



Alameda County Employees' Retirement Association  
**BOARD OF RETIREMENT**

**GOVERNANCE COMMITTEE/BOARD MEETING**  
**NOTICE and AGENDA**

**THIS MEETING WILL BE CONDUCTED VIA TELECONFERENCE [SEE EXECUTIVE ORDER N-29-20 ATTACHED AT THE END OF THIS AGENDA]**

**ACERA MISSION:**

**To provide ACERA members and employers with flexible, cost-effective, participant-oriented benefits through prudent investment management and superior member services.**

**February 18, 2021  
9:30 A.M.**

<b>ZOOM INSTRUCTIONS</b>	<b>COMMITTEE MEMBERS</b>	
The public can view the Teleconference and comment via audio during the meeting. To join this Teleconference, please click on the link below. PLEASE CLICK THE LINK BELOW TO JOIN THE WEBINAR: <a href="https://us02web.zoom.us/j/81370638874?pwd=SVHZMDRTZZB1AWRUV2G5LZQVRJM5UT09">HTTPS://US02WEB.ZOOM.US/J/81370638874?PWD=SVHZMDRTZZB1AWRUV2G5LZQVRJM5UT09</a> PASSCODE: 800226 OR TELEPHONE: DIAL(FOR HIGHER QUALITY, DIAL A NUMBER BASED ON YOUR CURRENT LOCATION): US: +1 669 900 6833 OR +1 253 215 8782 OR +1 346 248 7799 OR +1 929 205 6099 OR +1 301 715 8592 OR +1 312 626 6799 WEBINAR ID: 813 7063 8874 PASSCODE: 800226	<b>OPHELIA BASGAL, CHAIR</b>	<b>APPOINTED</b>
	<b>LIZ KOPPENHAVER, VICE CHAIR</b>	<b>ELECTED RETIRED</b>
	<b>JAIME GODFREY</b>	<b>APPOINTED</b>
	<b>HENRY C. LEVY</b>	<b>TREASURER</b>
	<b>GEORGE WOOD</b>	<b>ELECTED GENERAL</b>

This is a meeting of the Governance Committee if a quorum of the Governance Committee attends and it is a meeting of the Board if a quorum of the Board attends. This is a joint meeting of the Governance Committee and the Board if a quorum of each attends.

The order of agenda items is subject to change without notice.

Board and Committee agendas and minutes, and all documents distributed to the Board or a Committee in connection with a public meeting (unless exempt from disclosure), are available online at [www.acera.org](http://www.acera.org).

Public comments are limited to four minutes per person in total.

ACERA will make reasonable accommodations for persons with special needs for accessibility who plan to attend Board or Committee meetings. Please contact ACERA at (510) 628-3000 to arrange for accommodation.

# **GOVERNANCE COMMITTEE / BOARD MEETING**

**NOTICE and AGENDA, Page 2 of 2 – February 18, 2021**

**Call to Order:** 9:30 a.m.

## **Roll Call**

## **Public Input (Time Limit: 4 minutes per speaker)**

## **Action Items: Matters for Discussion and Possible Motion by the Committee**

1. Potential Revisions to the *Membership Policy*.
2. Determine applicability of proposed revision to Membership Policy to allow flexibility on membership and termination dates, if the Board adopts that proposed revision.

## **Staff Recommendation**

That the Governance Committee recommend to the Board that it (1) make the revisions to the *Membership Policy* shown in this agenda packet, and (2) allow adjustments of membership and termination dates for any member who has not yet received a retirement allowance payment from ACERA.

– Jeff Rieger, Chief Counsel

## **Informational Items**

1. 2021 Governance Committee Work Plan

## **Trustee Input**

## **Establishment of Next Meeting**

## **Adjournment**

**EXECUTIVE DEPARTMENT  
STATE OF CALIFORNIA**

**EXECUTIVE ORDER N-29-20**

**WHEREAS** on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

**WHEREAS** despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

**WHEREAS** the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

**WHEREAS** time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

**WHEREAS** social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

**WHEREAS** under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

**NOW, THEREFORE, I, GAVIN NEWSOM**, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

**IT IS HEREBY ORDERED THAT:**

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of



otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow



members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

**IT IS FURTHER ORDERED** that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

**IN WITNESS WHEREOF** I have  
hereunto set my hand and caused  
the Great Seal of the State of  
California to be affixed this 17th day  
of March 2020.



