



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 12

MEETING DATE: June 20, 2018

SUBJECT: Membership Policy

SUBMITTED FOR: Consent **Deliberation** and Action **Receive** and File

RECOMMENDATION

Staff recommends the Board adopt the proposed Membership Policy to clarify application of existing law and SCERS Bylaws, and clarify standards for determining an employee's eligibility for membership in SCERS.

PURPOSE

SCERS Bylaws currently provide a general description of exclusions from membership. The purpose of this policy is to set more specific, objective standards through administrative policy to provide clearer guidance and direction to participating employers, special districts in particular, and to SCERS staff.

DISCUSSION

Current terminology and standards for SCERS membership have been driven primarily by the terms and practices of the County, with the result that employees who work half-time or more in a year (at least 20 hours per week) in a regular or permanent position are eligible for SCERS membership.

In April, the Board approved release of an exposure draft of the proposed Membership Policy to all participation employers for review and comment. SCERS conducted an employer forum to discuss the proposed policy on May 4, 2018. The employers provided valuable input about the other types of positions they use for employing personnel on a non-regular part-time, temporary, or seasonal basis. The duration of such employment in a year may typically be up to a full-time equivalent of nine months. Generally, the special districts employee personnel in these types of positions for just a few years. These employees typically gain work experience providing a valuable service to the district and the community while finishing their education.

Staff has revised the proposed Membership Policy based on the input received from SCERS participating employers. The following summarizes the revisions:

- Changed the effective date of the policy, if approved, to January 1, 2019. This is consistent with SCERS practice to review employment history on a calendar year basis in determining membership eligibility. This also provides an opportunity for each employer to ensure its current employment practices are consistent with its governing documents and make modification as necessary before the proposed policy takes effect.
- Added an “OBJECTIVE” section to the policy acknowledging that SCERS’ benefit plan and funding method is designed for career employees, and recognizing that employers have a variety of other “non-career” personnel.
- Revised and added terms in the “DEFINITIONS” section.
- Set a membership threshold of 1,566 hours worked in a year for non-career employees, which will be applied prospectively after the policy effective date. “Regular employees” eligible for membership definition remains unchanged to mean employees assigned to work full-time or to work part-time for at least 20 hours per week (1,044 hour per year).
- Added text to the “APPLICATION” section that acknowledges that an employer may have governing documents in effect that establish a threshold number of hours worked per year at which a non-career employee is eligible for SCERS membership, provided that threshold is less than 1,566 hours worked per year. (Example: Under the County’s employment rules, County temporary employees may not work more than one day less than six months.)
- Clarified membership date for a non-career employee who works the threshold hours or more in a calendar year, and that the employee shall continue as a member of SCERS for all subsequent service with the same participating employer.
- Added provision to allow the Board to consider whether an employee’s work hours exceeded the threshold hours per year for SCERS membership due to administrative oversight.

A redline of the proposed Membership Policy showing the revisions made to the version presented to the Board on April 18, 2018, is included with this agenda item.

Staff appreciates the contribution of SCERS’ participating employers to the proposed Membership Policy as submitted for the Board’s consideration and approval. SCERS tax counsel at Hanson Bridgett has reviewed and has no concerns with the proposed policy.

BACKGROUND

Government Code Section 31527 authorizes the Board to adopt regulations for a variety of plan administration matters. Subdivision (e) authorizes the Board to provide for the “exemption or exclusion from membership as a peace officer member or as a safety member or from membership altogether, in the discretion of the board, of persons whose tenure is temporary,

seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.”

Chapter 3 of SCERS Bylaws addresses “Membership” and provides that certain types of employees (temporary, seasonal, intermittent, and non-“Regular” part-time) are excluded from membership in SCERS.

