

# OCERS Administrative Procedure (OAP) Final Average Salary Calculation

## I. Purpose

This OAP describes the procedure for calculating the Final Average Salary (FAS) of a retiring member when calculating the member's monthly retirement allowance.

## II. Authority

This OAP is in accordance with OCERS Board Retirement Enhancement Review Policy Compensation Review Policy, pursuant to California Government Code (GC) Section 31542 and in compliance with GC Sections 7522.32, 7522.34, 31460, 31461, 31462, and related applicable sections.

## III. Final Average Salary Components

Final Average Salary (FAS) is one of the four factors used to calculate a member's monthly retirement allowance; it includes a member's base salary and may also include other pay items that the OCERS Board of Retirement (Board) has defined as Compensation Earnable or Pensionable Compensation.



### ***COMPENSATION EARNABLE***

Compensation Earnable means (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring employee, (ii) during the final compensation period, and (iii) for working the ordinary time required of all other employees in the same grade/class. Compensation Earnable is applicable to existing members as of January 1, 2013, referred to as Legacy members.

### ***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 grade or class of employment; (iv) for services rendered on a full-time basis; (v) during Normal Working Hours (as defined in the Pensionable Compensation Policy); (vi) pursuant to Publicly Available Pay Schedules (as defined in the Pensionable Compensation Policy); and (vii) subject to limitations. Pensionable Compensation is applicable to all OCERS members enrolled on or after January 1, 2013, referred to as PEPRAs members.

### ***EARNABLE SALARY***

FAS is based on a member's earnable salary, which represents the total base salary that could have been earned during a bi-weekly pay period. Earnable salary is calculated by multiplying the member's hourly rate by the total number of hours a member could have worked within a reported pay period.

### ***GROSS SALARY***

A member's gross salary represents the total payment made to a member within a reported bi-weekly pay period. Gross salary records are used by OCERS when calculating an eligible part-time member's FAS at retirement.

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### IV. Limitations

This administrative procedure will be construed consistently with the requirements of the California Government Code Sections 31460, 31461, and 31462 (Compensation Earnable), 7522.32 and 7522.34 (Pensionable Compensation), 31542, the decisions of the California Supreme Court in *Ventura County Deputy Sheriffs' Assn. v. Alameda County Employees' Retirement Assn.* (2020) 9 Cal.5<sup>th</sup> 1032 and other interpretations issued thereunder.

### V. Process

The following describes the Final Average Salary calculation process.

#### 1. Plan Verification

The first step in calculating FAS is to identify the member's plan membership and benefit plan formula.

- **Legacy**
  - **Plan Members**
    - a. Active member of OCERS prior to January 1, 2013; or
    - b. An individual who was a deferred member of OCERS prior to January 1, 2013, and who returns to the same employer; or
    - c. An individual who was a deferred member of a reciprocal retirement system with service under that system prior to January 1, 2013 who became an active member of OCERS within six months of deferring membership in the reciprocal system.
    - d. Deferred Legacy members (who do not return) as either PEPRA or Legacy (depending on what they were when they deferred)
  - **Plans**
    - Plan A B C, D, E, F, G, H, I, J, M, N, O, P, Q, R and S
- **PEPRA**
  - **Plan Members** – Member enrolled in OCERS on or after January 1, 2013
  - **Plans**
    - Plan T, U, V, and W

#### 2. Measuring Period

Then the measuring period – one-year or three-years (12 or 36 consecutive months)- is identified based on the member's plan and entry date. Members who entered OCERS prior to September 21, 1979 have a one-year measuring period; all others have a three-year measuring period.

- **One-year (12-months):** Plan A, C, E, G, I, M, O and Q
- **Three-years (36-months):** Plan B, D, F, H, J, N, P, R, S, T, U, V and W

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### 3. Compensation Review

1. Based on the selected retirement date, the highest average salary earned within a consecutive 12-month or 36-month period, whichever applies based on the member's plan and entry date, is identified.
2. OCERS staff then examines the member's earnable salary records for the highest 12 or 36 consecutive months provided by the employer to determine the member's base pay and whether there are any additional pay items that qualify for inclusion in Compensation Earnable or Pensionable Compensation.

