

Pensionable Compensation Policy

Purpose and Background

1. Effective January 1, 2013, the State of California enacted the Public Employees Pension Reform Act of 2012, Government Code sections 7522, *et seq.* (PEPRA). PEPRA created a new class of pension plan members composed of members enrolled in the pension plan on or after January 1, 2013 (PEPRA Members).
2. Under Government Code section 7522.34 (Section 7522.34), the items of compensation that are to be included in a retiring PEPRA Member's final compensation are defined as "Pensionable Compensation."
3. The purpose of this policy is to set forth OCERS' interpretation of the term "Pensionable Compensation" as defined in Section 7522.34, in the context of the specific pay items utilized by OCERS' employers.

Policy Objectives

4. The objective of this policy is to ensure that OCERS fully complies with applicable law when calculating a PEPRA Member's retirement benefit.

Policy Guidelines

5. **Pensionable Compensation.** OCERS will calculate Pensionable Compensation for PEPRA Members in accordance with the following guidelines.

(a) **Pay Items Included in Pensionable Compensation.**

Pensionable Compensation means (i) the normal monthly rate of pay or base pay of the member; (ii) paid in cash; (iii) to similarly situated members of the same group or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours (defined below); (vi) pursuant to Publicly Available Pay Schedules (defined below); and (vi) subject to the limitations of Section 5(b), below.

Subject to the requirements set forth in the preceding paragraph above, Pensionable Compensation includes the following items of compensation:

Base Salary and Wages (gross of any employee contributions to deferred compensation plans) and includes additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay items (Premium Pay), and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay
- Field Training Officer Pay

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- Shift Differential Pay
- Confined Space Pay

(b) Pay Items Excluded From Pensionable Compensation.

The following items of compensation will be excluded from Pensionable Compensation:

- Any compensation determined by the Board (i) to have been paid to increase a member's retirement benefit or (ii) to be inconsistent with the requirements of subsection (a) above
- Overtime, other than as defined in Section 207(k) of Title 29 of the United States Code.
- Payments for additional services rendered outside of Normal Working Hours, whether paid in a lump sum or otherwise
- Employer contributions to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, holiday pay or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined in (a) above
- Any ad hoc or one-time pay of any sort
- Longevity Incentive Pay
- Compensation that had previously been provided in kind to the member by the employer or paid directly by the employer to a third party other than the retirement system for the benefit of the member and which was converted to and received by the member in the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.

(c) Definition of Normal Working Hours.

- Normal Working Hours are hours that (i) are required to be worked as part of the employee's regular duties; (ii) are ordinarily worked during the period in question by all other members in the same grade/class/rate of pay as the employee; **and** (iii) are not and cannot be served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

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6. **Publicly Available Pay Schedule.** In accordance with Section 7522.34, OCERS will exclude from Pensionable Compensation any pay code or item of compensation that is not included in a Publicly Available Pay Schedule. Publicly Available Pay Schedule means a document or documents that reflect the amount or category of pay and that meets all of the following requirements:
- (a) Has been duly approved and adopted by the employer’s governing body in accordance with requirements of applicable public meetings laws;
 - (b) Identifies the position title for every employee position;
 - (c) Shows the payrate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
 - (d) Is posted on the employer’s internet website. If not on the website it will be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours; and
 - (e) Does not reference a document which is not available in accordance with (d), above in lieu of disclosing the payrate.

The requirement for a Publicly Available Pay Schedule can be met by posting on the employer’s internet website the applicable labor memoranda of understanding, compensation resolutions or ordinances and all salary schedules or matrices, so long as taken together the documents contain all required information. The employer need not create a new document to comply with this requirement.

If an employer fails to meet the requirements of Paragraph 6(a) above, the Board, in its sole discretion, may determine an amount that will be considered to be the applicable payrate, taking into consideration all information the Board deems relevant including, but not limited to, the following:

- a) Documents approved by the employer’s governing body in accordance with the requirements of public meetings laws and maintained by the employer;
- b) The last payrate listed on a conforming pay schedule with the same employer for the position at issue;
- c) The last payrate for the member that is listed on a conforming pay schedule with the same employer for a different position.

Policy Review

7. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

8. The Board of Retirement adopted this policy on March 18, 2019, and this policy was amended on June 21, 2021.



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Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

A handwritten signature in blue ink that reads "Steve Delaney" is enclosed in a rectangular box.

Steve Delaney
Secretary of the Board

06/21/2021

Date