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GAVIN NEWSOM  
Governor of California

**ATTEST:**

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ALEX PADILLA  
Secretary of State



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*Office of the Chief Counsel*

To: Governance Committee

From: Jeff Rieger, Chief Counsel

Meeting: February 18, 2021

Subject: **Proposed Revisions To The Membership Policy**



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Enclosed with the agenda packet is a redline showing staff's proposed revisions to the Membership Policy. All of the proposed revisions are in the Reciprocal Membership section of the Policy, found on page 6 of the redline. There are two reasons for the proposed amendments:

1. At the December 17, 2020 Governance Committee meeting, staff presented the Committee with a proposed revision to the Membership Policy that would provide flexibility on membership and termination dates. This revision would help members avoid being disqualified from reciprocity due to overlapping service. At that meeting, the Committee deferred taking action on the recommended revision, because the Committee wanted to review further information about the cost and scope of the proposed revision. The next document in the packet for this meeting is a memorandum with that additional information.
2. While reviewing the Reciprocal Membership section of the Membership Policy in connection with the issue described above, I noticed room for improvement. In particular, for a member to use (a) compensation earned under a reciprocal system for determining ACERA benefits, and/or (b) service credit under a reciprocal system to determine ACERA benefit eligibility, the member must retire concurrently from the two systems. ACERA staff educates members about this legal requirement. I recommend that this legal requirement be added to the Membership Policy, so that the Policy is more complete and informative.

I will be happy to answer any questions the Committee may have at the February 18, 2021 meeting.





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*Office of the Chief Counsel*

To: Governance Committee  
From: Jeff Rieger, Chief Counsel  
Meeting: February 18, 2021  
Subject: **Adjustment of Membership and Termination Dates for Reciprocity**

A handwritten signature in black ink, appearing to be "JR" or similar initials, written over the "From:" line.

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**INTRODUCTION**

Some ACERA members are not able to take advantage of reciprocal benefits because they earn service credit in ACERA and a reciprocal retirement system concurrently. This "overlapping" service disqualifies the members from taking advantage of reciprocal benefits that would otherwise be available to them.

The California Legislature has provided the Board with a tool to help some members avoid losing reciprocal benefits due to overlapping service. Staff recommends that the Board add that tool to the Board's Membership Policy.

This matter came to the Governance Committee at its December 17, 2020 meeting. At that meeting, the Committee deferred taking action on staff's recommendation and asked staff to return at a future meeting with more information about the likely impacts of the proposed policy change. This memorandum includes such further information.

**DISCUSSION**

***The Benefits of Reciprocity***

Reciprocity allows public employees to move between California public employers without suffering certain negative impacts to their retirement rights that they would suffer in the absence of reciprocity. For example:

- If a member works for Alameda County and then mid-career starts working for Contra Costa County, ACERA may be able to use the member's "compensation earnable" or "pensionable compensation" while working for Contra Costa County to determine the member's ACERA "final compensation." See Gov't Code § 31835. Without reciprocity, that member would have to use mid-career "compensation earnable" or "pensionable compensation" that the member earned while working for Alameda County.
- Service under a reciprocal system can count towards benefit qualification. For example, without reciprocity, a deferred Tier 2 member with less than five years of ACERA service credit cannot retire until age 70. If, however, that deferred member has a total of five years of service credit with ACERA and a reciprocal system (and ten years since ACERA membership date), that member can retire at age 50. See Gov't Code §§ 31836, 31672, 31672.1. Service credit in a reciprocal system can

also count for non-service connected disability eligibility. See Gov't Code §§ 31836, 31720(b).

- A member's age at entry into an earlier system can determine the member's contributions to a later system (a younger age at entry can result in lower member contributions). See Gov't Code § 31833.
- Reciprocity can impact whether a member is enrolled in Tier IV (PEPRA) or the tier that was in place with the member's employer on December 31, 2012. See Gov't Code § 7522.02(c).

