



Kurato Shimada, Chair
Benefits & Program Administration
California Public Employees' Retirement System
Lincoln Plaza North 400 Q Street
Sacramento, CA 95814

Delivered Via e-mail on September 18, 2006

Dear Mr. Shimada:

Please consider this a petition to the California Public Employees' Retirement System (CalPERS) under Government Code section 11340.6, requesting amendments to California Code of Regulations, Title 2, and any statutes necessary, to place strict limits on campaign contributions, from the types of firms doing business with CalPERS, of no more than \$250 and meals and gifts valued at no more than \$50. Like the rules and possible legislation currently being considered by the California Teachers Retirement System (CalSTRS), the limits should apply not only to the 13-member board but also the governor and gubernatorial candidates.

As you may recall, I petitioned CalPERS on February 21, 1998 to adopt regulations restricting gifts and, when CalPERS refused to do so, I sought and obtained a determination from the Office of Administrative Law (1999 OAL Determination No. 18) that CalPERS policies were illegal. I did so not to repeal the underground regulations but to amend, strengthen them, and to make them legally enforceable.

Unfortunately, since both the Los Angeles Times and Sacramento Bee had concluded their investigatory articles on "pay to play" and gift taking by CalPERS board members at the time of OAL's determination, the Board simply repealed the illegally adopted policies and fell back to the relatively ambiguous language of Government Code section 19990.

That law prohibits gifts "under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee." Of course, many argue that no gift of any value can sway them in their decisions.

Additionally, CalPERS should set forth in regulations requirements that members of the board of administration must comply with the same governance standards CalPERS attempts to impose on corporate boards. For example, CalPERS U.S. Corporate Governance Core Principles and Guidelines cite a National Association of Corporate Directors report that recommends candidates who are CEOs or senior executives of public corporations be "preferred" if they hold no more than 1-2 public company directorships; other candidates who hold full-time positions be preferred if they hold no more than 3-4 public company directorships; and all other candidates be preferred if they hold no more than 5-6 other public company directorships. Yet, one CalPERS director also sits on the board of 13 mutual funds, according to recent filings. It is hypocritical of CalPERS board members to call on corporate directors to limit the number of boards they serve on, while violating such guidelines themselves.

Those who have pushed to convert defined benefit plans for public employees to defined contribution plans have been motivated mostly by political ambition, the prospect of increased money management fees, and a wish to end the influence of public pension funds on corporate CEOs and boards of directors who do not wish to be held accountable by shareholders. However, these same forces frequently use real or perceived conflicts of interest by CalPERS board members as justification for their proposals.

Let's not give those who seek to do away with public pension funds any reason to attack the funds on the basis of the possible influences of "pay to play" or possible conflicts of interest. By enacting regulations at least as stringent as those announced by CalSTRS and by complying with the governance standards it seeks to impose on others, CalPERS can ensure against any perception that gifts or campaign contributions will be rewarded by access to the nation's largest pension fund or that CalPERS does not live up to its own standards.

The CalPERS Board of Administration has authority to make at least a large portion of these amendments under Government Code sections 20120 and 20121. Standards applicable to the governor may require legislation. Thank you for your consideration. Please contact me at (916) 869-2402 with any questions you may have concerning this petition.

Sincerely,

James McRitchie