During a recent financial audit of a participating special district, the district’s auditor raised questions about the employers’ interpretation and application of the rules for SCERS membership to the district’s employees. The district advised SCERS of the situation, and staff worked with the district to review the facts and develop a corrective action plan. Ultimately, the district had to retroactively enroll employees in SCERS membership who were improperly excluded for a number of years. Depending on the number of employees affected and the length of time involved, such corrections can be expensive, both in terms of retroactive contributions to be paid with interest to SCERS and time involved to determine, communicate, and implement the corrective action.

This situation, coupled with staff’s challenge, in the absence of a policy, to review and validate employees’ proper enrollment into SCERS membership against an objective standard, led to the development of this proposed policy for the Board’s consideration.

ATTACHMENTS

- Proposed Membership Policy
- Redline of 4/18/18 Version of Membership Policy

Prepared by:

/S/

Annette St. Urbain
Assistant Retirement Administrator

/S/

Robert Gaumer
General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer



MEMBERSHIP POLICY

Revision Date:

Policy Number: 065

Revision Number:

PURPOSE

The purpose of this policy is to establish an employee's eligibility for membership in SCERS. Once approved by the Board, this policy shall be operative beginning January 1, 2019.

OBJECTIVE

The retirement and related benefits administered by SCERS are part of the comprehensive benefits package that Participating Employers provide for their eligible employees. SCERS benefit design and funding is structured for longer-term, career employees. Participating Employers have a variety of other types of positions for employing personnel on a non-regular part-time, temporary, seasonal, or intermittent basis. These employees typically work less than a full-time equivalent each year and are generally not employed long term in these "non-career" types of positions.

The objective of this policy is to ensure all eligible employees are properly enrolled in SCERS membership and provide for the exclusion of employees from SCERS membership while working in non-career positions for the same Participating Employer, and to clarify existing law under California Government Code Sections 31550, et seq. and SCERS regulations with respect to the persons who are eligible for SCERS membership.

DEFINITIONS

As used in this policy the terms below have the following meaning:

Extra Help Employee – An employee who is employed for a period of short duration, whether part-time or full-time, in a position which is either designated as extra help in the annual salary ordinance or publicly available pay schedule, or is not contained therein.

Intermittent Employee – A County employee who is not appointed to a permanent position and who is not a Regular Employee whose service is irregular, periodic, and recurrent at intervals not to exceed the full-time equivalent of nine (9) months employment in a year.

Non-Career Employee – For ease of reference in this policy, means a non-Regular Part-time, Extra-Help, Intermittent, Seasonal, or Temporary Employee as those terms are defined herein.

Participating Employer – The County of Sacramento, the Superior Court in Sacramento County, and the special district employers that have taken formal action to provide the retirement and related benefits administered by SCERS to their eligible employees.

Part-Time Employee – An employee who is hired to work substantially less than 8 hours per day or 40 hours per week during the employee’s period of employment.

Permanent Position – A position established in the annual salary ordinance or publicly available pay schedule, excluding a position established to accomplish a specific project which is limited in its duration.

Regular Employee – An officer or employee of a Participating Employer who occupies a permanent position established in accordance with the annual salary ordinance or publicly available pay schedule and who is assigned to work full-time or to work part-time for at least 20 hours per week (1,044 hours per year), or any elected official.

Seasonal Employee – An employee who is not appointed to a permanent position and who is not a Regular Employee whose service is irregular, periodic, and recurrent at intervals.

Temporary Employee – An employee whose appointment to a position is of limited duration for less than 1,566 hours per year.

Year – The twelve (12) consecutive months of a calendar year January 1st through December 31st.

POLICY

All persons eligible to be members of SCERS who have not executed a valid waiver of membership must be enrolled as members of SCERS, and persons ineligible for membership must be excluded from SCERS membership.

A. Mandatory Membership

A Regular Employee not expressly excluded from membership as provided in Section C of this policy shall become a member of SCERS on the first day of employment in a position requisite for membership.

B. Optional Membership

A Regular Employee first hired in a position requisite for SCERS membership after attaining the age of sixty (60) years may irrevocably waive membership in SCERS by submitting to SCERS within sixty (60) days of beginning employment a written and signed waiver of membership on a form prescribed by SCERS.