### ***Overlapping Service***

One requirement to qualify for reciprocal benefits is that a member cannot have more than a six-month break in service between the public employers. Over the years, questions arose about whether a member could qualify for reciprocity with overlapping service (i.e. no break in service). For example, if a member uses six weeks of accrued vacation after her last day of work for Alameda County, but starts working for Contra Costa County three weeks after her last day of work for Alameda County, there may be a short time during which she earns service credit in both systems. The consensus in the CERL community, including ACERA, has been that this kind of overlapping service disqualifies a member from receiving the benefits of reciprocity. That view presumably arose from the fact that reciprocal sections in the CERL refer to a "period intervening between active memberships in the respective systems."<sup>1</sup>

The Legislature confirmed that overlapping service disqualifies members from reciprocal benefits when it expanded CERL boards' ability to adjust membership and termination dates to help members avoid losing reciprocal benefits. In 2010, the Legislature amended Gov't Code § 31527(h)<sup>2</sup> to provide that a board may include its Regulations:

The day upon which each person becomes a member of the association if it is to be other than the first day of the calendar month after his or her entrance into service. However, that day shall be no later than 12 weeks after his or her entrance into service, or the day upon which the member terminates service credited by the association, and that the day shall be no earlier than 12 weeks prior to the member's termination from employment.

In connection with the 2010 amendment, the Assembly Committee on Public Employees, Retirement and Social Security explained that an "employee cannot receive reciprocity if service is earned in more than one retirement system during the same time period."

This Board's Regulations do not address overlapping service, but Section 4.3.2 of the Board's Regulations provides: "The Board shall adopt, adhere to, and may amend from time to time, policies and procedures governing membership which are not inconsistent

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<sup>1</sup> The language above is from Gov't Code § 31835 and also applies to Gov't Code § 31836. The language in section Gov't Code § 31833 is slightly different: "for a person who enters within ... six months ... of last rendering service as a member of" a reciprocal system.

<sup>2</sup> Before January 1, 2011 (the effective date of the 2010 amendment), CERL boards could approve six weeks of flexibility on the entry date, but no flexibility on the termination date.

with the provisions of the 1937 Act or these regulations and which shall, at a minimum, establish eligibility for membership, and define service, benefits available, and compensation earnable.” Consistent with that directive, Section VI(A)(2) of the Board’s Membership Policy allows for adjustment of entry dates, but not termination dates:

If overlapping or concurrent employment or service credit occurs within the six month window, reciprocity cannot be established. ACERA may adjust the entry date to the date after the termination date in the prior agency to prevent duplicate service crediting. However, ACERA cannot adjust the termination date if the member begins employment in the next reciprocal agency. In these instances, reciprocity will not be established unless the next agency adjusts its entry date to avoid overlapping service crediting.

ACERA informs members that they should avoid overlapping service credit and most members do, but some members have been, or are likely to be, disqualified from receiving reciprocal benefits from ACERA and a reciprocal system due to a short period of, presumably inadvertent, overlapping service credit. The proposed amendment to the Membership Policy would remedy that disqualification for those members.

A purpose of reciprocity is to “encourage career public service.” Gov’t Code § 31830. ACERA members currently are encouraged to delay continued public service after they terminate employment with an ACERA employer.

### ***Scope and Cost of Proposed Amendment***

It is substantially more challenging to search for incoming reciprocity denials before 2007 and outgoing reciprocity denials before 2011. Searching back to those dates, staff has identified 14 deferred members<sup>3</sup> who were denied reciprocity and may benefit from the proposed policy change. Attached as Exhibit A is a chart with some information about these deferred members.

One deferred member, with seven days of overlapping service, retired from CCCERA on November 1, 2020, at age 63.5 with one-year “final compensation” of about \$6,975. This member has about 2.77 years of ACERA service credit. With reciprocity, her allowance would have started at age 63.5 and it would have been about \$400 per month. Without reciprocity, her allowance will not start until age 70 and it will be about \$160 per month.

The other 13 members moved on from active ACERA membership to active membership in a reciprocal system and have not yet retired. The impact that disqualification from reciprocity will have on their benefits will depend on how much ACERA service credit each member has, age at retirement and the difference between each member’s highest compensation under ACERA and highest compensation under the reciprocal system.

