

Alameda Decision Glossary of Terms

Alameda Decision: A decision filed by the California Supreme Court on July 30, 2020, regarding the case entitled *Alameda County Deputy Sheriffs' Association v. Alameda County Employees' Retirement Association* (2020) 9 Cal.5th 1032, 1070 (also referred to as *Alameda*). The Court upheld the exclusion of certain pay items from *Final Average Compensation* as of January 1, 2013, pursuant to the amendments to the definition of *Compensation Earnable* in the County Employees Retirement Law of 1937 ("CERL"), related to the Public Employees' Pension Reform Act of 2013 ("PEPRA"), referred to as *PEPRA Amendments*. The Court also stated that retirement boards do not have discretion to include the monetary value of in-kind benefits when calculating *Retirement Benefits* for *Legacy Members* or *PEPRA Members*.

Alameda Exclusions: One of two categories of pay items deemed non-pensionable by the *Alameda Decision* as a result of the Supreme Court's announcement of the rule that retirement boards do not have discretion to include the monetary value of in-kind benefits. Effective July 30, 2020, the date of issuance of the *Alameda Decision*, this category of exclusions refers to in-kind benefits that the employee is not able to elect to receive directly in unrestricted cash, such as 1) leave donations and 2) flex credits in excess of amounts that the employee can receive in unrestricted cash. The *Board Resolution* passed on April 17, 2023 implemented the *Alameda Exclusions*.

Annual Leave Straddling: A *PEPRA Exclusion* that occurs when a member's *Final Average Compensation* measurement period "straddles" two calendar years and when the member's annual leave redemptions (i.e., vacation buydowns) during that period exceed what is both earned and payable in each 12-month period. "Earned" refers to the number of leave hours the employee is able to accrue. "Payable" refers to the maximum redeemable hours permitted by each union's Memorandum of Agreement (MOA).

Assembly Bill (AB) 826: A proposed California bill that would have permitted the County's *Flex Credit Allowance*, under certain conditions, to be fully included in the compensation earnable of *Legacy Members* through December 2025. The bill was passed by the legislature in 2022 but vetoed by the governor on September 29, 2022. (Click [here](#) to see Governor's veto message.)

Board Resolutions: The VCERA Board of Retirement adopted the following resolutions implementing the *Alameda Decision*:

1. [10/12/2020 Resolution Re: Compensation Earnable and Pensionable Compensation](#)
2. [7/26/2021 Resolution Re: AB 826 and Flat Flex Credit](#)
3. [11/28/2022 Resolution Re: Alameda Administrative Appeal Policy](#)
4. [4/17/2023 Resolution Re: Flexible Benefits Program](#)
5. [4/17/2023 Resolution Re: PEPRA Exclusions as to Retired Members](#)

Compensation Earnable: For *Legacy Members*, the base salary and other pay items that are deemed pensionable and upon which retirement contributions are remitted to VCERA. A member's reported compensation earnable is used in the calculation of *Final Average Compensation*, subject to statutory limits.

Corrections Process: The process pursuant to the IRS Employee Plans Compliance Resolution System (EPCRS) by which VCERA is bringing affected member accounts into compliance with the *Alameda Decision* and the *Board Resolutions* in order to maintain a tax-qualified plan. VCERA's Alameda Implementation Plan will include details about this process.

County Employees Retirement Law of 1937 (CERL): Government Code §31450 et seq. A body of statutory law that governs the policies and practices of certain county retirement systems in California, including VCERA.

Final Average Compensation (FAC): For Safety Tier 1 and General Tier 1 members, the highest 26 consecutive pay periods of *Compensation Earnable*. For all other members, the highest 78 consecutive pay periods of *Compensation Earnable* or *Pensionable Compensation*, as applicable.

Flexible Credit Allowance: Also known as "flex credit," a type of benefit offered to employees under the County's Flexible Benefits Program (old and new structures), operated as a cafeteria plan under Internal Revenue Code section 125, to help pay for their health insurance premiums and other qualified benefits. Pursuant to the *Board Resolution* passed on 4/17/2023, the pensionable portion of flex credit is the *Maximum Cashable Amount*, which is the same amount for all members of the same bargaining unit but is includable in the *Compensation Earnable* of *Legacy Members* only. (*PEPRA Members* have never been eligible to have flex credit included in their *Pensionable Compensation*.) The "non-cashable" portion of flex credit is an in-kind benefit that is excluded from *Compensation Earnable* pursuant to court decisions.

Interest: An amount equal to a rate of 7.9%, credited semiannually on overpaid *Retirement Benefits* remitted to retirees and overpaid retirement contributions paid to VCERA on compensation deemed excludable under the *Alameda Decision*. This rate, selected by the Board on 3/27/2023, represented VCERA's "since-inception" investment rate of return as of 12/31/2022.

Legacy Members: VCERA members who were hired prior to January 1, 2013. Also includes VCERA members who were hired on or after January 1, 2013 and who were eligible for reciprocity due to membership in a qualifying retirement system in California prior to that date.

