

## I. Purpose

The reciprocity provisions of the County Employees' Retirement Law (CERL) provide valuable benefits to ACERA members who have service under reciprocal public retirement systems. Those provisions are complex and often can be read in different ways. This Policy states the Board's official interpretations of the CERL's reciprocity provisions, based on statutory language and apparent legislative intent. This Policy provides guidance to ACERA's members and Staff, so that ACERA's administration of the CERL's reciprocity provisions is fair and predictable.

## II. Guiding Principles

- A. The purpose of the CERL's reciprocity provisions is to eliminate disadvantages that members might otherwise experience when moving from one retirement system to another. Those reciprocity provisions are not intended to provide members who move from one retirement system to another with greater benefits than they would have received if they had performed all service under one system. All interpretations of the CERL's reciprocity provisions should be consistent with these principles.
- B. The CERL's reciprocity provisions should be read broadly in favor of granting members reciprocal benefits. A member should not be deprived of reciprocal benefits if there is a reasonable way to read the CERL that would provide the member with those benefits.
- C. Members must inform ACERA about their service under reciprocal retirement systems for ACERA to administratively establish reciprocity. ACERA will seek such information in its forms and when counseling members.
- D. The Board determines the benefits ACERA pays and reciprocal systems determine the benefits they pay. This Policy governs the benefits ACERA pays regardless of whether a reciprocal system interprets the CERL or other laws differently than ACERA.
- E. This Policy governs all Staff determinations prospectively.

## III. Board Interpretations

- A. **Measuring The Six-Month Period.** To be eligible for reciprocity, a member must move between reciprocal retirement systems within six months or less. ACERA measures that six-month period from the date of termination of active membership in the first system to the date of employment in a job that is eligible for membership in the second system (for ACERA, permanent full-time employment with a participating employer). The approximate two-week administrative delay between employment and membership in ACERA (or similar delays at other systems) does not result in the loss of reciprocity. See Gov't Code § 31840.4.
- B. **Overlapping Service Credit.** Overlapping service credit with ACERA and a reciprocal system prevents a member from establishing reciprocity between ACERA and that system. The Board's Membership Policy, however, gives members the ability to alter their membership date and/or termination of active membership date by up to 12 weeks to eliminate any such overlap. Staff will take all reasonable steps to help members understand their rights to eliminate overlapping service credit under the Board's Membership Policy.
- C. **"Final Compensation."** Under Gov't Code § 31835, ACERA considers pay records under reciprocal retirement system when determining a member's "final compensation," but ACERA will not adopt the reciprocal system's determination of "compensation earnable" or "pensionable compensation" if it differs from ACERA's. All determinations of "compensation earnable" and "pensionable compensation" are based on the CERL and the Board's historical interpretation thereof per ACERA's pay code lists. See *Stillman v. Board of Retirement of Fresno County Employees' Retirement Assn.* (2011) 198 Cal.App.4th 1355.
- D. **Multiple Breaks In Service.** If a member moves back and forth between active memberships in ACERA and a reciprocal system, the member can maintain reciprocity so long as there is at least one break that is less than six months with no overlapping service credit. The existence of other breaks of more than six months, or other transitions with overlapping service credit, will not disqualify a member for reciprocity.
- E. **Age-At-Entry.** If a member qualifies for a lower age-at-entry under Gov't Code § 31833, the member will retain that lower age-at-entry if the member leaves his or her contributions on deposit with the reciprocal system. If a member withdraws contributions from a prior reciprocal system, the member's prospective contributions to ACERA will be based on age at entry into ACERA, as of the date of the withdrawal from the other system.

- F. **Failure to Retire Concurrently When Eligible.** If a member is eligible to retire concurrently from ACERA and a reciprocal system but fails to do so, the member will lose the rights to (a) rely on pay under a that reciprocal system when calculating the member's ACERA "final compensation" (Gov't Code § 31835), and (b) rely on service credit under that reciprocal system for benefit eligibility purposes (Gov't Code § 31836). Failure to retire concurrently has no impact on the member's age-at-entry for the purposes of member contributions (Gov't Code § 31833).
- G. **Not Eligible to Retire Concurrently.** Under Gov't Code § 31835.1, if a retiring member is not eligible to retire from a reciprocal system, the member may take advantage of Gov't Code § 31835 and Gov't Code § 31836 without retiring concurrently from the reciprocal system. The Board finds the Legislature did not intend to deprive Safety or PEPRA members of the benefits of Gov't Code § 31835.1, and that section's reference to "eligible to retire at age 50 pursuant to Section 31672" was not intended to limit the application of Gov't Code § 31835.1's to pre-PEPRA General members. For the purposes of Gov't Code § 31835.1, to be eligible to retire from a reciprocal system, the member must be able to receive a lifetime retirement allowance. For example, a member of the JRSII may take advantage of Gov't Code § 31835.1, if the member is eligible to receive only an "early retirement" comprised of the judge's "monetary credits" per Gov't Code § 75521(b).
- H. **Disability Retirements.**
1. **Eligibility.** If a member is granted a disability retirement by a reciprocal system, the member is automatically entitled to a disability retirement from ACERA, which will be calculated under Gov't Code §§ 31837 and 31838, as applicable, subject to the Anti-Windfall Rule below. The member need not proceed through ACERA's Disability Retirement Procedures and the member's disability retirement will be placed on the Board's Consent Calendar.
  2. **Service Retirement Option.** If a reciprocal system retires a member for disability and the member determines that a service retirement from ACERA is more advantageous than a disability retirement from ACERA, the member may retire for service from ACERA (if eligible), subject to the Anti-Windfall Rule below.
  3. **Anti-Windfall Rule.** If a member receives a disability allowance from ACERA and/or a reciprocal system, ACERA will apply Gov't Code § 31838.5 to ensure that the member does not receive more in total than the member could have received if all service had been under one system. ACERA will apply this rule to all amounts it pays a member, whether those amounts are paid as a service retirement allowance, a

disability retirement allowance or a refund of the member's accumulated contributions. If the reciprocal retirement system does not apply Gov't Code § 31838.5, ACERA will reduce the member's ACERA allowance by as much as necessary to prevent the member from receiving more than the member could have received if all service had been under one system. This can result in ACERA owing no amount to a member—not even the member's accumulated contributions.

- I. **Death Benefits.** A member who defers retirement from ACERA, establishes reciprocity with a reciprocal system and dies while in service under that reciprocal system is subject to Gov't Code §§ 31839 and 31840. If either system pays a death benefit that is based on a disability retirement formula, the death benefit ACERA pays is subject to the Anti-Windfall Rule described above.
- J. **No Withdrawal.** Per Gov't Code § 31831, after a member leaves their accumulated contributions on deposit with ACERA and establishes reciprocity with a reciprocal system, the member may not withdraw their accumulated contributions from ACERA while a member (active, deferred or retired) of the reciprocal system. Such a member may withdraw accumulate member contributions from ACERA only if they withdraw their accumulated contributions from the reciprocal system.

#### IV. Policy Modifications

This Policy will be reviewed by the Operations Committee at least every three years. The Committee will make recommendations to the Board concerning any improvements or modifications it deems necessary.

#### V. Policy History

- A. The Board adopted this Policy on December 15, 2022.