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<sup>3</sup> This does not include (a) two former members who withdrew their contributions, (b) one deferred member who returned to CalPERS membership and should be able to establish reciprocity based on that move, and (c) one member who retired in 2016 (and did not retire concurrently from his reciprocal system).



Their average ACERA service credit is about six years. The average difference in compensation is unknown. For the members with more service credit and higher compensation differential, the impact of establishing reciprocity could be very substantial when they retire.<sup>4</sup> Additionally, seven of the these members have less than five years of service credit and reciprocity may enable those members to retire as early as age 50 (or 52 for General Tier 4) instead of age 70. Finally, if granted reciprocity, some of these members may experience a reduction in their required member contributions to their current reciprocal systems.

### ***Other CERL Systems***

There are 20 CERL systems. Here is a breakdown of the CERL systems' practices with respect to the adjustment of membership and termination dates:

- Eight systems adjust membership and termination dates: San Mateo, Santa Barbara, San Diego, Tulare, Sonoma, Merced, Fresno, San Joaquin.
- Five systems adjust membership dates, but not termination dates: Kern, Ventura, Orange, Alameda, San Bernardino.
- Five systems do not adjust membership or termination dates: Sacramento, Los Angeles, Contra Costa, Mendocino, Marin, Imperial.
- One system has not responded to date: Stanislaus.

### **RECOMMENDATIONS**

1. Staff recommends that the Board amend Section VI(A)(2) of the ACERA Membership Policy to read:

If there is overlapping service credit between ACERA and a reciprocal system, reciprocity cannot be established. ACERA may, however, adjust the date a person becomes an ACERA member to as much as 12 weeks after entrance into service in an ACERA-covered position (with appropriate adjustments to service credit and contributions) and/or adjust the date a member terminates service to as much as 12 weeks prior to the member's termination from an ACERA-covered position (with appropriate adjustments to service credit and contributions).

- a. If the Board amends the Membership Policy as stated above, staff recommends that Board allow adjustments of membership and termination dates for **any member who has not yet received a retirement allowance payment from**

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<sup>4</sup> One of the 14 members is a General Tier 2 member with about 9.57 year of ACERA service credit. If she qualified for reciprocity and retired concurrently from both systems at age 62, she would receive an ACERA retirement allowance equal to about 20% of her three-year "final compensation" under her reciprocal system, rather than under ACERA. She made about \$112,400 when she left ACERA active membership in October 2012 and will turn 62 in 2038. How much more than \$112,400 she will be earning after 26 years of promotions, merit increases and cost of living adjustment is unknown, but we can expect the difference to be very substantial.

**ACERA.** For the 14 members identified, this would mean that, if each adjusts his or her termination date to eliminate overlapping service credit:

- i. The member who was unable to retire on November 1, 2020, due to lack of reciprocity, would be allowed to retire, effective November 1, 2020, and use her compensation earned under CCCERA for her ACERA "final compensation."
- ii. The other 13 members will qualify for reciprocal benefits from ACERA if they retire concurrently from ACERA and their reciprocal systems. Further, these members may also experience lower required member contributions to their reciprocal retirement systems.

## **EXHIBIT A**

### **Disqualified From Reciprocity Since 2011 For Less Than 12 Weeks Of Overlapping Service**

<b>Current Age</b>	<b>ACERA Termination Date</b>	<b>Reciprocal Retirement System Membership Date</b>	<b>ACERA Service Credit</b>
27	6/12/2020	6/1/2020	0.88462
41	9/14/2020	9/8/2020	1.75668
49	8/16/2014	7/1/2014	2.38581
63	10/7/1994	10/1/1994	2.77065
35	4/5/2019	4/1/2019	3.21806
35	10/21/2016	10/17/2016	3.23077
50	6/30/2014	6/16/2014	3.79353
38	2/7/2020	1/27/2020	5.63533
43	5/8/2015	4/20/2015	5.65385
39	1/19/2016	12/15/2015	5.76013
35	3/12/2020	3/9/2020	6.5343
44	10/13/2012	10/1/2012	9.57476
44	9/11/2015	9/8/2015	9.75375
49	9/3/2010	8/17/2010	13.48206





# Membership Policy

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## I. Purpose

This Membership Policy (Policy) contains the Board of Retirement's (Board) rules of membership in the Alameda County Employees' Retirement Association (ACERA). If there are conflicts between applicable law and this policy, applicable law prevails.

