

Local 21 @ the Port of Oakland



An organization of Professional, Technical, and Administrative Employees

March/2017

CalPERS Disqualifies Local 21 Retirees' Merit Pay

In January, four Local 21 retirees and one active member at the Port received a letter from CalPERS stating that after a review of the compensation reported to CalPERS from the Port, CalPERS determined the reported compensation does not comply with the California Public Employees' Retirement Law (PERL).

The Merit Pay Premium reported was excluded for pension calculations because:

- It was not for "superior performance" as defined in C.C.R. Section 571(a)(1).
- It was **only** available to employees who were **at the top** of their respective salary schedules (i.e., after completing at least one full year in "Step E"); thus not available to all members in the group or class pursuant to C.C.R. Section 571 (b)(2).

CalPERS' position is that in order for what they deemed "bonus pay" to qualify as compensation earnable, there must be a plan or system in place that has been board approved and contained in a written labor policy or agreement. The plan or system must identify performance goals and objectives, additionally it can only be payable for **superior performance**.

CalPERS does not consider employee who "have been at Step "E" for at least one (1) full year" to be a logical work related group or class and therefore, determined (we believe falsely), that this compensation does not meet the definition of Bonus Pay and cannot be used to increase retirement benefits.

CalPERS has instructed the Port to reverse the identified compensation and all corresponding contributions that have been reported and upon completion of the reversal, CalPERS will credit the Port with any contributions paid on these items. Additionally, CalPERS asked the Port to stop any further reporting of Merit Pay.

What CalPERS has not done, however, is indicated that it would reverse and credit the employees for all their contributions on the "disqualified compensation" and that is a major issue for our Union if CalPERS' position is upheld.

At its February 9 meeting, the Board of Port Commissioners authorized Port staff to file appeals on behalf of the employees and when this was brought to the attention of Local 21 staff, our Union set up a meeting with the Port and offered to join them in the legal appeal process.

In accordance with Government Code Section 20134 and Sections 555-555.4, Title 2 of the California Code of Regulations, our Union and the Port have until March 20th to file a written appeal, which will set forth the facts and law forming the basis for our appeal.

Upon submission of an appeal, the matter will be set for hearing with the Office of Administrative Hearings (OAH) and an assigned CalPERS attorney will contact us to coordinate a hearing date, which may be several months out. After the hearing is completed, the Administrative Law Judge will issue a Proposed Decision in approximately 30 days. The CalPERS Board of Administration will then decide whether to accept or reject that proposed decision. If the CalPERS Board rejects the Proposed Decision, a Full Board Hearing will be held in order to review the entire hearing record before a final decision is



rendered.

There are a lot of unresolved issues surrounding this CalPERS determination, such as how we fix the language moving forward if we are unsuccessful, if there are appeal processes beyond the CalPERS Board and more, but we are taking this process one step at a time and will start with putting our best joint efforts with the Port into the written appeal and then the hearing. Updates, as they become available, will be provided in future newsletters.

Continued on page 2

THIS MONTH'S ISSUE:

p.2 CalPERS Disqualifies Merit Pay (Con't), Leadership and Meeting Schedule

p.3 Weingarten Rights, Union Plus, Paid Internships at the Port

p.4 International Legislative Conference Report by Carletta Starks and Call to Action

p.5 Tax Deductible Due, Upcoming Trainings and Common Class Study Questions and Answers

p.6 Equity Adjustment Information Session and Local 21 May Delegate Assembly

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CalPERS Disqualifies Merit Pay (Con't)

Some of the language provisions CalPERS is relying on:

The compensation in question was identified as Merit Pay Premium, per our MOU, Section H.1.1.4:

"...all represented employees who have been at Step "E" for at least one (1) full year and who receive an "Exceeds Expectations" Overall Rating on their annual performance appraisal, shall receive additional premium pay in the amount of four percent (4%) of their annual base salary or eight percent (8%) of their annual base salary for those who receive an "Outstanding" Overall Rating on their annual performance appraisal."

Compensation must meet the definition of "Compensation Earnable" as provided G.C. Section 20636 and defined as "(a) 'Compensation earnable' by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5."

G.C. Section 20636 (c)(1) and (2) define "Special Compensation" as "(c)(1) Special compensation of a member includes a payment received for special skills, knowledge, abilities, work assignment, workdays or hours or other work conditions.

"(2) Special compensation shall be limited to that which is received by a member pursuant to labor policy or agreement or as otherwise required by state or federal law, to similarly situated members of a group or class of employment that is in addition to payrate. If an individual is not part of a group or class, special compensation shall be limited to that which the board determines is received by similarly situated members in the closest related group or class that is in addition to payrate, subject to the limitations of paragraph (2) of subdivision (e)."

