



# Membership Policy

## 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 February 18, 2021, 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.

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).<sup>3</sup>

#### 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 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 system 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

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<sup>3</sup> Such adjustments of membership and termination dates are permitted for any member who has not yet received a retirement allowance payment from ACERA.

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 February 18, 2021.<sup>4</sup>

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<sup>4</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; December 20, 2018; and December 17, 2020.