An elective officer may file a written declaration with SCERS to establish SCERS membership, which will be effective on the first day of the calendar month following the filing of a declaration. Within 60 days after the expiration of the elective officer’s term of office or within 60 days after the officer ceases to hold the office, the officer

may rescind the declaration and withdraw from SCERS membership, and all contributions paid by the officer as a SCERS member shall be refunded. Any elective officer who does not declare in writing his or her intention to become a member of SCERS as required by Government Code Section 31553 is ineligible for SCERS membership.

C. Excluded from Membership

An employee of a Participating Employer who is described by one or more of the following conditions is ineligible for membership and shall not be enrolled as a member of SCERS:

1. The employee is eligible to waive, and has executed a valid waiver of, SCERS membership.
2. The employee is a retired member of SCERS who satisfies the requirements of Government Code Section 7522.56 to serve a Participating Employer without reinstatement from retirement.
3. A Non-Career Employee hired with an agreement between the employee and the Participating Employer that the employee will work less than 1,566 hours per year.
4. SCERS may determine an employee's eligibility for SCERS membership based on the actual number of hours worked by the employee.

APPLICATION

The governing documents in effect for a Participating Employer may establish a threshold number of hours worked per year at which a Non-Career Employee is eligible for SCERS membership, provided that the threshold hours for SCERS membership is less than 1,566 hours worked per year. The Participating Employer must notify SCERS in writing within 30 days of the date the Participating Employer modifies the threshold hours for SCERS membership for its Non-Career Employees.

Each Participating Employer is responsible for determining, in accordance with this policy, which of the Participating Employer's employees are eligible for membership in SCERS and is responsible for enrolling those eligible employees into SCERS membership.

A Non-Career Employee hired with an agreement between the employee and the Participating Employer that the employee will work less than 1,566 hours per year is properly excluded from SCERS membership.

If a Non-Career employee properly excluded from SCERS membership under Section C at the outset of employment actually works 1,566 or more hours in a year, the employee shall be enrolled into SCERS membership as of the employee's first working day of the calendar year during which the employee worked the threshold hours or more, and the employee shall continue as a member of SCERS for all subsequent service with that Participating

Employer. The Board may consider whether an employee’s work hours exceeded the threshold hours per year for SCERS membership due to administrative oversight.

SCERS may periodically review a Participating Employer’s payroll practices as authorized by Government Code Section 31543 to assure compliance with this policy.

When a Participating Employer fails to comply with the requirements of this policy, the Board will exercise its discretion to decide an employee’s eligibility for membership and determine an appropriate correction procedure based on the facts of each case.

BACKGROUND

The County Employees’ Retirement Law authorizes a county retirement board to include in its regulations provisions for the exemption or exclusion from membership, in the discretion of the board, of “persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour.” [Government Code Section 31527(e)].

Chapter 3 of SCERS Bylaws contains broad provisions describing the employees who are eligible for, and those who are excluded from, membership in SCERS. More specificity is needed at the administrative policy level for Participating Employers to consistently and correctly apply the standards for SCERS membership to their employees.

This policy was established to clarify the SCERS membership standards, describe their application, and define the roles and responsibilities of Participating Employers and SCERS to ensure the membership standards are correctly applied, and provide for corrective action when necessary.

RESPONSIBILITIES

Executive Owner: Chief Benefits Officer

POLICY HISTORY

Date	Description
6-20-2018	<i>Board to adopt new policy</i>



MEMBERSHIP POLICY

Redline of 4/18/18 Version

Revision Date:

Policy Number: 065

Revision Number:

PURPOSE

The purpose of this policy is to establish an employee's eligibility for membership in SCERS. Once approved by the Board, this policy shall be operative beginning January 1, 2019 ~~July 1, 2018~~.