G.C. Section 20636 (e)(1) defines "group or class of employment" as "(e)(1) As used in this part, 'group or class of employment' means a number of employees considered together because they share similarities in job duties, work locations, collective bargaining unit, or other logical work-related grouping. One employee is not considered a group or class."

All payments of special compensation must also meet specific provisions in the California Code of Regulations (C.C.R.) Section 571 (a)(1) lists a special compensation item of "bonus pay" and is defined as "Compensation to employees for superior performance such as 'annual performance bonus' and 'merit pay.' If provided only during a member's final compensation period, it shall be excluded from final compensation as 'final settlement' pay. A program system must be in place to plan and identify performance goals and objectives."

C.C.R. Section 571(b)(2) states "(b) The Board has determined that all items of special compensation listed in subsection are:....

(2) Available to all members in the group or class;

(d) if an item or special compensation is not listed in subsection (a), or is out of compliance with any of the standards in subsection (b) as reported for an individual, then it shall not be used to calculate final compensation for that individual."

AFL-CIO
Union-Made St. Patrick's Day

1. Jim Beam
2. Knob Creek Whiskey
3. Old Grand-Dad Whiskey
4. Budweiser
5. Leinenkugel's
6. Miller High Life
7. Moosehead
8. Rolling Rock
9. Shock Top
10. Saag's corned beef

Find more: go.affcio.org/StPatricksDay Text MADE to 235246 for more union-made products.

Port of Oakland Leadership

(Port Leadership emails end with @portoakland.com)

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Port of Oakland Meeting Schedule

Airport Meeting

Noon, 4th Tues.: March 28, April 25, May 23

9532 Earhart Rd., North Airport, L107-104 (Main)

Port Main Office Meeting

Noon, 4th Wed.: March 29*, April 26, May 24

530 Water Street, Exhibit Room, 1st Floor

*March 29th is a special meeting day to allow for members to attend the Equity Adjustment Information Session on the 4th Wednesday, March 22.

Equity Adjustment Information Session

Wednesday, March 22

Noon – 1:00 pm

Hearing Room 3 in City Hall

Bring your own lunch. [More information on page 6.](#)



Think vampires suck?
Not as much as going
into a meeting with
management without
your Union Rep!

Know your rights
because you must ask!

Weingarten Rights:

"I am concerned this
discussion could lead to
disciplinary action
against me or affect my
working conditions.
I request my Union
representative be
present at this meeting.

Without my Union
representative, I choose
not to answer any
questions."

Local 21 Members Save Money with Union Plus



Being an IFPTE Local 21 member doesn't only
provide advantages at work & bargaining
table; you can save on products
& services. For more info,
download a free QR reader
app on your smart phone to scan
the image below to go directly to the
webpage or visit the Union Plus page via Local 21 at:
<http://www.ifpte21.org/content/union-plus-discounts>.

- Motor Club Savings
- Car Buying Services & Rentals
- Legal Services
- Goodyear Tires & Services Discounts
- Scholarships
- Bookstore Discounts
- Home Mortgages & Assistance Hotline
- Credit Counseling
- Energy Rebates
- Tax Preparation
- Retirement Planning
- Vacation Tours
- Eldercare Services
- AT&T Wireless Discounts
- Clothing
- Checks
- Computers
- Pet Services
- Flowers
- Entertainment
- Much, much more!



Know Some Talented College Students?: Internships at the Port of Oakland

The Port of Oakland's 2017 Summer Internship Program application period is **open through Wednesday, March 8, 2017**. The Port invites talented, highly motivated undergraduate and graduate students to apply. The program offers the opportunity to gain valuable work experience and insight into Aviation, Communications, Engineering, Environmental Programs and Planning, Finance, Governmental Affairs, Human Resources, Legal, Maritime, and Social Responsibility careers, to name a few.

Internships begin Monday, June 12, 2017 and end Friday, August 11, 2017.

To apply, please visit www.portofoakland.com/jobcenter/internships.



"I've been a part of many internship programs over the years. In high school, it was unpaid campaign organizing, in college it was an unpaid DCCC fellowship and an unpaid congressional internship, and even after college, taking unpaid work was necessary to build a thicker resume of field experience. In all that time, I still needed to work to supplement tuition, books, car insurance, etc. So I worked at various jobs that allowed me to continue to gain field experience while in school. The Port Summer Internship Program offers an almost unprecedented opportunity for undergrads to do both. The program is by far the most structured I've ever seen, and builds a rewarding and goal oriented experience for all who take part. And its PAID! Have I mentioned it pays?! So I would highly recommend this internship program for all undergrads coming home for the summer looking for productive and paid work."

