

# MCERA PENSION NOTES

## COURT DECISION ON VACATION PAYOFF EARNINGS

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Stay tuned.

More information will be available later on the next upcoming MCERA Pre-Retirement Seminar

Pension Reform and recent actions by the California courts have drawn a lot of attention by various retirement systems and their members. On February 8, 2018, the Merced County Employees' Retirement Association Board of Retirement adopted Resolution 2018-1 making up to 160 hours of additional vacation payout earnings pensionable for MCERA Tiers 1, 2 and 3 members. The Board voted to adopt Resolution 2018-1 based on First District Court of Appeal's opinion in the case of Alameda County Deputy Sheriff's Assn. et al v. Alameda County Employees' Retirement Assn., et al. (2018) 19 Cal.App.5th 61 (the "Alameda Decision") and subsequently adopted Resolution 2018 -3 to further clarify how vacation payoff earnings are to be implemented into retirement benefits calculations.

Prior to the passing of the California Public Employees' Pension Reform Act (PEPRA) in 2013, MCERA members were allowed to use additional vacation payout hours when terminating employment. However, PEPRA prevented the use of additional vacation payout earnings and on July 12, 2014, MCERA ceased considering vacation terminal pay for retirement purposes based on a decision from the Courts.

For retiring Tier 1, 2 and 3 members, the adoption of this resolution means that up to 160 hours of additional vacation payout earnings may be included in calculating members' final average compensation for retirement purposes. A maximum of 160 hours of vacation annual leave, a maximum of one year's vacation annual leave accrual, or the number of annual leave hours actually included in the member's vacation pay-off, whichever is less will be added to such retiree's final average compensation.

Based on the Alameda Decision and subsequent actions taken by the MCERA Board of Retirement, MCERA will begin using additional vacation payout earnings

for Tier 1, 2 and 3 member retirement calculations on July 1, 2018 when MCERA and it's employers are able to make necessary programming changes. MCERA has begun the process of adjusting retirement benefits for eligible retirees who retired on or after July 12, 2014 to include hours of vacation payout earnings. Retirees eligible to include these additional hours in their final compensation should begin to see an increase in their retirement allowance after July 1, 2018. Reciprocal Tier 2 and 3 members joining MCERA on and after February 8, 2018, will not be eligible for this benefit.

Regarding the issue of having "Stand By" and "On Call" paycodes included as pensionable compensation, the First District Court of Appeal remanded this issue back to the trial courts to determine the constitutionality of considering these paycodes pensionable. Because of this, the issue of the inclusion of "Stand By" and "On Call" paycodes is still being analyzed both legally and administratively, per the First District Court of Appeal's Alameda Decision.

Three petitions were submitted by interested parties requesting the California Supreme Court review the *Alameda Decision*. On March 28, 2018, the California Supreme Court accepted review. It is estimated that the 'review process' by the Supreme Court may take up to three years. MCERA does not believe that this review will impact the implementation plan for the inclusion of up to 160 hours of additional vacation payoff time to a member's final compensation.

For more information please refer to the MCERA website to see the signed Resolutions 2018-1 and 2018-3, the Alameda Decision from the First Court of Appeal and a document of Frequently Asked Questions (FAQ's). Please feel free to contact MCERA at 209-726-2724 or email [MCERA@co.merced.ca.us](mailto:MCERA@co.merced.ca.us) should you have any questions.

## ACTIVE MCERA MEMBERSHIP

There are currently six tiers of membership in MCERA.

- Tier 1 members are employees hired prior to June 13, 1994 and some A Level managers. Also, safety members hired prior to July 1, 1998.
- Tier 2 members are miscellaneous employees hired on or after June 13, 1994. Also, safety members hired on or after July 1, 1998.
- Tier 3 members are all employees hired between October 1, 2012 and December 31, 2012 or anyone hired after December 31, 2012 who established reciprocity with another system and their membership date with the reciprocal system was before January 1, 2013.
- Tier 4 members are all employees hired on or after January 1, 2013 who do not have established reciprocity with another system or whose membership date with a reciprocal system was on or after January 1, 2013.

- Two newly established tiers which are a direct result of the *Alameda Decision* are as follows:  
 Tier 2R; include members who are reciprocal Court or Cemetery District employees who join MCERA on or after February 8, 2018.  
 Tier 3R; include members who are reciprocal County employees who join MCERA system on or after February 8, 2018.  
 Tier 2R, 3R and 4 employees do not have the up to 160 hours of additional vacation payouts included in their final compensation.

Tier	% Membership
1	7%
2	50%
3	3%
4	40%
2R & 3R	0%

## DID YOU KNOW?

FINAL COMPENSATION AND OTHER RECIPROCAL SYSTEMS

MCERA Benefit Specialists receive a lot of questions each day about final compensation used at other reciprocal retirement systems. In the *Stillman v. Board of Retirement, Fresno County* court case, the courts ruled that each Retirement System Board has the authority to vote on and approve the elements of final compensation that will be included in a member's retirement calculation. As a result, there are several reciprocal retirement systems that do not consider or accept the final compensation elements that MCERA includes in a member's final compensation calculation. An example of this; the inclusion of 'up to 160 hours of additional vacation payoff hours in a member's final compensation'. Because of this difference, a member retiring from a different reciprocal system may have a different final compensation than what was earned with an MCERA employer. If you have questions about this, you are encouraged to contact the reciprocal retirement system to inquire about what they include in final compensation calculations.

## 2018 COLA

Tier 1 retirees are eligible to receive a cost of living adjustment (COLA) annually. This adjustment is effective April each year and is first payable in April's month-end check.

At the MCERA Board of Retirement meeting on February 8, 2018, the board voted to adopt a 3.0% COLA increase for 2018. The annual increase is based on changes in the Consumer Price Index of the San Francisco-Oakland-San Jose area.

## 1099R CHANGES & MCERA

Each year, MCERA receives several requests to update or change a member's 1099R form that has been issued by MCERA. Most requests stem from the MCERA Board of Retirement granting a service connected disability. Under certain circumstances, the service connected disability is retroactive. However MCERA has received advice from tax counsel that prior a 1099R should only be reissued in the event of an error. The IRS has its own laws and regulations, MCERA is required to issue a 1099R reflecting the circumstances that are true and factual at the time of payment. Because of this, MCERA staff will bring a new policy reflecting this change in policy to the MCERA Board of Retirement for adoption in May.

### Retirement Board

Darlene Ingersoll,  
Chair

Ryan Paskin,  
Vice Chair

Alfonse Peterson,  
Secretary

Janey Cabral

Karen Adams

Jason Goins

David Ness

Jerry O'Banion

Michael Rhodes

Sam Spangler

Sandy Teague

### MCERA Board Meetings

April 12  
 April 26  
 May 10  
 May 24  
 June 7  
 June 21

Meetings are held on the second and fourth Thursday of every month, with some exceptions.

**Meetings begin at 8:15 am**