



**RESOLUTION TITLE: COMPENSATION EARNABLE AND PENSIONABLE
 COMPENSATION FOR SJCERA MEMBERS**

RESOLUTION NO. 2020-10-04

WHEREAS, Government Code Section 31461 defines and specifies Compensation that is 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 7522.34 defines and specifies the compensation that is 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 or changes in applicable law; and

WHEREAS, the California Supreme Court's decision in *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1031 (the "*Alameda* decision"), has established that certain pay types are not retirement eligible; and

WHEREAS, staff has evaluated SJCERA's current earnings codes in light of the *Alameda* decision and determined that certain codes should be modified forthwith, on the terms set forth separately in the Board's Resolution Regarding *Alameda* Implementation As Applied To Compensation Earnable and Pensionable Compensation.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to the *Alameda* 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 I, which is hereby incorporated into and made a part of this Resolution 2020-10-04; and

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 15th day of October 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

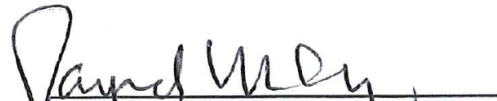
History:

- 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



MICHAEL RESTUCCIA, Chair

Attest:



RAYMOND McCRAY, Secretary

Earnings Codes Changes as a Result of the *Alameda* Decision - Part 1

LEGEND

Alameda Decision
(Mandatory Exclusions for Tiers 1 & 2 - Inkind Benefits)

PEPRA Mandatory Exclusion for Tier 1

PEPRA Mandatory Exclusion for Tier 2

PEPRA Discretionary Exclusion for Tiers 1 and/or 2

Ventura = *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

Alameda = *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032

(Y/N Changes Highlighted in RED Font)

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	<u>CONCLUSION</u> Comp Earnable Tier 1	<u>CONCLUSION</u> Pensionable Comp Tier 2				
A4S	Standby Pay 25 Per	Per MOU (Union K) Section 4.2.4 Standby Pay - an employee who is on standby status must be at a location where the employee can be reached at all times and upon being called shall return to work immediately. An employee who is recalled to work shall be deemed to be off standby status and the employee shall not receive standby pay for the hours the employee is paid to work, whether on straight time or overtime. Employees who perform standby pay duty shall be compensated at 25% of their regular hourly rate.	N	N		§31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside normal hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
A83	Standby Pay Hosp 33.33 Pr	Per MOU (Union M) Section 4.2.4 Standby Pay - an employee who performs standby duty shall receive 1/3 of hourly rate. An employee who is recalled to work shall be deemed to be off standby status.	N	N		§31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
A84	Standby Pay Hosp 20 Pr	Per MOUs 4.2.4 Standby Pay - an employee who performs standby duty shall receive 20% of base pay. An employee who is recalled to work shall be deemed to be off standby status.	N	N		§31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
A85	Standby Pay 20 Per	Per MOUs 4.2.4 Standby Pay - an employee who performs standby duty shall receive 20% of base pay. An employee who is recalled to work shall be deemed to be off standby status.	N	N		§31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	

Earnings Codes Changes as a Result of the *Alameda* Decision - Part 1

LEGEND

Alameda Decision
(Mandatory Exclusions for Tiers 1 & 2 - Inkind Benefits)

PEPRA Mandatory Exclusion for Tier 1

PEPRA Mandatory Exclusion for Tier 2

PEPRA Discretionary Exclusion for Tiers 1 and/or 2

Ventura = *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

Alameda = *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032
(Y/N Changes Highlighted in RED Font)

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	<u>CONCLUSION</u> Comp Earnable Tier 1	<u>CONCLUSION</u> Pensionable Comp Tier 2				
A86	Standby Pay 33.33 Per	Per MOUs 4.2.4 Standby Pay - an employee who performs standby duty shall receive 1/3 of hourly rate. An employee who is recalled to work shall be deemed to be off standby status.	N	N		§31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
C10	County 10% Contribution to 457	Per MOUs -Employer contributions to member wages for participation in a deferred comp plan	N	N	§31460; <i>Ventura</i> , p. 491 (employer contributions to an employee's deferred comp plan are not within the definition of "compensation earnable"); <i>Alameda</i> , p. 1057 ("employee's contributions to a deferred compensation plan are included in compensation earnable in the year of the contribution, rather than the year in which the sums are withdrawn from the plan.")		PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (9) [deferred comp.], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
C41	County 1% Contribution to 457	Per MOUs -Employer contributions to member wages for participation in a deferred comp plan	N	N	§31460; <i>Ventura</i> , p. 491 (employer contributions to an employee's deferred comp plan are not within the definition of "compensation earnable"); <i>Alameda</i> , p. 1070 ("The term "compensation," as used in section 31461 . . . expressly excludes the "monetary value" of benefits paid in kind. (§ 31460.) Nothing in those definitions hints either that they are intended merely to establish a minimum, rather than to serve as a comprehensive definition, or that they may be implemented at the discretion of local retirement boards. There is no indication, for example, that a local board has the discretion to include the monetary value of in-kind benefits, which are expressly excluded by section 31461..")		PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (9) [employer payment to deferred comp.], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	