—Diego Gonzales, Government Affairs Representative and Local 21 member

IFPTE International Legislative Conference Report

by Carletta Starks, Port of Oakland Unit L Vice President

On February 5, six IFPTE Local 21 representatives (IFPTE Team) traveled to Washington, D.C., to attend the 2017 Legislative Advocacy Conference; I was honored to be a member of the IFPTE Team. The conference, held at the Mayflower Hotel, provided the opportunity to meet with union brothers and sisters from across Northern America, hear from legislative allies, and meet with various representatives on Capitol Hill to strategize in this uncertain political climate. **One thing that was patently clear is that as a union, we are in for the fight of our lives. That means it is incumbent on every member to get involved.**

The IFPTE Team met with the staffs of junior Senator Kamala Haris, Congresswomen Barbara Lee and Nancy Pelosi. We also met with Senator Dianne Feinstein and her staff. The IFPTE Team advocated for issues vetted and decided on by the IFPTE executive board. The issues included opposition to (1) proposed cuts to Medicare/Medicaid, (2) the repeal of the Affordable Care Act, (3) any Supreme Court nominee who does not support the working class, and (4) the withholding of federal funds from sanctuary cities. We were grateful to learn that IFPTE Local 21 concerns aligned with our representatives' agendas, and we mostly have their full support.

I say "mostly," because on one issue--the confirmation of Supreme Court nominee Neil Gorsuch--we learned that Senator Feinstein has not come to a decision regarding his suitability for that office. We told her what IFPTE had learned: that he is an ultra-conservative whose decisions have always been pro-business and anti-consumer. IFPTE also learned that if confirmed, Gorsuch would likely be the deciding vote on any anti-labor case that came before the Supreme Court. For another opinion on Gorsuch, visit <https://www.forbes.com/sites/francesbridges/2017/02/26/why-millennials-should-be-worried-about-supreme-court-nominee-neil-gorsuchs-originalism/> or scan the QR code at the bottom of the page.

On a personal note, one of the highlights of the trip was running into [Cory Booker](#), the junior Senator from New Jersey, as the IFPTE Local 21 team walked across Capitol Hill to an appointment. Senator Booker is currently the rock star on Capitol Hill and was an absolute delight. He stopped to speak with and take a selfie with us!

Another highlight was visiting the [National Museum of African American History and Culture](#). NMAAHC is amazing, and I highly recommend it to anyone traveling to Washington, D.C. If you cannot reserve tickets online before you leave (there is a long waiting list), you can reserve tickets once you are in D.C. You must telephone by 6:30 a.m. the morning of the day you want to visit, and you will be able to get tickets.

Overall, it was a good conference and a good trip. The opportunity to interact with other members and to strategize with our representatives was a positive step in this uncertain political climate, and one I was happy to take on your behalf. **Now, I need you to walk with me because none of us can take this trip alone.**



Key Points for Members of Congress:

Maintain Federal Funding of Local Government Programs: Local 21 urged no repeal of the Affordable Care Act (ACA) or rollbacks of Medicare or Medi-Cal without a comparable or better replacement. These programs bring millions of dollars to local government and are key components of the safety net for low and middle-income residents. The Representatives assured us that they would stand strong in support of local government funding, the ACA, Medi-Cal and Medicare. Local 21 was also reassured to learn that the federal government likely has limited authority to penalize Sanctuary Communities, such as Oakland.

Protect Labor Rights: Local 21 urged members of Congress to oppose any Supreme Court nominee with a bent to undermine the ability of Labor Unions to represent members and negotiate fair contracts.

Call to Action (Literally!): Call Today!

Senator Feinstein did promise to do an extensive background check and review Gorsuch's judiciary record. You can help her make the right decision by calling her office and asking her to oppose Gorsuch's confirmation. Everyone Local 21 met with made clear that our representatives need to hear from constituents in order to represent their concerns effectively.

Senator Dianne Feinstein's DC Office
202.224.3841





Union Dues are Tax Deductible

Not all members know that at tax time, they can reap tax benefits from their Union dues. If you itemize your taxes, all your dues are tax deductible, so review your last paycheck in 2016 to see the annual dues contribution for the year and make sure you take all the deductions you have coming to you. Combine the tax savings of itemizing your dues to the savings under our Union Plus program and membership in IFPTE local 21 can pay for itself!

Please note: voluntary contributions to our Political Action Committee, the TJ Anthony Fund, are NOT tax deductible.

Training and Development Opportunities

There are City-wide training opportunities available for members in Oakland at no cost to the members or their departments. The offerings are varied and worth taking a look to see if there is something that could help you in your daily work for the City.

