



SICK LEAVE CONVERSION POLICY

PURPOSE

The purpose of this policy is to describe how SCERS calculates a member's "sick leave accumulated as of his date of retirement," which is convertible to service credit pursuant to Government Code section 31641.01.

POLICY

Government Code section 31641.01 states that "each member shall be credited, at the rate of one day for each one day earned, with sick leave accumulated as of the date of his retirement and that sick leave credit shall be in addition to service credit."

In implementing section 31641.01, SCERS shall interpret the phrase "sick leave accumulated as of the date of [the member's] retirement" as follows:

- "Sick leave accumulated as of the date of [the member's] retirement" shall mean the amount of the sick leave the member has earned as of the date of his/her retirement, deemed unused by the employer, as reported by the employer to SCERS.
- However, "sick leave accumulated as of the date of [the member's] retirement" shall not be reduced due solely to the fact that the member separated from service prior to retirement.
- This policy shall be subordinate to and subject to any statute or ordinance that addresses the conversion of sick leave to service credit for specific persons or under specific circumstances (e.g., Sacramento County Code section 2.100.100).

SCERS reserves the right to modify this policy in accordance with developments in the law (including statute, ordinance, or case law) and/or as appropriate to the successful operation of a public retirement system.

APPLICATION

Under this policy, a member's "sick leave accumulated as of the date of his retirement" for the purpose of Section 31641.01 is usually the same as the member's final unused sick leave balance as calculated by the employer. However, the two may diverge in situations where a member separated from service without immediately retiring.

One example is a member who separated from a SCERS employer (never to return) and who deferred retirement. Currently, most (if not all) SCERS employers would deem that member's unused sick leave to be forfeited upon separation. When that member is ready

to retire, he/she would have, by the employer's accounting, a final sick leave balance of zero. In contrast, SCERS would not necessarily consider the member's "sick leave accumulated as of the date of his retirement" to be zero. Rather, SCERS would look to the member's unused sick leave balance at the time of his/her separation.

Another example is a member who separated from a SCERS employer but who was later reinstated. Upon re-employment, the member's sick leave balance would, by the employer's accounting, begin at zero. And when that member is ready to retire, the final sick leave balance maintained by the employer would include only the unused sick leave accrued since re-employment. In contrast, SCERS would include the prior unused sick leave balance in addition to the unused sick leave earned since re-employment.

BACKGROUND

The California Legislature enacted Government Code section 31641.01 in 1970. The same year, the Board of Supervisors adopted an ordinance making section 31641.01 applicable to Sacramento County. However, neither the Legislature nor the Board of Supervisors defined the key phrase "sick leave accumulated as of the date of [the member's] retirement." This policy clarifies and memorializes SCERS' interpretation of that phrase.

The interpretation contained in this policy is identical to, and derived from, SCERS' longstanding practices in administering section 31641.01. As such, this interpretation has three advantages. First, it is indisputably practicable and workable, as evidenced by the longevity of SCERS' historical approach. Second, this interpretation has the support of participating employers, who have long known about SCERS' practice and who have borne its costs without objection for decades. Third, this interpretation appears compatible with the general intent of the Legislature and the Board of Supervisors.

Notwithstanding the foregoing, there is no evidence that either the Legislature or the Board of Supervisors intended to withhold from SCERS the discretion to evolve its administrative interpretation of section 31641.01 to meet changing circumstances. Therefore, SCERS reserves the right to modify this policy as appropriate to meet developments in the law and/or the successful operation of a public retirement system.

RESPONSIBILITIES

Executive Owner: General Counsel

POLICY HISTORY

Date	Description
10-21-2020	Board approved policy.
8-19-2020	Board approved Discussion Draft 2 for comment.
4-15-2020	Board approved Discussion Draft for comment.