



San Joaquin County Employees' Retirement Association

***Alameda* Decision: New Pay Type Exclusions Adopted January 8, 2021**

On January 8, 2021, the Board of Retirement voted to refine its determinations of retirement-eligible compensation earning codes. The resolution and a complete list of the earning codes changed by the resolution is attached.

Retirement contributions will no longer be collected on the listed earnings codes effective with the February 5 pay check (the January 18-31 pay period). In the event there is a delay in implementing the required changes, any contributions you pay on those earnings after the effective pay period, will be corrected.

If SJCERA's records indicate you receive one of these earnings types, SJCERA mailed you a notification letter in January.

The changes to the listed earnings codes are prospective only. They apply only if you retire on or after January 18, 2021, and only to the portion of your final average compensation (FAC) period that occurs on or after January 18, 2021. If your highest FAC period is from a time period before January 18, 2021 (when the listed earnings codes were retirement-eligible), SJCERA will include those earnings in your benefit calculation. This is different than the implementation of the exclusions mandated by the *Alameda* decision that the Board approved on October 15, 2020, which involve retroactive adjustments.



RESOLUTION TITLE: ALAMEDA DECISION EARNINGS CODES REVIEW

RESOLUTION NO. 2021-01-01

WHEREAS, Government Code Sections 31460 and 31461 define and specify Compensation that is included in, and excluded from, Compensation Earnable and establishes the Board of Retirement as responsible for determining Compensation Earnable for members of the San Joaquin County Employees' Retirement Association; and

WHEREAS, Government Code Sections 31460 and 7522.34 define and specify the Compensation that is included in, and excluded from, Pensionable Compensation and establishes the Board of Retirement as responsible for determining Pensionable Compensation for employees subject to the Public Employees' Pension Reform Act (PEPRA) of 2013; and

WHEREAS, Compensation Earnable and Pensionable Compensation are used to determine the retirement contributions payable to SJCERA and the benefits payable by SJCERA to members and beneficiaries; and

WHEREAS, in July 1995, the Board established guidelines for determining Compensation Earnable as adopted in Resolution 95-07-01; and

WHEREAS, in December 2012, the Board established guidelines for determining Pensionable Compensation for new members in Tier 2 as adopted in Resolution 2012-12-04; and

WHEREAS, the Board from time to time has amended its determination of Compensation Earnable and Pensionable Compensation due to changes in the compensation schedules of employers participating in SJCERA and/or changes in applicable law; and

WHEREAS, an Ad Hoc Committee appointed by the Board Chair following *Alameda County Deputy Sheriffs' Association, et al. v. Alameda County Employees' Retirement Association, et al.* ((2020) 9 Cal.5th 1032) (referred to as the *Alameda* decision) has reviewed SJCERA's current earnings codes in light of the *Alameda* decision and *Marin Assn. of Public Employees v. Marin County Employees' Retirement Association* ((2016) 2 Cal.App.5th 674, 692) (the *Marin County* decision), which among other things, clarified that Boards of Retirement have discretionary authority to refine their determinations of compensation earnable and pensionable compensation, and limit retirement allowances accordingly, consistent with the statutory authority provided to them.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the *Alameda* decision and the *Marin County* decision, the Board of Retirement hereby updates its determination of Compensation Earnable for members of SJCERA Tier 1 and Pensionable Compensation for members of SJCERA Tier 2 to include the revised earnings codes as contained in Attachment A, which is hereby incorporated into and made a part of this Resolution 2021-01-01, and which is to be implemented as follows:

The new rules set forth in Attachment A shall apply only to SJCERA members who retire from SJCERA on and after the first day of the first pay period following adoption, which is January 18, 2021, and only then as to the portion of their final average compensation periods that occur on or after January 18, 2021.

BE IT FURTHER RESOLVED that the determinations made herein shall remain in effect until such time as this Board, the Legislature or the Courts take action that requires a different determination.

PASSED AND ADOPTED by the Board of Retirement of the San Joaquin County Employees' Retirement Association on the 8th day of January 2021.

AYES:

NOES:

ABSENT:

ABSTAIN:


MICHAEL RESTUCCIA, Chair

Attest:


RAYMOND McCRAY, Secretary

History:

- Revised by Resolution No. 95-07-01
- Revised by Resolution No. 96-06-03
- Revised by Resolution No. 97-06-03
- Revised by Resolution No. 98-03-01
- Revised by Resolution No. 98-04-01
- Revised by Resolution No. 98-10-01
- Revised by Resolution No. 2000-07-01
- Revised by Resolution No. 2000-10-01
- Revised by Resolution No. 2001-03-03
- Revised by Resolution No. 2002-02-01
- Revised by Resolution No. 2002-11-01
- Revised by Resolution No. 2004-07-01

Revised by Resolution No. 2007-07-13
Revised by Resolution No. 2010-06-03
Revised by Resolution No. 2012-12-04
Revised by Resolution No. 2015-09-01
Revised by Resolution No. 2017-02-02
Revised by Resolution No. 2017-08-01
Revised by Resolution No. 2018-01-02
Revised by Resolution No. 2019-01-01
Revised by Resolution No. 2020-10-04
Revised by Resolution No. 2021-01-01

ATTACHMENT A - ALAMEDA DECISION AD HOC COMMITTEE RECOMMENDED CHANGES TO RETIREMENT-ELIGIBLE EARNINGS CODES

Following a review of all SJCERA earnings codes, the committee recommends the **changes noted in red** for future FAC periods.

