



San Bernardino County Employees'
Retirement Association

California State Association of Counties – Alameda Decision Fact Sheet

Background on the Alameda Decision

At its Board meetings on August 6, 2020, September 3, 2020, October 1, 2020, and November 5, 2020, the SBCERA Board of Retirement adopted resolutions 2020-5, 2020-6, 2020-8, and 2020-9, respectively, to address the California Supreme Court's decision issued on July 30, 2020, in the case known as Alameda County Deputy Sheriffs' Association et al. v. Alameda County Employees' Retirement Association and Board of Retirement of ACERA (S247095, also known as "the Alameda case").

SBCERA is one of 20 California county retirement systems governed by the County Employees' Retirement Law of 1937 (CERL). The issue in the Alameda case is the inclusion of several pay items in compensation earnable for "legacy" members of CERL retirement systems. At SBCERA, this "legacy" group includes retired, active, and deferred members of our Tier 1 retirement plan. The issues in the Alameda case date back to the implementation of the Public Employees' Pension Reform Act (PEPRA) on January 1, 2013.

Who's Affected

If you are an Active Tier 1 Member employed by the California State Association of Counties, you may be affected by the Alameda decision if you received payment on either of the two types of pay items below:

1. **PEPRA Exclusions:** Any pay item for additional services rendered outside of normal working hours, such as standby pay, on-call pay, and call-back pay, etc.
2. **Alameda Exclusions:** Non-compensation items such as employer-paid premiums to a third-party (e.g. insurance providers). Employer-paid premiums to insurance providers are sometimes referred to as "cafeteria plans."

The Supreme Court's decision said that retirement systems like SBCERA do not have the authority to use these pay items in the calculation of your retirement benefits. This means that SBCERA cannot include these pay items in your "compensation earnable" used to calculate your Final Average Compensation (FAC) period. As a Tier 1 member, your FAC is based on your highest 12 consecutive months of compensation earnable at any time during your membership. Your FAC is used to calculate your retirement benefit, along with your years of service and your age at retirement.

Who's Not Affected

You are not affected by the Supreme Court's recent ruling in the Alameda case if you have not received any item for services rendered outside of normal working hours, or non-compensation items such as employer-paid premiums made to a third-party.

Additionally, if you are a Tier 2 member who was hired on or after January 1, 2013 and received compensation for any PEPRA or Alameda excluded pay items, the Alameda decision won't affect your Final Average Compensation (FAC) because those pay codes are not included in your FAC for retirement benefit calculations.

Excluded Pay Items

As noted above, there are two types of excluded pay items:

PEPRA Exclusion: Any pay item for additional services rendered outside of normal working hours, such as standby pay, on-call pay, and call-back pay.

Alameda Exclusion: Non-compensation items such as employer-paid premiums to a third-party (e.g. insurance providers).

Within these two types of excluded pay items is a specific pay code classified by your employer. The exclusion of this pay code have different effective dates based on the Alameda decision and related SBCERA Board Resolutions.

Pay Item Type	Earnings Code	Retro Earnings Code	Earnings Code Description	Exclusion Effective Date
Alameda	CSINS	CSRIN	Association Paid Medical and Dental Insurance Premiums	7/30/2020

Pay Items Under Review

There are pay items that are pending further review and determination. The California State Association of Counties is providing SBCERA with details about the pay item under review, shown below. Upon completion of the review, the Board will determine whether this item will continue to be included in, or will be excluded from, compensation earnable. If the determination is made to exclude this pay code, the exclusion effective date will also be determined by the Board.

Earnings Code	Retro Earnings Code	Earnings Code Description
CSHIB	CSRHB	Health Insurance Buyouts

What about cash-outs?

The Alameda case clarified that cash-outs which may exceed what is earned and payable in each 12-month period during a member's Final Average Compensation (FAC) period **must be excluded** as compensation earnable, effective July 30, 2020. These types of cash-outs are recognized as an Alameda Exclusion. Upon a member's retirement, SBCERA will ensure that any cash-out dollars which are included in the member's FAC are consistent with the clarifications provided by the Alameda decision.

What happens to the contributions I may have paid to SBCERA on these pay items—will I get a refund?

PEPRA Exclusions:

- **Corrective Distributions to active members:** You may receive a "corrective distribution" on contributions you have made from January 1, 2013 through August 29, 2020 on the excluded types of pay items in this category of additional services rendered outside of normal working hours, which include items such as standby pay, on-call pay, and call-back pay. Contributions made prior to the implementation of the enactment of PEPRA on January 1, 2013 will not be refunded, because those contributions were eligible for inclusion in compensation earnable for members who retired prior to the implementation of PEPRA. If you are eligible for a corrective distribution, SBCERA will contact you directly with more details in a future correspondence.

Alameda Exclusions:

- **Refunds for active members on Non-compensation items such as of employer-paid premiums to a third-party (“Alameda Exclusions”):** The SBCERA Board of Retirement determined that you may receive a corrective distribution to you on all contributions you may have made prior to July 30, 2020 on certain types of employer-paid premiums to a third-party. That’s because these pay items are not eligible to be included in your compensation earnable used to calculate your Final Average Compensation (FAC) period. If you are eligible for a corrective distribution, SBCERA will contact you directly with more details in a future correspondence.

How to Get More Information

You can find more information about the *Alameda* decision and some additional frequently asked questions on our website at www.SBCERA.org/Alameda. On this page, you can also download a copy of the Supreme Court Decision and the SBCERA Retirement Board’s adopted resolutions related to this matter.

Additionally, while not all SBCERA members are affected by the Alameda case, those that are will receive a letter in the mail with more information. For those that are affected by this decision, we recognize the impact this has on you personally. We want you to know we’re here to help and available to answer any questions you have.

Contact Us

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