## II. Membership Eligibility and Contributions

### A. Mandatory Membership

1. Membership in ACERA is mandatory for employees appointed to full-time permanent positions with a Participating Employer.<sup>1</sup> Each Participating Employer has the exclusive authority and responsibility to define what constitutes full-time employment and to identify its positions that are eligible for membership.<sup>2</sup>
2. When enrolling an employee in ACERA membership, the Participating Employer certifies that (a) the individual is an employee of the Participating Employer; (b) the employee's position is eligible for membership with ACERA; (c) the employee works in a full-time permanent position; and (d) the employee should be enrolled in ACERA.
3. ACERA eligible employees must submit a completed Membership Enrollment Questionnaire to ACERA when they are hired.
4. Membership is continuous until termination of employment with a Participating Employer. If a full-time employee who is a member of ACERA starts working less than full-time, the employee continues to make contributions to ACERA and receive proportional service credit based on the amount of time worked compared to a full-time schedule.

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<sup>1</sup> For Alameda Health Systems, membership is pursuant to Gov. Code §31552.4 and Health and Safety Code §101851. Unless stated otherwise, all references to statutes are California State statutes.

<sup>2</sup> As of December 17, 2020, ACERA has seven Participating Employers: (1) Alameda County; (2) Alameda Health Systems; (3) Alameda County Superior Court; (4) Housing Authority of Alameda County; (5) Livermore Area Recreation and Park District; (6) First 5 Alameda County; and (7) Alameda County Office of Education.

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B. Member Contributions

1. Tiers 1, 2 and 3 member contribution rates are based on Tier and age at entry. Tier 4 member contribution rates do not vary based on age at entry. All rates are adjusted annually.
2. Participating Employers must withhold member contributions according to ACERA's pay code list and timely forward such contributions to ACERA.
3. Upon discovery of missed contributions, ACERA will assess the amount owed plus interest for both the member and Participating Employer and notify each of the amounts owed. ACERA will ordinarily apply interest to the underpaid employer contributions at ACERA's semi-annual interest crediting rate, but reserves the right to assess additional interest (e.g., ACERA's assumed rate of investment return) and add penalties to underpaid amounts in cases of intentional late payments or delays in remedying late payments. Interest on member contributions is determined according to ACERA's Error Correction Policy. If a member no longer works for the employer, the member and employer remain responsible for the amounts owed.
4. Tiers 1, 2 and 3 Safety members with 30 years of service credit make no member contributions. General Members with 30 years of service credit and a membership date on or before March 7, 1973 make no member contributions.

C. Date of Membership

1. Membership is effective on the first day of the second pay period after the employee's hire date into an ACERA eligible position (except the Housing Authority as noted below). This is the date of entry into membership, unless adjusted per Section VI(A)(2) of this Policy. As of the date of entry, retirement contributions begin and service credit is earned for each hour worked.
2. During the short period between the beginning of employment and the ACERA date of entry, the employee does not make member contributions or earn service credit. A member can purchase this service credit any time before retirement, and the member's date of entry does not change.
3. For the Housing Authority, membership is effective on the first day of hire in an ACERA eligible position. This is the date of entry into ACERA membership, unless adjusted per Section VI(A)(2) of this Policy. As of the date of entry, retirement contributions begin and service credit is earned for each hour worked.

D. Excluded from Membership

1. **Less Than Full-Time.** Any employee who is less than full-time, as determined by the employer, is excluded from ACERA membership. This may include, without limitation, Part-Time, Seasonal, Intermittent, As Needed, Per Diem and employees working in Temporary Agency Pool (TAP).
2. **Non-Permanent.** Any employee who is non-permanent, as determined by the employer, is excluded from ACERA membership. This may include, without limitation, Temporary, Seasonal, Intermittent, As Needed, Per Diem and employees working in Temporary Agency Pool (TAP).
3. **Independent Contractors.** If a Participating Employer hires individuals as independent contractors under an employment contract or through a third party, those individuals are not eligible for ACERA membership. Such working time does not count as any kind of service in ACERA and cannot be purchased at any time. The term “contract” as used in this paragraph does not refer to a collective bargaining agreement between organized labor and a Participating Employer.

