanks, Ph.D.
Retirement Administrator



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April 5, 2016

David A. Pelsler
14229 Neargrove Rd.
La Mirada, CA 90638

Dear Mr. Pelsler,

I am in receipt of your letter dated April 2, 2016 and agree to schedule review of your case during the May 18, 2016 Board of Retirement meeting. A report on our position will be prepared and presented to the board for their consideration. A copy of this report will be sent to your attention prior to the meeting. You have the opportunity to submit a written report on your position to the board, which we will need to receive no later than 5:00 p.m. May 11, 2016. Judy Zeller, Administrative Assistant, will contact you regarding the timing of your agenda item and when you should plan on arriving once the meeting agenda has been finalized. This discussion will take place in open session and you and/or your representative will have an opportunity to address the Board during the meeting.

Sincerely,

A handwritten signature in cursive script, appearing to read "James R. Wilbanks".

James R. Wilbanks, Ph.D.
Retirement Administrator