



CALIFORNIA ASSOCIATION of SANITATION AGENCIES

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September 10, 2018

CalPERS Board of Administration

Re: Support for ALJ Decision in In the Matter of San Elijo Joint Powers Authority (Case No. 2016-0354) and Encina Wastewater Authority (Case No. 2016-0356)

Dear Board Members:

On behalf of the California Association of Sanitation Agencies (CASA), I write in support of the administrative law judge (ALJ) decision in the above referenced matters. For 60 years, CASA has been the leading voice for public wastewater agencies on regulatory, legislative, and legal issues. Many of our agency members participate in CalPERS, and a number of them provide uniforms to their employees in the same manner and within the same factual circumstances presented in these cases.

For the reasons set forth by the Respondents, we urge you to adopt the proposed decisions and designate them as precedent. A patchwork of decisions and practices conflict regarding whether agencies must include the value of uniforms in employee compensation when calculating CalPERS contributions. CalPERS opinions in the form of circular letters and past decisions have taken contradictory positions over the years without any change in underlying facts or circumstances. Even now, within different regions and audits of similarly situated agencies, CalPERS determinations on this issue vary. This "ad hoc" decision making by CalPERS on an issue where the underlying circumstances are generally consistent across local agencies has led to arbitrary outcomes and confusion for CASA's members. Broad and generally applicable clarification is needed, or this issue will continue to be resolved on an agency by agency basis through multiple costly and time-consuming adjudicatory proceedings brought by individual agencies.

The ALJ decision is founded on a clear understanding of the wastewater industry, while CalPERS staff demonstrate an apparently limited knowledge regarding industry practice and appropriate standards. First and foremost, the uniforms provided to wastewater agency employees are intended to protect employees' health and safety against potentially deadly contaminants and significant hazards inherent in employment at a wastewater collection and treatment agency. Wastewater agency employees are routinely exposed to a host of potential health and safety hazards. Because of this risk, uniforms must generally be left on-site to be sanitized by a professional service, a practice is common throughout the wastewater community.

The issue of how agencies treat uniforms is of statewide concern, and the ramifications of these decisions extend beyond the individual agencies named in these matters. A significant number of our local wastewater agencies are confronting this same issue. Some agencies have already been required to change their practices and have complied at substantial additional administrative effort. Others may be audited in the future. This lack of clarity is not in the interest of our agencies nor CalPERS.

We urge the Board's to establish the ALJ decision as precedent in these matters and appreciate your consideration of the statewide perspective on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Link', written in a cursive style.

Adam Link
Director of Operations