- E. **Terminated Employees.** Members who terminate employment before retirement may withdraw their accumulated member contributions plus interest or leave their funds on deposit with ACERA and retire when eligible.

III. Membership Types

There are two membership types, which are based upon job classifications:

- A. **Safety members** are employees working in active law enforcement, fire-fighting, or in positions that have been designated as safety positions (i.e., Juvenile Hall Group Counselor, Probation Officer, etc.).
- B. **General Members** are all other members who are not safety members.

IV. Membership Tiers

ACERA has different Tiers based upon a member’s date of entry.

A. Tier 1

1. **General or Safety Members** (other than employees of the Livermore Area Recreation and Park District (LARPD) or the Housing Authority) who joined ACERA on or before June 30, 1983.



2. General Members who joined ACERA as employees of the LARPD on or before September 30, 2008.
  3. General Members who joined ACERA as employees of the Housing Authority on or before September 30, 2011.
- B. Tier 2
1. General or Safety members (other than employees of the LARPD and the Housing Authority) who joined ACERA on or after July 1, 1983, except those who must be enrolled in Tier 4.
  2. General members who joined ACERA on or after October 1, 2011, as employees of the Housing Authority, except for those who must be enrolled in Tier 4. Effective October 1, 2011, the Housing Authority implemented a new benefit formula for those employees who elected to change to Tier 2, and for any new Housing Authority employees.
- C. Tier 3. General Members who joined ACERA on or after October 1, 2008, as employees of the LARPD, except those who must be enrolled as Tier 4. Effective October 1, 2008, LARPD implemented a new benefit formula for those employees who elected to change to Tier 3 and for any new LARPD employees.
- D. Tier 4. For all Participating Employers, General and Safety Members who joined ACERA for the first time on or after January 1, 2013 (exceptions may apply to some members coming from a reciprocal retirement system who may be enrolled the Tier that was applicable on December 31, 2012). Also, members who were active members of ACERA and had a break in service of more than 6 months and returned to a different ACERA Participating Employer after January 1, 2013 are enrolled in Tier 4.
- E. Split Tier Membership. A member with service in different Tiers will receive benefits that are the sum of all benefits earned in all Tiers under which the member provided service. Some members with Split Tier membership may be able to convert credit under one Tier to another Tier by redepositing previously withdrawn contributions.

## V. Service Credit Eligible for Purchase

All service credit purchases must be completed before retirement and within five years of initiating the purchase. Time worked in the positions described in Section II(D)(3) is never eligible for purchase. Not all requirements for all types of service credit purchases are described below. ACERA staff will provide all requirements to members who inquire. The following types of service credit are eligible for purchase:

- A. Time Prior to Entry Date. Service credit for the short period of time between the beginning of employment and the date of entry into membership may be purchased.
- B. Prior Ineligible Service. Members who were excluded from retirement membership because they worked less than full-time or in a non-permanent position for a Participating Employer may purchase this service once they become eligible for membership.
- C. Medical Leave of Absence Without Pay. A member who returns to active service following an uncompensated leave of absence on account of the member's illness may purchase up to one year of service credit for that leave time.
- D. Military Service Leave of Absence Without Pay. Members' rights to purchase service credit for time while on leave to provide service to the military are stated in Gov't Code §31649 and the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA").
- E. Redeposit of Withdrawn Contributions. A current member who previously terminated membership with ACERA and withdrew contributions and interest for that membership may redeposit the withdrawn funds plus interest that would have accrued up to the date of payment at any time before retirement.
- F. Other Prior Public Service. A member who worked for non-ACERA public agency before becoming a member of ACERA may be eligible to purchase service credit for such service if certain requirements are met. This type of service credit purchase, which costs the member more than other types, does not count towards retirement eligibility.

## VI. Reciprocal Membership

### A. General Rules

- I. Members who enter ACERA membership within six months after terminating employment under another California public retirement system with which ACERA has "reciprocity," and who defer retirement from such other system, may have reciprocity between ACERA and the other system. The same is true for

members who terminate employment under ACERA, defer retirement from ACERA and within six months begin employment with an employer under a reciprocal retirement system.

