



SCERS POLICY ON OVERTIME and EXPIRED CTO FREQUENTLY ASKED QUESTIONS

Topic: Compensation Earnable Policy for Overtime and Expired CTO – Discussion Draft released by SCERS on October 17, 2018

1.Q. What action did the SCERS Board take?

- A. On October 17, 2018, the SCERS Board approved a draft policy to exclude overtime and expired compensatory time off (CTO-expired) from inclusion in Final Compensation. [See attachment.]

2.Q. Who does this effect?

- A. Primarily legacy members of SCERS. [Persons participating in Miscellaneous Tiers 1, 2, 3, 4 and Safety Tiers 1, 2, 3.]

3.Q. Does overtime or CTO-expired count toward my pension?

- A. No. Under state law and court decisions (including *Ventura*), pension calculations are generally based on compensation earned during regular working hours.

4.Q. Isn't overtime and CTO-expired already excluded from Final Compensation?

- A. Yes and no. Overtime and CTO-expired earnings on base wages are already excluded from Final Compensation, as required by state law and court decisions. However, the differentials, allowances, or other incentives paid on overtime and CTO-expired are being reported by County payroll as compensation earnable.

5.Q. Does the draft policy from SCERS eliminate or repeal the payment of differentials, allowances, or other incentives to County employees?

- A. No. The County will continue to offer and pay certain elements of compensation in addition to an employee's base wages – which are still governed by federal and state labor law, as well as any applicable bargaining agreements.

6.Q. Does the draft policy from SCERS reduce the payment of differentials, allowances, or other incentives to County employees?

- A. No. The draft policy released by SCERS does not require or ask the County to reduce any pay elements or other items of remuneration that are currently earned.

7.Q. Does the draft policy eliminate differentials from being included in compensation earnable?

- A. No. For legacy members, differentials still count. The portion of these earnings that are related to overtime or CTO-expired will no longer count.

8.Q. Does the draft policy revise or change the compensation earnable that has already been reported to SCERS or the member contributions that I have already paid to SCERS?

- A. No. The draft policy does not change any compensation earnable reported to SCERS ahead of the effective date, which coincides with the first day of the bi-weekly pay period beginning December 23, 2018. Accordingly, SCERS will not require or attempt to recalculate any compensation earnable reported by the County or any member contributions accepted by SCERS prior to the anticipated effective date.

9.Q. Does the draft policy anticipate changing the portion of current differentials, allowances, and other incentives that will be accepted by SCERS as compensation earnable and the portion of these elements will be used to calculate member contributions to SCERS?

- A. Yes. Once the draft policy is effected, SCERS will not recognize as compensation earnable any portion of differentials, allowances or other incentives that include overtime or CTO-expired, since neither overtime nor CTO-expired is recognized as compensation earnable. SCERS will also not accept any member contributions that are based on differentials, allowances or other incentives that include overtime or CTO-expired after December 22, 2018.

EXAMPLE: Mike is a full-time County employee who routinely works 45 hours per week, receives a regular wage of \$20 per hour, and gets a 3% differential for special skills. For an average pay period, Mike's bi-weekly earnings include base wages of \$1,600 (80 hours x \$20), overtime wages of \$300 (10 hours x \$30), and a differential of \$57 (3% x \$1,900).

- If Mike receives the customary earnings for any pay period up to December 22, 2018, he pays member contributions on a total of \$1,657 (\$1,600 in base wages plus \$57 in differentials – since differentials that

include overtime are still accepted as compensation earnable). Because Mike pays contributions on the entire differential, the full amount is treated as compensation earnable and can be included in Mike's Final Compensation with SCERS.

- If Mike receives the customary earnings for any pay period on or after December 23, 2018, he pays member contributions on a total of \$1,648 (\$1,600 in base wages and just \$48 in differentials – since differentials that include overtime are no longer accepted as compensation earnable). Because Mike only pays contributions on the portion of the differential that is covered by SCERS' draft policy, only that portion is treated as compensation earnable and included in Mike's Final Compensation with SCERS.

10.Q. What happens to amounts I've already contributed to SCERS up to December 22, 2018?

- A. Member contributions associated with differentials, allowances, or other incentives that include overtime or CTO-expired will be accepted into the SCERS trust up until December 22, 2018, and will remain in the SCERS trust thereafter. In other words, these contributions will not be returned to members or distributed from the SCERS trust – unless the member subsequently terminates employment and requests a full "refund" of contributions and interest with SCERS.

11.Q. What happens to contributions on or after December 23, 2018?

- A. Member contributions associated with differentials, allowances, or other incentives that include overtime or CTO-expired will not be accepted on and after December 23, 2018. After that date, any contributions that do not comply with this draft policy will need to be corrected by staff at SCERS and distributed to affected members. Whether these contributions are corrected upon receipt or at some future date, they will not increase a member's Final Compensation.

12.Q. Why is SCERS interested in how differentials, allowances, or other incentives are calculated for County employees and reported in payroll?

- A. As an IRS-qualified plan, SCERS is required to collect the proper contributions for all periods of service and calculate Final Compensation and retirement benefits using the proper wages. For persons who enrolled in SCERS or a reciprocal retirement system before January 1, 2013, member contributions and Final Compensation must recognize wages and pay elements known as "compensation earnable." For reference, the conditions and criteria for compensation earnable are addressed in the County Employees Retirement Law of 1937, applicable case law (including *Ventura* cases) and, most recently, the California Public Employees' Pension Reform Act of 2013 (PEPRA).

13.Q. When does SCERS plan to finalize the draft policy and implement the changes addressed therein?

- A. After providing a period for public consideration and feedback (which expires on Friday, November 30th at 5:00 p.m.), SCERS will prepare a final version of the Compensation Earnable Policy for Overtime and Expired CTO for consideration by the SCERS Board on December 19, 2018, and SCERS will work to implement it on the stated effective date of December 23, 2018.

14.Q. Where can I review the draft policy?

- A. The draft policy can be reviewed by visiting the SCERS web site (www.scers.org) or clicking [here](#) to review the SCERS Board agenda materials for this policy.

15.Q. How can I provide SCERS with feedback on the draft policy?

- A. You can provide written feedback to SCERS by directing e-mail to the address established for this purpose: Retirement-Policy@SacCounty.net. As a reminder, please provide written feedback before 5:00 p.m. on Friday, November 30.