Sample of this month's City trainings include:

- Sexual Harrasment Prevention for Supervisors
- HR in the Digital Age
- Wellness Webinar: Managing Change
- Retirement Workshop: Investing in Retirement Basics and Estate Planning for Everyone
- Race and Equity Series: Media Changing the Game: A Look at the TV Series "Blackish"

Trainings at the Port of Oakland include:

- Hiring the Best Candiddate
- Project Management Essentials
- Adobe Acrobat Professional X Fundamentals
- Microsoft Publisher 2013
- Microsoft Powerpoint Fundamentals
- Microsoft Excel Advanced

Register at <https://oaklandnet.secure.force.com/training> or contact Andrea Pomicpic apomicpic@oaklandnet.com.

Common Class Study Questions & Answers

As reported in several past newsletters, the City and the Port are conducting a study to determine whether or not there are classes common to both. The ramifications include bumping rights in the case of layoffs and possible transfer rights. There was a recent information session held at the Port of Oakland that was open to City of Oakland members as well and some great questions were asked.

The following questions were from Local 21 members and the responses were from HR and the consultants from Koff and Associates that are working on this study.

Q: Are you looking at every classification?

The port as 300+ classifications and 800+ at the City and many classes we know are not shared, as the Port provides no human services, doesn't have fire or police, etc. What the consultants will study are known or suspected similar classes. Once they start the work, our Union will get a list of what classes are being compared.

For classifications that may be similar but don't have similar titles, the consultants will rely on HR to point them in the right direction.

Q: What is the timeline for the study?

Slow. The consultants will "crank out" results over the next couple of months and then a slow, engaged process with labor partners such as Local 21 will begin to interpret the results and discuss if there are any concerns with the results. (This will take place before it goes back to the Civil Service Board.)

Q: If the study determines that classifications are common to both the City and the Port, will they have the same job spec, title and eventually the same pay?

No. City and Port have different authority over setting salaries. Port Commissioners establish the Port salaries and the City Council establishes the City wages. This study is not about economics at all.

Q: Will there be recommendations on changes to job specs?

No. The consultants will report back on what they find, not make recommendations for further action.

Q: When will the job specs be updated, some are decades old?

The reality is that updating job specs generally happens when the City and Port are recruiting for open positions.

Q: If the specs are outdated, doesn't that make this study moot?

No. The fundamental characteristics of the job remain the same. You may count the widgets by computer instead of by hand, but you are still counting widgets.

Q: Will the consultants review the current common classes?

Yes.

Equity Adjustment Information Session: Open to Port Members



Our Union Sisters and Brothers in Oakland are gearing up for negotiations and many members believe their classification is compensated under market value. These members are encouraged to bring the data to their bargaining team for consideration, but they don't know where to start prepping that data, so this information session is for them. While we can schedule a session exclusively for the Port as we get closer to our own negotiations, Port members are welcome to join this session and get a head start on prepping their own data.

**Join Local 21 Research Specialist Linda Emin
Equity Adjustment Information Session
Wednesday, March 22nd
Noon – 1:00 pm
Hearing Room 3, City Hall (bring your own lunch)**

Local 21 Delegate Assembly: May 20th at Hotel Whitcomb in San Francisco

Our next Delegate Assembly is scheduled for Saturday, May 20th at the Hotel Whitcomb in San Francisco. For this session, we will continue to build on work begun in previous Delegate Assemblies, with a focus on uniting us in a common direction in the face of a harsh political climate. We look forward to discussing ways to expand opportunities for member participation in Bay Area Resistance activities. We will have a guest speaker to help guide a collective conversation on these critical topics. **Continental breakfast begins at 8:30 a.m. and the Assembly will begin promptly at 9:00 a.m.**



To attend the Delegate Assembly, please **RSVP by scanning the QR code to the left. The deadline to RSVP is Friday, May 12.** If you are a delegate or will be an acting delegate for this Delegate Assembly, we must receive your RSVP by that date. Additional information provided as we get closer to May 12.

Lunchtime Gathering for Local 21 Delegates at New San Francisco Office

We would like to invite all of our Delegates and Alternates to join us for a fun, laid-back lunch at the new San Francisco headquarters. **We will hold this little celebration immediately following the May 20th Delegate Assembly.** After a slightly shortened agenda, we will take a quick walk around the block from the Hotel Whitcomb to our new office. A gourmet catered lunch and refreshments will be served, and staff will lead informal tours of the office space.

Additionally, later this year, we will hold a fundraiser at our new office for one or two selected nonprofit organizations to support their work around immigration, women's issues, and/or healthcare. More information on that event is forthcoming as the details are finalized.

As you can see from the map below, the Local 21 office is just a block and half from the Hotel Whitcomb.

