SCERS
SACRAMENTO COUNTY
EMPLOYEES' RETIREMENT SYSTEM

SCERS POLICY ON OVERTIME, CTO-EXPIRED, and CTO-OVER-MAX
FREQUENTLY ASKED QUESTIONS
Updated April 2019

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

On October 17, 2018, the SCERS Board approved a draft policy to exclude from future Final Compensation determinations any payments that are attributable to differentials or incentives that are paid based on overtime hours or expired compensatory time off (CTO-expired). The Board is considering the policy for final adoption on April 17, 2019.

2.Q. Who does this effect?

Current and future 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/CTO-over-max count toward my pension?

No. Under applicable state law, pension calculations are not to include overtime or CTO-expired/CTO-over-max.

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

Yes and no. Overtime and CTO-expired/CTO-over-max earnings on base wages are already excluded from Final Compensation, as required by state law. However, the differentials, allowances, or other incentives paid on overtime and CTO-expired/CTO-over-max have nevertheless been reported by County payroll as compensation earnable.

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

No. SCERS' Board policies address only the pensionability of the County's payments, not whether the County may pay them. Therefore, the County may continue to offer and pay compensation in addition to an employee's base wages in accordance with federal and state labor law, as well as any applicable bargaining agreements regardless of the SCERS Board's actions.

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

No, to the extent those payments are not based on overtime or CTO-expired/CTO-over-max time. For legacy members, differentials paid on regular salary still are included in compensation earnable. Any portion of these earnings attributable to overtime or CTO-expired/CTO-over-max, however, will no longer be included in compensation earnable for periods after the Board's adoption of a final policy so providing.

7.Q. Does the 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?

No. The policy does not change any compensation earnable reported to SCERS ahead of its effective date, which coincides with the first day of the bi-weekly pay period beginning April 28, 2019. 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 of the policy.

8.Q. Does the 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 that will be used to calculate member contributions to SCERS?

Yes. Once the policy is in effect, SCERS will not recognize as compensation earnable any portion of differentials, allowances or other incentives that include overtime or CTO-expired/CTO-over-max, since neither overtime nor CTO-expired/CTO-over-max 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/CTO-over-max after April 27, 2019.

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 April 27, 2019, 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).
- If Mike receives the customary earnings for any pay period on or after April 28, 2019, he pays member contributions on a total of $1,648 ($1,600 in base wages and just $48 (3% x $1,600) – since the portion of differentials that include overtime are no longer accepted as compensation earnable). When Mike retires, if he elects a final compensation period that occurs entirely after April 27, 2019, the differentials he received attributable to overtime will not be included in his final compensation. However, Mike would presumably choose that post-April 27, 2019 final compensation period only if his compensation earnable during that period exceeded the compensation earnable calculated for earlier periods.

9.Q. What happens to amounts I've already contributed to SCERS up to April 27, 2019?

Member contributions associated with differentials, allowances, or other incentives that include overtime or CTO-expired/CTO-over-max will be accepted into the SCERS trust up until April 27, 2019, 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 except in the form of the annuity that pays for the member's retirement allowance– unless the member subsequently terminates employment and requests a full "refund" of contributions and interest from SCERS.

In a pooled-risk pension plan, members often make contributions on pensionable pay items at certain points of their careers that ultimately are not used toward Final Compensation. For example, an employee working a night shift early in his or her County career would make pension contributions on a night-shift differential that he or she earned as an incentive to work that shift. Assume the employee later switches to a regular day shift and loses the night-shift pay; after 25 years of promotions, step increases, and cost-of-living adjustments, the employee's later career salary would likely be substantially higher than the employee's early-career earnings that included the night-shift differential. The employee would not get a refund of contributions paid on the night-shift differential. However, all contributions that members make are included in the annuity portion of their retirement allowance that is paid to them upon retirement. Under this policy, member contributions made on overtime-related earnings earlier in an employee's career will be treated similarly.

10.Q. What happens to contributions on or after April 28, 2019?

Member contributions associated with differentials, allowances, or other incentives that include overtime or CTO-expired/CTO-over-max will not be accepted on or after April 28, 2019. Sacramento County has modified its payroll system to exclude those pay items on or after April 28, 2019. Any contributions that do not comply with this policy will need to returned to affected members, in a manner that will be coordinated between the County and SCERS Staff. Whether these contributions are corrected upon receipt or at some future date, they will not increase a member's Final Compensation.

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

A. For persons who enrolled in SCERS or a reciprocal retirement system before January 1, 2013, Final Compensation includes only those pay elements that qualify as "compensation earnable." Under the County Employees Retirement Law of 1937 (Gov. Code sec. 31461), the SCERS Board is required to "determine" compensation earnable, and that determination must comply with the Board's fiduciary duties of care and loyalty in the administration of the retirement system. SCERS staff has recommended that the Board revisit its determination of compensation earnable and exclude from compensation earnable attributable to future Final Compensation periods those pay elements that are attributable to nonpensionable earnings because that determination better reflects the letter and spirit of the applicable law.