2. If there is overlapping service credit between ACERA and a reciprocal system, reciprocity cannot be established. ACERA may, however, adjust the date a person becomes an ACERA member to as much as 12 weeks after entrance into service in an ACERA-covered position (with appropriate adjustments to service credit and contributions) and/or adjust the date a member terminates service to as much as 12 weeks prior to the member's termination from an ACERA-covered position (with appropriate adjustments to service credit and contributions). ~~If overlapping or concurrent employment or service credit occurs within the six month window, reciprocity cannot be established. ACERA may adjust the entry date to the date after the termination date in the prior agency to prevent duplicate service crediting. However, ACERA cannot adjust the termination date if the member begins employment in the next reciprocal agency. In these instances, reciprocity will not be established unless the next agency adjusts its entry date to avoid overlapping service crediting.~~

B. Key Reciprocal Benefits

1. The entry age for determining member contributions (when applicable) will be the age when the member entered his or her first reciprocal membership.
2. Service credit earned in a reciprocal agencies system will be considered for the purpose of establishing a member's eligibility for benefits, if the member retires concurrently from ACERA and the reciprocal system.
3. Amounts earned while an active member of a reciprocal systems will be considered when determining the member's "final compensation," if the member retires concurrently from ACERA and the reciprocal system.
4. Safety members who withdrew retirement contributions after termination of employment and currently work for a reciprocal agency may be eligible to redeposit funds and establish reciprocal benefits.
5. A member granted a disability retirement by a reciprocal retirement system may be granted a disability retirement by ACERA, although the calculation of benefits may be different than if the disability had been granted by ACERA. Whether or not a member establishes reciprocity, a member who receives a disability allowance from

ACERA or certain reciprocal systems may not receive more in total from all of those retirement systems than the member would have received if all service had been earned in one retirement system.

## VII. Service Retirement Benefits

A member's service retirement allowance is based on a formula that accounts for the member's age at retirement, years of service and "final compensation." For example, if a member under the 2% a 57 formula retires at age 57, the member's retirement allowance will be 2% of the member's "final compensation" per year of service credit. An earlier retirement lowers the factor below 2% and a later retirement increases the factor above 2% according to a chart in the statute with the benefit formula. The following are descriptions of the key components of each retirement Tier:

### A. Tier 1 General

1. 2% at age 57 (Gov't Code §31676.12. shows factor at each retirement age).
2. Members may retire at age 70 regardless of service and tenure, at age 50 with 10 or more years of qualifying membership and 5 or more years of service credit, or at any age with 30 years of service credit.
3. "Final compensation" is based on the highest 12 consecutive months of "compensation earnable" as defined by Gov't Code §31461.

### B. Tier 1 Safety

1. 3% at age 50 (Gov't Code §31664.1 shows factor at each retirement age).
2. Members may retire at age 70 regardless of service and tenure, at age 50 with 10 or more years of qualifying membership and 5 or more years of service credit, or at any age with 20 years of service credit.
3. "Final compensation" is based on the highest 12 consecutive months of "compensation earnable" as defined by Gov't Code §31461.

### C. Tier 2 General

1. 2.09% at age 62 (Gov't Code §31676.1 shows factor at each retirement age).
2. Members may retire at age 70 regardless of service and tenure, at age 50 with 10 or more years of qualifying membership and 5 or more years of service credit, or at any age with 30 years of service credit.
3. "Final compensation" is based upon the highest 36 consecutive months of "compensation earnable" as defined by Gov't Code §31461.



## D. Tier 2 Safety

1. 3% at age 50 (Gov't Code §31664.1 shows factor at each retirement age).
  - a. Safety members in the Sheriff's Department (excluding Probation Officers) hired between October 17, 2010 and December 31, 2012 were able to elect Tier 2C (2% at age 50, found in Gov't Code §31664) or Tier 2D (3% at age 55, found in Gov't Code §31664.2).
2. Members may retire at age 70 regardless of service and tenure, at age 50 with 10 or more years of qualifying membership and 5 or more years of service credit, or at any age with 20 years of service credit.
3. "Final compensation" is based upon the highest 36 consecutive months of "compensation earnable" as defined by Gov't Code §31461.

