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Subject: SCERS' Treatment of Leave Under the Families First Coronavirus Response Act

To All Participating SCERS Employers:

As you may be aware, the Families First Coronavirus Response Act (FFCRA) is now in effect. Generally, the FFCRA allows employees to take time off to address the impacts of COVID-19 using various types of leave. This letter explains how SCERS will treat those types of leave for pension purposes.

Families First Coronavirus Response Act

The FFCRA became effective on April 1, 2020 and will expire on December 31, 2020. The FFCRA consists of eight divisions, two of which are (1) the Emergency Paid Sick Leave Act, and (2) the Paid Family and Medical Leave Expansion Act.

1. The Emergency Paid Sick Leave Act creates a new form of paid leave for employees unable to work for COVID-19-related reasons. Such employees are eligible for up to two weeks of paid sick leave, subject to an 80-hour cap.
2. The Paid Family and Medical Leave Expansion Act gives eligible employees up to 12 weeks of job-protected absence to address the impacts of COVID-19.
 - a. The initial two weeks of absence may be covered of any of the following: (1) paid leave using accrued vacation or sick leave balances, (2) Emergency Paid Sick Leave (as described in Paragraph 1), or (3) unpaid leave.
 - b. The remaining 10 weeks of job-protected absence will be covered, at a minimum, by a new form of partial paid leave. Specifically, during the 10 weeks, employees will be compensated at two-thirds of their regular rate of pay, subject to a cap of \$200 a day and \$10,000 in the aggregate. Such employees may supplement the partial payment by using accrued vacation or sick leave balances, thereby achieving as much as 100% of their regular rate of pay. Alternatively, the employees may elect not to supplement at all, such that they are simply taking unpaid leave with respect to the uncovered time.

FFCRA Leave Types and SCERS Pensions

As described above, employees who avail themselves of the FFCRA will be relying on a combination of new and traditional leave types. For pension purposes, SCERS intends to treat those leave types for Legacy and PEPRAs members consistently with the SCERS Final Compensation Review Policy regarding "Leave Balance Usage (vacation, compensating time off (CTO), holiday in-lieu, sick leave, etc.)" for paid leave for authorized absence from work.

Specifically:

- SCERS will treat the Emergency Paid Sick Leave referenced in Paragraphs 1 and 2.a. as equivalent to traditional sick leave when used by the employee for compensation due to absences. That is, when used, up to 80 hours covered by Emergency Paid Sick Leave will count towards service credit, vesting, and retirement eligibility. In addition, the wages paid for any portion of those 80 hours will be a pay element considered in the calculation of the member's pension. SCERS will receive employer and employee contributions in connection with those wages.
- Similarly, SCERS will treat the partial paid leave referenced in Paragraph 2.b. as equivalent to traditional sick leave when used by the employee for compensation due to absences. That is, when used, the blocks of time corresponding to those partial wages (up to \$200 per day/\$10,000 aggregate) will count towards service credit, vesting, and retirement eligibility. In addition, the partial wages will be a pay element considered in the calculation of the member's pension. SCERS will receive employer and employee contributions in connection with those wages.
- Any unpaid leave taken as described in Paragraphs 2.a. and 2.b. will not count towards service credit, vesting, or retirement eligibility. A member may elect to purchase service credit for that uncompensated period of absence by paying the required contributions and interest as determined by SCERS. However, pursuant to Government Code section 31646, the member may purchase service credit only for a period of absence necessitated by his/her actual illness. Thus, a member may not purchase service credit for a period of absence necessitated (for example) by child care needs due to school closure.
- SCERS will treat the use of accrued vacation or sick leave balances to cover FFCRA-protected absences (as described in Paragraphs 2.a. and 2.b.) no differently than the ordinary use of vacation or sick leave. That is, such use counts towards vesting, retirement eligibility, service credit, and as a pensionable pay element.

Participating Employers should notify SCERS regarding any payroll system programming issues to ensure proper treatment of retirement contributions.

SCERS reserves the right to supplement or modify the statements in this letter based on additional regulations or guidance from the U.S. Department of Labor and/or amendments to the FFCRA.

Please contact me with any questions.

Regards,

/s/

Eric Stern
Chief Executive Officer