

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

01/05/2016

2. Department

California Public Employees' Retirement System (CalPERS)

3. Organizational Placement (Division/Branch/Office Name)

Legal Office

4. CEA Position Title

Associate General Counsel, Investments, Health and Operations

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

The CalPERS Public Employees' Retirement System (CalPERS) proposes to create a new Career Executive Assignment (CEA) position of, Assistant General Counsel, Legal Office (LEGO).

The overall mission of the Legal Office is to provide legal advice to all divisions and units of CalPERS and provide legal representation of CalPERS in litigation matters before all courts and tribunals.

The Associate General Counsel (Investments, Health and Operations) directs and oversees the Investments Unit and the Advice/Consultation Unit (Health and Operations) of the Legal Office. The Investments Unit is comprised of attorneys who provide legal advice to CalPERS executive and senior management staff on investment matters. The Advice/Consultation Unit (Health and Operations) is comprised of attorneys who provide legal advice to CalPERS executive and senior management staff on matters including health benefits and operational issues including principally government contracts and procurement. The roles and responsibilities of this proposed Assistant General Counsel have a direct relationship to CalPERS' mission and purpose.

6. Reports to: (Class Title/Level)

Deputy General Counsel

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st 2nd 3rd 4th 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The Associate General Counsel (Investments, Health and Operations) will direct and oversee the Investments Unit and the Advice/Consultation Unit (Health and Operations) of the Legal Office. The Investments Unit is comprised of attorneys who provide legal advice to CalPERS executive and senior management staff on investment matters. The Advice/Consultation Unit (Health and Operations) is comprised of attorneys who provide legal advice to CalPERS executive and senior management staff on matters including health benefits and operational issues including principally government contracts, procurement, and information technology security. This Associate General Counsel will work closely with the Deputy General Counsel and with the staff that reports to him/her to ensure the consultation services provided in the areas of investments, health benefits and operations are superior, appropriate, timely, and serve to support the CalPERS mission. He or she also works closely and partners with CalPERS executive and senior management staff on a wide variety of matters including new points of law, interpretation of governing constitutional provisions, and legal and policy issues in the areas of investment, health benefits and operational matters. He or she participates in policy development and strategic planning and serves as liaison to the CalPERS Investment Committee, the Pension and Health Benefits Committee and the Finance and Administration Committee. Whereas the Deputy General Counsel will directly participate in organization-wide policies (for example, working with the Office of Enterprise Compliance as it implements its Compliance Plan and policies that affect the entirety of CalPERS) and will oversee the development of policies that affect particular areas of the organization, the Associate General Counsel will participate directly with the Investment Office in its development of and revisions to the several Statements of Investment Policy that are managed by the Investment Office. This will include a significant amount of work, for example, in developing and implementing and serving in the role of a legal and policy expert in connection with a new Information Barriers Policy, and potential revisions to the Personal Trading Policy, as well as revisions to CalPERS Divestment Policy and Policy regarding Economic, Social and Governance considerations in investing. In addition, the Associate General Counsel will participate directly with the Health Benefits Policy unit of CalPERS to consider, develop and implement key health policy for the organization, including providing a legal and policy perspective to health plan rate development and performance measures. In the area of Operations, the Associate General Counsel (Investments, Health and Operations) will work with the Operations Support Services Division as it embarks on a new project to implement contracts and procurement policies to ensure compliance with Political Reform Act requirements, labor relations requirements, contract disclosures, knowledge transfer, DVBE participation, and consultant conflict of interest disclosure. In the area of government contracts and procurements, the Associate General Counsel will lead CalPERS' efforts in better managing its IT contracts and cyber security concerns. Security of member information impacts a 1.6 million person membership. Financial and reputational risk is a consequence of inadvertent, unauthorized, or malicious disclosure of confidential and/or sensitive information. The current security roadmap includes creating an ongoing Security Program that implements the latest preventative measures through 25+ projects. Finally, he or she serves as liaison to external legal counsel who are engaged on investment, health benefits and operational matters in order to optimize the representation and financial expenditure and to ensure value to the organization and knowledge transfer to internal lawyers. The legal work conducted by the Investments Unit is of the highest complexity in the area of investments. The legal work conducted by the Advice/Consultation (Health and Operations) is of the highest complexity in the areas of health benefits and operational issues including principally government contracts and procurement. This position will have responsibility to direct the legal advice provided to the Investment Office, the Health Plan Administration Division, the Health Policy Research Division, the Operations Support Services Division, and the Information Technology Services Branch and to provide verbal and written legal advice to the CalPERS Board, executive and senior management staff on matters including investments, health benefits, and government contracts and procurement. The Associate General Counsel will also consult regularly with external legal counsel to ensure external legal counsel is working efficiently and optimally, and to ensure knowledge transfer to CalPERS internal lawyers on cutting edge legal developments in the areas of investments, health benefits and operations. The consequences of errors are extreme in light of CalPERS' state constitutional authority and budget autonomy. For more than eight decades, CalPERS has built retirement and health security for state, school, and public agency members who invest their lifework in public service. Our pension fund serves more than 1.7 million members in the CalPERS retirement system and administers benefits for nearly 1.4 million members and their families in our health program, making us the largest defined-benefit public pension in the U.S. CalPERS' total fund market value currently stands at approximately \$285 billion. CalPERS could face litigation from CalPERS members, including class action lawsuits, if policies adopted by CalPERS pension benefits or health benefits program units are not legal.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The Associate General Counsel position will provide better oversight and expertise to the areas indicated and will ensure superior legal advice and representation to CalPERS, which in turn ensures the integrity and soundness of the pension system and safeguards CalPERS' members' retirements and health benefits and our investments. This proposed Associate General Counsel will direct and oversee the he Investments Unit and the Advice/Consultation Unit (Health and Operations) of the Legal Office. Their mission is extremely critical to ensuring the department accomplishes it's mission to provide effective services to our customer, members, and employees.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