Earnings Codes Changes as a Result of the *Alameda* Decision - Part 1

LEGEND

Alameda Decision
(Mandatory Exclusions for Tiers 1 & 2 - Inkind Benefits)

PEPRA Mandatory Exclusion for Tier 1

PEPRA Mandatory Exclusion for Tier 2

PEPRA Discretionary Exclusion for Tiers 1 and/or 2

Ventura = *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

Alameda = *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032
(Y/N Changes Highlighted in RED Font)

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	<u>CONCLUSION</u> Comp Earnable Tier 1	<u>CONCLUSION</u> Pensionable Comp Tier 2				
C42	County 2% Contribution to 457	Per MOUs -Employer contributions to member wages for participation in a deferred comp plan	N	N	§31460; <i>Ventura</i> , p. 491 (employer contributions to an employee's deferred comp plan are not within the definition of "compensation earnable"); <i>Alameda</i> , p. 1070 ("The term "compensation," as used in section 31461 . . . expressly excludes the "monetary value" of benefits paid in kind. (§ 31460.) Nothing in those definitions hints either that they are intended merely to establish a minimum, rather than to serve as a comprehensive definition, or that they may be implemented at the discretion of local retirement boards. There is no indication, for example, that a local board has the discretion to include the monetary value of in-kind benefits, which are expressly excluded by section 31461..")		PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (9) [employer payment to deferred comp.], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
C45	County 5% Contribution to 457	Per MOUs -Employer contributions to member wages for participation in a deferred comp plan	N	N	§31460; <i>Ventura</i> , p. 491 (employer contributions to an employee's deferred comp plan are not within the definition of "compensation earnable"); <i>Alameda</i> , p. 1070 ("The term "compensation," as used in section 31461 . . . expressly excludes the "monetary value" of benefits paid in kind. (§ 31460.) Nothing in those definitions hints either that they are intended merely to establish a minimum, rather than to serve as a comprehensive definition, or that they may be implemented at the discretion of local retirement boards. There is no indication, for example, that a local board has the discretion to include the monetary value of in-kind benefits, which are expressly excluded by section 31461..")		PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (9) [employer payment to deferred comp.], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	

Earnings Codes Changes as a Result of the *Alameda* Decision - Part 1

LEGEND

Alameda Decision
(Mandatory Exclusions for Tiers 1 & 2 - Inkind Benefits)

PEPRA Mandatory Exclusion for Tier 1

PEPRA Mandatory Exclusion for Tier 2

PEPRA Discretionary Exclusion for Tiers 1 and/or 2

Ventura = *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

Alameda = *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032
(Y/N Changes Highlighted in RED Font)

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	<u>CONCLUSION</u> Comp Earnable Tier 1	<u>CONCLUSION</u> Pensionable Comp Tier 2				
DCA	Deferred Comp Adjustment	Code used to correct deferred comp errors - last used in 2003	N	N	§31460; <i>Ventura</i> , p. 491 (employer contributions to an employee's deferred comp plan are not within the definition of "compensation earnable"); <i>Alameda</i> , p. 1070 ("The term "compensation," as used in section 31461 . . . expressly excludes the "monetary value" of benefits paid in kind. (§ 31460.) Nothing in those definitions hints either that they are intended merely to establish a minimum, rather than to serve as a comprehensive definition, or that they may be implemented at the discretion of local retirement boards. There is no indication, for example, that a local board has the discretion to include the monetary value of in-kind benefits, which are expressly excluded by section 31461..")		PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (9) [employer payment to deferred comp.], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
OC2	Correctional Briefing Holiday	Used by Sheriff to pay the briefing period prior to the start of their shift - they need a separate code for tracking. It is paid in addition to their shift and at 1.5x	N	N		PEPRA Exclusion for Tier 1 under §31461 subd. (b)(3) [payment for additional services outside normal hours]	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
OCO	Correctional Briefing	Used by Sheriff to pay the briefing period prior to the start of their shift - they need a separate code for tracking. It is paid in addition to their shift and at 1.5x.	N	N		PEPRA Exclusion for Tier 1 under §31461 subd. (b)(3) [payment for additional services outside normal hours]	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	