## E. Tier 3 General

1. 2.5% at age 55 (Gov't Code §31676.18 shows factor at each retirement age).
2. Members may retire at age 70 regardless of service and tenure, at age 50 with 10 or more years of qualifying membership and 5 or more years of service credit, or at any age with 30 years of service credit.
3. "Final compensation" is based on the highest 12 consecutive months of "compensation earnable" as defined by Gov't Code §31461.

## F. Tier 4 General

1. 2% at age 62 (Gov't Code §7522.20(a) shows factor at each retirement age).
2. Members may retire at age 70 regardless of service and at age 52 with 5 or more years of service credit.
3. "Final compensation" is based on the 36 highest consecutive months of "pensionable compensation" as defined and capped by Gov't Code §§ 7522.34 and 7522.10.

## G. Tier 4 Safety

1. 2.7% at age 57 (Gov't Code §7522.25(d) shows the factor at each retirement age).
2. Members may retire at age 70 regardless of service and at age 50 with 5 or more years of service credit.

3. “Final compensation” is based on the 36 highest consecutive months of “pensionable compensation” as defined and capped by Gov’t Code §§ 7522.34 and 7522.10.

#### VIII. Disability Benefits

- A. The Board makes all determinations regarding member’s entitlement to a disability retirement. See ACERA’s Disability Retirement Procedures for more information about the process of applying for a disability retirement.
- B. Service-Connected-Disability. There is no minimum service credit requirement for a service-connected disability. A service-connected disability retirement allowance is the higher of the one-half of the member’s “final compensation” or the member’s service retirement allowance if the member is eligible to retire for service. There are tax benefits associated with a service-connected disability.
- C. Non-Service-Connected Disability. Only members with 5 years of service credit are eligible for a non-service-connected disability retirement. Gov’t Code §31726 and the several code sections that follow it describes how to calculate a non-service-connected disability retirement depending on a variety of circumstances.

#### IX. Death Benefits

ACERA pays different death benefits, including continuing allowances in some instances, depending a variety of circumstances, including, but not limited to: whether the member is general or safety, retired or active, retired for service or disability, the member’s years of service and age at death, the cause of death and whether the member has a surviving spouse or surviving minor children (up to age 22 if enrolled as a full-time student in an accredited school). An ACERA overpayment to the member that was unrecovered at the time of death will be deducted from any benefits owed to the member’s beneficiaries to the maximum extent permitted by law.

#### X. Work for a Participating Employer After Retirement

- A. Retired members may be reinstated into active status when certain requirements are met. When a member is reinstated, the member’s ACERA benefits are suspended and the member resumes making member contributions and earning service credit in ACERA. Gov’t Code §§ 31680.4 and 31680.5 govern the terms and conditions of reinstatement for eligible members. A Participating Employer must promptly inform ACERA, in writing, when it plans on reinstating a member into active status, so that ACERA can confirm that the reinstatement is proper and obtain all necessary completed forms and information from the Participating Employer and the member.

- B. Retired members may work on a limited basis for a Participating Employer without reinstating, if they comply with certain requirements, which are found in Gov't Code §§ 7522.56, 31680.2 and 31680.6, and the Board's Regulations for IRC Section 401(a) Return to Work and Separation from Service.

XI. Policy Modification

The Governance Committee, or other committee designated by the Board, shall review this policy at least every three years. The Committee shall make recommendations to the Board concerning any improvements or modifications it deems necessary.

XII. Policy History

- A. The Board adopted this policy on July 17, 2003.
- B. The Board reviewed and affirmed this policy, with revisions, on December 17, 2020.<sup>3</sup>

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<sup>3</sup> Previous amendment dates all with revisions: August 16, 2007; August 18, 2011; December 15, 2011; December 20, 2012; March 21, 2013; December 19, 2013; June 18, 2015; July 21, 2016, and December 20, 2018.

## 2021 Governance Committee Work Plan

Meeting Month	Policy To Review	Last Reviewed
April 2021	CEO Evaluation Policy  CEO Job Duties and Delegation Authority Policy  Emergency CEO Succession Policy	July 20, 2017  June 21, 2018  November 19, 2017
June 2021	Retiree Payroll Deduction Policy  Record Retention Policy	September 20, 2018  September 20, 2018
August 2021	Securities Litigation Policy  Outside Counsel Policy	September 20, 2018  September 20, 2018