OBJECTIVE

The retirement and related benefits administered by SCERS are part of the comprehensive benefits package that Participating Employers provide for their eligible employees. SCERS benefit design and funding is structured for longer-term, career employees. Participating Employers have a variety of other types of positions for employing personnel on a non-regular part-time, temporary, seasonal, or intermittent basis. These employees typically work less than a full-time equivalent each year and are generally not employed long term in these "non-career" types of positions.

The objective of this policy is to ensure all eligible employees are properly enrolled in SCERS membership and provide for the exclusion of employees from SCERS membership while working in non-career positions for the same Participating Employer, and to clarify existing law under California Government Code Sections 31550, et seq. and SCERS regulations with respect to the persons who are eligible for SCERS membership.

DEFINITIONS

As used in this policy the terms below have the following meaning:

Extra Help Employee – An employee who is employed for a period of short duration, whether part-time or full-time, in a position which is either designated as extra help in the annual salary ordinance or publicly available pay schedule, or is not contained therein.

Intermittent Employee – A County employee who is not appointed to a permanent position and who is not a Regular Employee whose service is irregular, periodic, and recurrent at intervals not to exceed the full-time equivalent of nine (9) months employment in a year.

Non-Career Employee – For ease of reference in this policy, means a non-Regular Part-time, Extra-Help, Intermittent, Seasonal, or Temporary Employee as those terms are defined herein.

Participating Employer – The County of Sacramento, the Superior Court in Sacramento County, and the special district employers that have taken formal action to provide the retirement and related benefits administered by SCERS to their eligible employees.

Part-Time Employee – An employee who is hired to work substantially less than 8 hours per day or 40 hours per week during the employee’s period of employment. ~~A part-time employee may be either a Regular Employee or an Extra Help Employee.~~

Permanent Position – A position established in the annual salary ordinance or publicly available pay schedule, ~~except excluding~~ a position established to accomplish a specific project which is limited in its duration.

Regular Employee – An officer or employee of a Participating Employer who occupies a permanent position, ~~whether part time or full time~~, established in accordance with the annual salary ordinance or publicly available pay schedule and who is assigned to work full-time or to work part-time for at least 20 hours per week (1,044 hours per year), or any elected official.

~~Seasonal Employee – An employee who is not appointed to a permanent position and who is not a Regular Employee whose service is irregular, periodic, and recurrent at intervals.~~

Temporary Employee – An employee whose appointment to a position is of limited duration ~~not to exceed one day for~~ less than ~~six months~~ 1,566 hours per year.

Year – The twelve (12) consecutive months of a calendar year January 1st through December 31st.

POLICY

All persons eligible to be members of SCERS who have not executed a lawful valid waiver of membership must be enrolled as members of SCERS, and persons ineligible for membership must be excluded from SCERS membership.

A. Mandatory Membership

~~All~~ A Regular Employees ~~s~~ not expressly excluded from membership ~~(as provided in Section C of this policy)~~ shall become a members ~~s~~ of SCERS on the first day of ~~their~~ employment in a position requisite for membership.

B. Optional Membership

A Regular Employee first hired in a position requisite for SCERS membership after attaining the age of sixty (60) years may irrevocably waive membership in SCERS by submitting to SCERS within sixty (60) days of beginning employment a written and signed waiver of membership on a form prescribed by SCERS.

~~Elective~~ An elective officers ~~s~~ may file a written declaration with SCERS to establish SCERS membership, which will be effective on the first day of the calendar month following the filing of a declaration. Within 60 days after the expiration of the

elective officer's term of office or within 60 days after the officer ceases to hold the office, the officer may rescind the declaration and withdraw from SCERS membership, and all contributions paid by the officer as a SCERS member shall be refunded. Any elective officer who does not declare in writing his or her intention to become a member of SCERS as required by Government Code Section 31553 is ineligible for SCERS membership.