Over the last several years, the Legal Office's caseload inventory has grown exponentially in terms of volume, dollar value, complexity, and political sensitivity. The addition the Associate General Counsel position will allow us to effectively distribute, by subject areas of the law and areas of expertise, supervision of legal work and legal personnel among three Associate General Counsel peers, all of whom will report to the Deputy General Counsel. The Associate General Counsel position will directly participate in policy development in their respective areas of expertise (investments, health and operations) while the Deputy General Counsel will oversee these policy areas and remain primarily responsible for policies that affect the entirety of CalPERS. Currently, the areas of Investments and Hearings/Litigation are reporting to an Assistant Chief Counsel. By making the supervisor of these subject areas a CEA, we will be able to add areas of supervision, and expect to be able to attract a larger candidate pool for these supervisory positions.

Currently, the salary range for the Assistant Chief Counsel position is too low to attract a robust candidate pool because of salary compaction. The salary compaction concerns will be exacerbated by the addition of Attorney V positions. In addition, the Attorney V positions must report to a CEA.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The Associate General Counsel (Investments, Health and Operations) has significant policy influence and involvement at the Executive and senior management level, recommending decisions regarding adoption and implementation of policy on matters including investments, health benefits, and government contracts and procurement and will serve as an expert level advisor to the Deputy Chief Counsel on policy issues related to Investments, Health and Operations. The Associate General Counsel (Investments, Health and Operations) will play a key role in working with the Investment Office as it embarks on a whole scale review of all of its investment policies and continued implementation of the CalPERS Investment Beliefs. This will include assisting with obtaining transparency into Private Equity Fees. These policies have a state-wide impact on investment returns and the funded status of the Public Employees Retirement Fund. Investment policies concerning divestment, for example, and ESG (environmental, social and governance) investing impact political, social and environmental concerns of the state and nationally. In the area of Health Benefits, the Associate General Counsel (Investments, Health and Operations) will be instrumental in advising the organization regarding policies that result from the Affordable Care Act and the future of the CalPERS Long Term Care program. These policies affect the 1.6 million members of CalPERS and its health plans. In the area of government contracts and procurements, the Associate General Counsel (Investments, Health and Operations) will lead CalPERS' efforts in better managing its IT contracts and cyber security concerns. Security of member information impacts a 1.6 million person membership and is a highly critical and visible concern that CalPERS takes very seriously. This position will also serve as the expert level advisor on policies surrounding IT operations.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The CEA will have decision-making authority with respect to the attorneys who report to them and their areas of assignment. This position will provide the legal perspective and strategic counsel on department wide policies. This position will evaluate and determine the impact of the department's policies related to Investments, Health and Operations, providing information and recommendations to higher levels within the Legal Office. Decisions with enterprise-wide impact or involving high visibility matters of interest to the enterprise as a whole will continue to be raised to a higher level within the division.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The CEA will assist and advise the organization with respect to the development and the implementation of new policies. They will also assist and advise in the interpretation and implementation of existing policies. The types of policies are without limitation. Any policy that affects the employees of CalPERS or the members of the pension system or health benefits program would be a policy that would require the input of the attorneys in the Legal Office. The CEA will be the lead attorneys to provide this input. This CEA will interact with the Executive Management Team on a continuous basis by providing recommendations on legal strategies, policies, program initiatives and politically sensitive legal issues in the areas of Investments, Health and Operations. In addition, this CEA will also advise upper level Legal Office management on matters that may result in negative impact to the department or on sensitive matters that may require elevation to the Board.