Maximum Cashable Amount: Under the County's old Flexible Benefits Program structure (where all employees receive a flexible credit allowance, and those that opt out are charged an opt-out fee), the amount of the "employee-only" or "flat" *Flexible Credit Allowance* minus the lesser of the opt-out fee or lowest-priced medical plan. Under the new Flexible Benefits Program structure (where employees either receive a flexible credit allowance OR an opt-out allowance), effective June 25, 2023 for County employees (excluding Courts), it is equal to the

Opt-Out Allowance. Under both Program structures, the *Maximum Cashable Amount* is the same for all members of the same bargaining unit. Also referred to as “Maximum Baseline Cashable Amount.”

Non-Pensionable: Used to describe pay items that do NOT qualify for inclusion in the calculation of *Retirement Benefits*, nor in the calculation of employer/employee contributions to the pension plan.

Normal Working Hours: 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. Also referred to as “Standard Hours” in the Ventura County Human Resources & Payroll (VCHRP) system.

Opt-Out Allowance: Under the County’s new Flexible Benefits Program structure, an allowance paid to employees who opt out of the medical plan option. It is equal to the *Maximum Cashable Amount* and is the same for all members of the same bargaining unit.

Overpaid Benefits: An amount equal to the *Retirement Benefits* that were calculated and paid on *PEPRA Exclusions* and *Alameda Exclusions* erroneously included in *Final Average Compensation*. Excluded pay items are not pensionable, and therefore VCERA should not have calculated and paid *Retirement Benefits* based on them.

Overpaid Contributions: An amount equal to the retirement contributions that were paid on *PEPRA Exclusions* (other than excess leave cash-outs) and *Alameda Exclusions*. Excluded pay items are not pensionable, and therefore contributions should not have been taken on them. *Overpaid Contributions* on *PEPRA Exclusions* for services rendered outside of normal working hours will be calculated back to January 1, 2013, as applicable. *Overpaid Contributions* on *Alameda Exclusions* will be calculated back to membership date (i.e., typically date of hire).

Pensionable: Used to describe pay items that qualify for inclusion in the calculation of *Retirement Benefits*, as well as the calculation of employer/employee contributions to the pension plan. For *Legacy Members*, pensionable pay items are those that qualify as *Compensation Earnable*. For *PEPRA Members*, pensionable pay items are those that qualify as *Pensionable Compensation*.

Pensionable Compensation: For *PEPRA Members*, the base salary and other pay items that are deemed pensionable pursuant to the *Public Employees’ Pension Reform Act of 2013*, up to statutory caps, and includable in *Final Average Compensation*.

PEPRA Amendments: Amendments to the definition of *Compensation Earnable* passed by Assembly Bill 197 (2012) as part of pension reform legislation that enacted PEPRA. While not officially part of PEPRA, these amendments are commonly referred to as *PEPRA Amendments*.

PEPRA Exclusions: One of two categories of pay items deemed non-pensionable by the *Public Employees' Pension Reform Act of 2013* and the *Alameda Decision*. Effective January 1, 2013, this category of exclusions refers to 1) services rendered outside of normal working hours, such as standby pay, call-back pay and shift differentials on overtime; and 2) leave redemptions (vacation buydowns) in excess of what is both earned and payable in each 12-month period. The *Board Resolution* passed on October 12, 2020 implemented the *PEPRA Exclusions*. The *Board Resolution* passed on April 17, 2023 further addressed the corrections process for retirees regarding these exclusions.

PEPRA Members: VCERA members who were hired on or after January 1, 2013 and who were not eligible for reciprocity in a qualifying retirement system in California prior to that date.

Public Employees' Pension Reform Act of 2013 (PEPRA): Government Code §§7522-7522.74. California legislation that took effect on January 1, 2013, containing various provisions for pension reform, including the exclusion of certain pay items from *Final Average Compensation*; capping pensionable compensation used to calculate *Retirement Benefits*; and setting forth new retirement benefit formulas for General and Safety members as of January 1, 2013.

Retirement Benefit: The monthly amount payable by VCERA to a retired member and his/her eligible beneficiary(ies) throughout their lifetimes. Also known as pension benefits, the amount consists of a base benefit, supplemental benefit (if applicable) and cost-of-living adjustments (if applicable). Service retirement benefits are calculated based on the member's age at retirement, years of service credit, *Final Average Compensation* and benefit tier(s).

Situational Pay Codes: Pay codes that are only *Pensionable* to the extent they are for services rendered during *Normal Working Hours*. Any payment under these codes beyond or outside of *Normal Working Hours* will not be included in the calculation of *Retirement Benefits* or employer/employee contributions.

Unfunded Actuarial Accrued Liability (UAAL): An amount calculated by subtracting a pension plan's valuation value of assets from its actuarial accrued liability, resulting in an "unfunded" amount that is amortized over 15 or 20 years (under the Board's funding policy) and paid off by VCERA's plan sponsors as an employer's statutory obligation. Any net overpaid benefits calculated per the *Alameda Decision* will NOT be recouped directly from retired members, but instead through employer payments to the *UAAL*.