C. Excluded from Membership

Any employee of a Participating Employer ~~whose employment who~~ is described by one or more of the following conditions ~~are is~~ ineligible for membership and shall not be enrolled as a member of SCERS:

1. The employee is eligible to waive, and has executed a lawful valid waiver of, SCERS membership.
2. The employee is a retired member of SCERS who satisfies the requirements of Government Code Section 7522.56 to serve a Participating Employer without reinstatement from retirement.
3. A Non-Career Employee ~~The employee is~~ hired with an agreement between the employee and the Participating Employer that the employee will work less than 1,566 hours per year. duration of employment will be for:
 - a. ~~Less than six months, or~~
 - b. ~~Less than 20 hours per week, or~~
 - c. ~~Less than 1,044 hours in a calendar year.~~
4. ~~It is anticipated that Part-Time Employees who are not Regular Employees, Extra Help Employees, Temporary Employees, and any other employees whose service is for less than one-half of a full-time schedule, of limited duration, or seasonal or intermittent and not regular in nature would typically be excluded from membership in SCERS.~~
54. SCERS may determine an employee's eligibility for SCERS membership based on the actual number of hours worked by the employee ~~and/or the duration of employment.~~

APPLICATION

The governing documents in effect for a Participating Employer may establish a threshold number of hours worked per year at which a Non-Career Employee is eligible for SCERS membership, provided that the threshold hours for SCERS membership is less than 1,566 hours worked per year. The Participating Employer must notify SCERS in writing within 30 days of the date the Participating Employer modifies the threshold hours for SCERS membership for its Non-Career Employees.

Each Participating Employer is responsible for determining, in accordance with this policy, which of the Participating Employer's employees are eligible for membership in SCERS and is responsible for enrolling those eligible employees into SCERS membership.

~~An employee A Non-Career Employee~~ hired with an agreement between the employee and the Participating Employer that the ~~duration of employment will for less than six months, or less than 20 hours per week, or employee will work~~ less than 1,044 ~~1,566~~ hours per year ~~are is~~ properly excluded from SCERS membership ~~under Section C.3. above, regardless of how the Participating Employer designates or labels the position the employee holds.~~

If ~~an employee a Non-Career Employee~~ properly excluded from SCERS membership under Section C.3 at the outset of employment actually works ~~more than 1,044 1,566 or more~~ hours in a year, the employee ~~may shall~~ be enrolled into SCERS membership as of the ~~later of January 1st or the employee's first working day of period of employment during the calendar year in which the employee worked more than 1,044 hours the calendar year during which the employee worked the threshold hours or more, and the employee shall continue as a member of SCERS for all subsequent service with that Participating Employer. The Board may consider whether an employee's work hours exceeded the threshold hours per year for SCERS membership due to administrative oversight.~~

SCERS may periodically review ~~a Participating Employers' Employer's~~ payroll practices as authorized by Government Code Section 31543 to assure compliance with this policy.

When a Participating Employer fails to comply with the requirements of this policy, the Board will exercise its discretion to decide an employee's eligibility for membership and determine an appropriate correction procedure based on the facts of each case.

BACKGROUND

The County Employees' Retirement Law authorizes a county retirement board to include in its regulations provisions for the exemption or exclusion from membership, in the discretion of the board, of "persons whose tenure is temporary, seasonal, intermittent, or for part time only, or persons whose compensation is fixed at a rate by the day or hour." [Government Code Section 31527(e)].

Chapter 3 of SCERS Bylaws contains broad provisions describing the employees who are eligible for, and those who are excluded from, membership in SCERS. More specificity is needed at the administrative policy level for Participating Employers to consistently and correctly apply the standards for SCERS membership to their employees.

This policy was established to clarify the SCERS membership standards, describe their application, and define the roles and responsibilities of Participating Employers and SCERS to ensure the membership standards are correctly applied, and provide for corrective action when necessary.

RESPONSIBILITIES

Executive Owner: Chief Benefits Officer

POLICY HISTORY

Date	Description
6-20-2018	<i>Board to adopt new policy</i>