Earnings Codes Changes as a Result of the *Alameda* Decision - Part 1

LEGEND

Alameda Decision
(Mandatory Exclusions for Tiers 1 & 2 - Inkind Benefits)

PEPRA Mandatory Exclusion for Tier 1

PEPRA Mandatory Exclusion for Tier 2

PEPRA Discretionary Exclusion for Tiers 1 and/or 2

Ventura = *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

Alameda = *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032
(Y/N Changes Highlighted in RED Font)

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	<u>CONCLUSION</u> Comp Earnable Tier 1	<u>CONCLUSION</u> Pensionable Comp Tier 2				
R4S	Retro-Standby Pay 25 Per	Sheriff's Non-Management MOU Section 4.2.4 Standby Pay	N	N		PEPRA Exclusion for Tier 1 under §31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
R83	Ret-Standby Pay Hosp 33.33 Pr	Retro pay for A83 - Per MOU (Union M) Section 4.2.4 Standby Pay - an employee who performs standby duty shall receive 1/3 of hourly rate. An employee who is recalled to work shall be deemed to be off standby status.	N	N		PEPRA Exclusion for Tier 1 under §31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
R84	Ret-Standby Pay Hosp 20 P	Retro pay for A84 - Per MOUs 4.2.4 Standby Pay - an employee who performs standby duty shall receive 20% of base pay. An employee who is recalled to work shall be deemed to be off standby status.	N	N		PEPRA Exclusion for Tier 1 under §31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
R85	Ret-Standby Pay 20 Per	Retro pay for A85 - Per MOUs 4.2.4 Standby Pay - an employee who performs standby duty shall receive 20% of base pay. An employee who is recalled to work shall be deemed to be off standby status.	N	N		§31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd.(6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	

Earnings Codes Changes as a Result of the *Alameda* Decision - Part 1

LEGEND

Alameda Decision
(Mandatory Exclusions for Tiers 1 & 2 - Inkind Benefits)

PEPRA Mandatory Exclusion for Tier 1

PEPRA Mandatory Exclusion for Tier 2

PEPRA Discretionary Exclusion for Tiers 1 and/or 2

Ventura = *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483

Alameda = *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al.* (2020) 9 Cal.5th 1032
(Y/N Changes Highlighted in RED Font)

Earnings Code	PeopleSoft Earnings Code Description	MOU Reference & Job Item Description (Description of when this code is used and to whom it applies)	<u>CONCLUSION</u> Comp Earnable Tier 1	<u>CONCLUSION</u> Pensionable Comp Tier 2				
R86	Ret-Stby Pay 33.33 Per	Retro pay for A86 - Per MOUs 4.2.4 Standby Pay - an employee who performs standby duty shall receive 1/3 of hourly rate. An employee who is recalled to work shall be deemed to be off standby status.	N	N		PEPRA Exclusion for Tier 1 under §31461 subd. (b)(3) [payment for additional services outside normal hours]; <i>Alameda</i> , p. 1062 (compensation earnable excludes payment for services provided outside normal hours)	PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (6) [payment for additional services outside of normal working hours], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	
T07	Ret-Cafe Deferred Comp	Retro pay for deferred comp	N	N	§31460; <i>Ventura</i> , p. 491 (employer contributions to an employee's deferred comp plan are not within the definition of "compensation earnable"); <i>Alameda</i> , p. 1057 ("employee's contributions to a deferred compensation plan are included in compensation earnable in the year of the contribution, rather than the year in which the sums are withdrawn from the plan.")		PEPRA Exclusion for Tier 2 under §7522.34(c) subd. (9) [deferred comp.], (10) [bonus in addition to compensation in subd. (a)], (11) [inconsistent with requirements in subd. (a)], and (12) [Board determined should not be pensionable]	

This document presents a subset of earnings codes that are pertinent to this discussion. A complete list of earnings codes is available upon request.