

# MEMO

Date: December 24, 2012  
To: CCCERA Employers  
From: Kurt Schneider, Retirement Deputy Chief Executive Officer  
Subject: 2013 Compensation Limits

January 9, 2013  
Agenda Item 13

Enclosed are two memos from CCCERA:

1. The first memo applies only to new CCCERA members that are covered under the PEPRA benefit formulas. We have included the amended policy on Determining Which Pay Items are "Compensation" For Retirement Purposes for your reference.
2. The second memo applies to current CCCERA members "legacy members" who are covered under the current CCCERA tiers.



# **MEMO**

**Date:** December 21, 2012  
**To:** CCCERA Employers  
**From:** Kurt Schneider, Retirement Deputy Chief Executive Officer  
**Subject:** Pensionable Compensation for PEPRA Tiers Effective January 1, 2013

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## **Introduction:**

The California Public Employees' Pension Reform Act of 2013 (PEPRA) created a new definition of "Pensionable Compensation" that applies to new CCCERA members that are covered under the PEPRA benefit formulas. At the December 12, 2012 CCCERA Board meeting, the Retirement Board adopted a policy regarding which pay items are included as Pensionable Compensation.

## **CCCERA Pensionable Compensation:**

Since PEPRA uses language identical to that in regulations that cover CalPERS, the Board has relied on language in those regulations to help interpret the meaning of the PEPRA statute. Based on the advice of legal counsel and a Board vote of 7 to 2 in favor of the motion, the Board has determined that "pensionable compensation" under PEPRA is limited to base pay only, since PEPRA requires that pensionable compensation be limited to:

1. the normal monthly rate of pay or base pay of the member,
2. amounts paid in cash to similarly situated members in the same grade or class of employment,
3. payments for services rendered on a full-time basis during normal working hours, and
4. compensation pursuant to publicly available pay schedules.

With the understanding that CalPERS has not issued a formal position on how they will interpret the PEPRA statute, the Board has decided that if CalPERS takes a position that differs from the one our Board has adopted, our Board will revisit this issue.

## **Flat Member Contribution Rate for PEPRA Tiers:**

Also at the Board meeting on December 12, the Board decided that new members covered under the PEPRA benefit formulas will have a flat contribution rate. This means that every member in a given PEPRA tier will have the same member contribution rate. This is consistent with most defined benefit plans including CalPERS and the surrounding county and city retirement systems. The member and employer contribution rates for the CCCERA PEPRA tiers will be presented to the Board for adoption at the January 9, 2013 Board meeting.

### Pensionable Compensation Limit for 2013:

PEPRA also places an annual dollar limit on Pensionable Compensation. The dollar limit for 2013 is **\$113,700** for members enrolled in Social Security and **\$136,440** for members who are **not** enrolled in Social Security. These limits will be adjusted in future years based on changes in the Consumer Price Index for All Urban Consumers.

Annual compensation of a plan member which exceeds the pensionable compensation limit may not be taken into account in determining **benefits or contributions** due for any plan year.

Employees who are covered under the CERL benefit formulas (e.g. 2% at 55 or 3% at 50) **are not** subject to the pensionable compensation limit. See the 401(a)(17) Compensation Limit memo for the dollar limits that apply to these members.

Employees who are covered under the PEPRA benefit formulas (e.g. 2% at 62 or 2.7% at 57) **are** subject to the pensionable compensation limit.

### Administrative Procedures for PEPRA Members:

1. It is the obligation of each agency payroll department to ensure compliance with the pensionable compensation limit for affected CCCERA members.
2. The agency payroll department must stop **both member and employer** contributions to CCCERA when the pensionable compensation limit is met. The agency must resume the required contributions with the first payroll check dated in the next calendar year.
3. CCCERA can assist the agency in determining which limit applies to which members upon request. **It is the responsibility of each agency to request assistance from CCCERA if necessary.**

Please contact me with any questions regarding this memorandum.

CONTRA COSTA COUNTY EMPLOYEE'S RETIREMENT ASSOCIATION

**DETERMINING WHICH PAY ITEMS ARE "COMPENSATION"  
FOR RETIREMENT PURPOSES**

Adopted: 12/05/97  
Amended: 01/13/98  
Amended: 03/10/10  
Amended: 12/12/12

**PURPOSE:**

The California Supreme Court decision in Ventura County Deputy Sheriff's Association v. Board of Retirement, 16 Cal.4<sup>th</sup> 483 (1997) changed a previously accepted construction of the statutory framework governing the compensation includible in the calculation of pensions under the 1937 Retirement Act.

In keeping with this ruling, the Retirement Board has re-examined the criteria it previously used to determine which pay items are compensation includible under Government Code Section 31460. The Board recognizes that any change in policy must not jeopardize the actuarial soundness of the retirement system.

Effective October 1, 1997, the following general principles will be applied in determining which pay items are subject to retirement contributions and included in pension calculations.

**POLICY:**

**1. Compensation includes all payments for services performed.**

All cash payments given as remuneration either for services rendered or for special skills or qualifications (ie. merit pay, longevity pay, standby pay, bilingual pay, holiday pay, educational incentive pay, etc.) are included in compensation.

**2. Compensation does not include "the monetary value of other advantages furnished to a member," but does include cash payments in lieu of such other advantages.**

In-kind benefits and reimbursements for job-related expenses are excluded.