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	CONCLUSION Comp Earnable Tier 1	CONCLUSION Pensionable Comp Tier 2	PEPRA Mandatory Exclusions for Tier 2	PEPRA Discretionary Exclusions for Tiers 1 and/or 2
A10	Lump Sum Payment	Lump sum payment for annual performance goals	N	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (3) [ad hoc payment], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1)(B) [ad hoc/one-time payment]
A11	Recruit Incentive-AC	10% Recruit Incentive supplement. <i>Note: The Committee discovered that this code was most recently used to provide a 10% work-above-class supplement for a few months in 2018. Prior to that it hadn't been used since 2003.</i>	N	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (3) [ad hoc payment], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1)(B) [ad hoc/one-time payment]
A1E	Essential Worker	Per BOS R-20-198 in response to the Federal Family First Coronavirus Response Act (HR 6201) for employees that are essential	N	N	PEPRA Exclusion for Tier 2 under §7255.34(c) subd. (10) [bonus], (11) [inconsistent with (a)], and (12) [not pensionable comp.]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1)(B) [ad hoc/one-time payment]
A1U	Director Incentive Comp	11% Recruit Incentive supplement	N	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1)(B) [ad hoc/one-time payment]
A30	Physician Incentive Pay	Per Physician MOU Unit P Side Letter - OB/GYN share 60% of net collections; Anesthesiologists receive 15% of professional fee charges from inpatient clinical work; Psychiatry/Child Psychiatry 100% guaranteed salary and 0.8% for every 1% above 50% direct service productivity. These incentives are paid monthly.	N	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1) [Board determined exclusion: payment to enhance retirement benefit] Possible PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]
A80	Recruit Retent Supp	Recruitment Retention Supplement of 10%	N <i>Coordinate w/HR; create new job class for Deputy Director II</i>	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (3) [ad hoc payment], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1)(B) [ad hoc/one-time payment]
OBR	Overtime w Ben-Retire x1.5	Per various MOUs - Created to make the employee whole. When an employee works 80 hrs in two weeks, but one or more of their shifts is less than 8 hours apart from previous shift, the MOU requires that the second shift is paid at OT rate. Because the total time worked in 2 weeks is still 80 hours, absent the MOU requirement, this time would have been paid at straight time rate (not overtime). OBR was created because regular OT is not tied to any accruals. If the regular OT code had been used, the employee would have been shorted on seniority, vacation, sick leave, and retirement. Allows employee in this situation to be made whole in terms of their normal accruals. The OBR code is at 1.5x--change to 1.0x and create new code for the 0.5x as OT and not be retirement eligible.	Y <i>Leave as Y for only straight time, 1x. Create new overtime code for .5x</i>	Y <i>Leave as Y for only straight time, 1x. Create new overtime code for .5x</i>	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase retirement benefit], (2) [in-kind conversion] (5) [unused leave], (8) [overtime], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1) [Board determined exclusion: payment to enhance retirement benefit]
ORT	Overtime FLSA Retire x1.5	Similar to OBR code, but only allows for retirement accruals, not other accruals such as vacation, sick, and seniority. Originally created for the airport, now being used for staff in non-benefitted positions who have less than 8 hrs between shifts. The ORT code is at 1.5x--change to 1.0x and create new code for the 0.5x as OT and not be retirement eligible	Y <i>Leave as Y for only straight time, 1x. Create new overtime code for .5x</i>	Y <i>Leave as Y for only straight time, 1x. Create new overtime code for .5x</i>	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase retirement benefit], (2) [in-kind conversion] (5) [unused leave], (8) [overtime], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	Possible PEPRA Exclusion for Tier 1 under §31461(b) subd. (1) [Board determined exclusion: payment to enhance retirement benefit]
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R10	Ret-Lump Sum Payment-200	Retro pay for A10 - Lump sum payment for annual performance goals	N	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (3) [ad hoc payment], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	PEPRA Exclusion for Tier 1 under §31461(b) subd. (1) [Board determined exclusion: payment to enhance retirement benefit], subd. (1)(B) [ad hoc/one-time payment]

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14	R11 Ret-Recruit Incentive-AC	Retro pay for A11 - 10% Recruit Incentive supplement	N	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (3) [ad hoc payment], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	PEPRA Exclusion for Tier 1 under §31461(b) subd. (1) [Board determined exclusion: payment to enhance retirement benefit], subd. (1)(B) [ad hoc/one-time payment]
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17	R80 Ret-Recruit Retent Supp	Retro pay for A80 - Recruitment Retention Supplement of 10%	N <i>Coordinate w/HR; create new job class for Deputy Director II</i>	N	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (1) [paid to increase a member's retirement benefit], (3) [ad hoc payment], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	PEPRA Exclusion for Tier 1 under §31461(b) subd. (1) [Board determined exclusion: payment to enhance retirement benefit], subd. (1)(B) [ad hoc/one-time payment]

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