With regard to cash payments in lieu of such advantages, the Board will evaluate how closely the pay item in question resembles, or functions as an effective substitute for salary.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**ADDENDUM TO POLICY FOR DETERMINING WHICH PAY ITEMS ARE  
"COMPENSATION" FOR RETIREMENT PURPOSES**

**PURPOSE:**

This Addendum to the Policy for Determining Which Pay Items are "Compensation" for Retirement Purposes, adopted December 5, 1997, and amended January 13, 1998 ("Policy"), reflects the Retirement Board's re-examination of the Policy since its adoption and the Retirement Board's decision to revise certain aspects of the Policy with respect to persons who become members of the retirement system on and after January 1, 2011. This Addendum is made as of March 10, 2010 and shall be referenced in communications to affected members regarding the Policy following its adoption.

**POLICY:**

Notwithstanding anything to the contrary in the Policy, the following policies and procedures shall be effective as to the determination of "compensation," "compensation earnable" and "final compensation," as defined in the County Employees Retirement Law of 1937, Government Code sections 31450, et seq.

**1. Remuneration paid in cash for time earned is considered "final compensation" and is limited by the following:**

- a. Annual "cash out"  
The value of accrued time, such as vacation, holiday, sick or administrative leave, that is both earned and sold back to the employer by the employee during the final compensation period under a "cash-out" agreement, is includable in compensation earnable.
- b. Lump sum at termination  
Only the portion of accrued time (such as vacation, holiday, sick or administrative leave) that is paid in the form of a lump sum at termination, and that represents time both earned and cashable during the final compensation period, is includable in compensation earnable.

**2. Additional examples of amounts that are not included in "compensation earnable"**

- a. For each year of the final compensation period, leave amounts sold back during any twelve-month period that were accrued over two or more fiscal or calendar years, and that exceed the amount that was both earned and cashable during service in that twelve-month period.

CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

**SECOND ADDENDUM TO POLICY FOR DETERMINING WHICH PAY ITEMS ARE "COMPENSATION" FOR RETIREMENT PURPOSES**

**PURPOSE:**

The Policy for Determining Which Pay Items are "Compensation" for Retirement Purposes was adopted on December 5, 1997 and amended January 13, 1998 and March 10, 2010 ("Policy"). This Second Addendum is made as of December 12, 2012 and shall be referenced in communications to affected members regarding the Policy following its adoption. The purpose of this Second Addendum is to implement provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA") relating to member compensation included in pensionable compensation. (California Government Code Article 4; § 7522.34.)

**LEGAL AUTHORITY:**

Pursuant to PEPRA, "pensionable compensation" is used to calculate members' retirement allowances.

Government Code Section 7522.34(a) defines "pensionable compensation" as:

"Pensionable compensation" of a new member of any public retirement system means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours, pursuant to publicly available pay schedules.

Government Code Section 7522.34(b) provides:

Compensation that has been deferred shall be deemed pensionable compensation when earned rather than when paid.

Government Code Section 7522.34(c) excludes from "pensionable compensation" the following:

- (1) Any compensation determined by the board to have been paid to increase a member's retirement benefit under that system.
- (2) 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.
- (3) Any one-time or ad hoc payments made to a member.

- (e) One-time or ad hoc payments made to a member.
  - (f) Bonus payments.
  - (g) Severance pay, retirement incentive pay, separation bonus, or other form of payment provided to a member in connection to the extent they may not be received in cash during service, but only upon termination or retirement.
3. Each of the CCCERA participating employers shall provide to CCCERA its publicly available pay schedules for all of its employees. CCCERA staff will determine pensionable compensation based on each employer's publicly available pay schedules.

### **MEMBERS AFFECTED**

This Second Addendum shall be effective as to the calculation of retirement allowances for those members of CCCERA who are "new members" of the retirement system (as defined in the PEPRA, Government Code section 7522.04(f), on or after January 1, 2013.

# MEMO

**Date:** December 21, 2012

**To:** CCCERA Employers

**From:** Kurt Schneider, Retirement Deputy Chief Executive Officer

**Subject:** Internal Revenue Code §401(a)(17) Compensation Limit increased to \$255,000 for 2013

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## Introduction:

The Internal Revenue Code (IRC) establishes limits on retirement plan benefits. The Internal Revenue Service (IRS) has announced the compensation limits which will affect Contra Costa County Employees' Retirement Association (CCCERA) for the 2013 calendar year.

The purpose of this memorandum is to provide agencies with the revised annual compensation limit under IRC §401(a)(17) and the required administrative procedures to ensure proper compliance, **which includes ceasing retirement contributions on compensation above the limit.**

## CCCERA Compensation Limit:

**For calendar year 2013, the 401(a)(17) compensation limit increased to \$255,000.**

The annual compensation of a plan member which exceeds \$255,000 may not be taken into account in determining **benefits or contributions** due for 2013.

Employees who became members of CCCERA prior to January 1, 1996 **are not** subject to the 401(a)(17) annual compensation limit in 1996 or any year thereafter.

Employees who became members of CCCERA on and after January 1, 1996 **are** subject to the compensation limit.

## Administrative Procedures:

1. It is the obligation of each agency payroll department to ensure compliance with the compensation limit for affected CCCERA members.
2. The agency payroll department must stop **both member and employer** contributions to CCCERA when the compensation limit is met. The agency must resume the required contributions with the first payroll check dated in the next calendar year.
3. If the membership date is not known for a member who exceeds the compensation limit, CCCERA will provide the agency with the membership date upon request. **It is the responsibility of each agency to request the membership date from CCCERA.**

**As a reminder, for calendar year 2012, the 401(a)(17) compensation limit is \$250,000.**

Please contact me with any questions regarding this memorandum.