#### **A) ITEMS INCLUDED IN COMPENSATION EARNABLE – LEGACY MEMBERS**

For Legacy members, OCERS will determine whether the member has any additional premium pay or cash out items that may be included in Compensation Earnable.

##### TYPES OF PAY ITEMS INCLUDED

The following pay items are included, in addition to a member's hourly base wages:

- Premium pay (e.g. shift differential, bilingual premium pay, etc.)
- Allowances (e.g. automobile, if paid in cash or used for personal use, uniform, or uniform maintenance, etc.)
- Overtime, including on-call/standby pay but only if it is: (i) required to be worked as part of the employee's Normal Work Hours (defined below); (ii) ordinarily worked during the period in question as part of the regular assignments of all other members in same grade/class as the employee; and (iii) not served voluntarily by the employee. "Ordinarily worked" does not include time served on a temporary or emergency basis.

##### TYPES OF CASH OUT ITEMS INCLUDED

Cash out items, often referring to Paid Time Off (PTO) hours, up to the maximum amount earned and cashable during a 12-month period, for each year of the measuring period:

- **Annual Leave/Vacation** – amount earned, not taken as time off and permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually cashed out. (e.g. employees are typically able to cash out 40, 60, or 80 hours of vacation or annual leave in a 12-month period.)
- **Sick Leave** – time that (i) was earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the measuring period under the member's applicable MOU, regardless of when actually paid or cashed out.
- **Compensatory Time for Holidays** - for holidays worked or for holidays that fall on a member's regularly scheduled day off, (i) the amount earned; (ii) was not taken as time off; and (iii) was permitted to be cashed-out during the

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measuring period under the member's applicable MOU, regardless of when actually paid or cashed out.

For Legacy members, if members have a measuring period that spans multiple fiscal years, OCERS will only include in Compensation Earnable the amount earned and could have been cashed out during each 12-month period of the measuring period.

### ***B) ITEMS INCLUDED IN PENSIONABLE COMPENSATION – PEPRA MEMBERS***

For PEPRA members, OCERS will determine the normal monthly rate of pay and any pensionable items that meet the following criteria for Pensionable Compensation:

- Pay is the normal monthly rate of pay or base pay
- Pay is paid in cash
- Paid to similarly situated members of the same group or class of employment
- Pay is for services rendered on a full-time basis during Normal Working Hours (defined below)
- Pay is paid pursuant to publicly available schedules

#### **PAY ITEMS INCLUDED**

- Base Salary and Wages (which includes employee contributions to deferred compensation plans), and including additional compensation for scheduled meal periods, plus skill-based or shift-based premium pay categories as defined in the Pensionable Compensation Policy.

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 VOLUNTARILY WORKED BY THE EMPLOYEE. "ORDINARILY WORKED" DOES NOT INCLUDE TIME SERVED ON A TEMPORARY OR EMERGENCY BASIS.

### ***C) ITEMS EXCLUDED FROM COMPENSATION EARNABLE AND PENSIONABLE COMPENSATION***

In accordance with Resolution 98-001 and GC Section 7522.34, the following are excluded from Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members including, but not limited to the following items, and others substantially similar to them.

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Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
Any compensation determined by the Board to have been paid to increase a member's retirement benefit or is inconsistent with the requirements of OCERS Board Policies Compensation Earnable and Pensionable Compensation.	
True overtime (not qualifying in 3. 2. 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.	
Payoffs or cash outs of vacation and sick leave and holiday pay, to the extent neither earned nor permitted to be cashed-out under the applicable MOU, regardless of when actually paid or cashed out	Payments for unused vacation, annual, leave, personal leave, sick leave or compensatory time off, however denominated, whether paid in lump sum or otherwise, regardless of when reported or paid.
Flexible benefits ("Cafeteria Plan") provided in kind and Flexible Benefits paid in cash	
Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)	
Fees, licences, memberships provide to member by employer	
Automobile allowance, if the automobile is provided for personal use and the allowance is not paid in cash, whether or not declared as income, for members whose Final Compensation Periods (as defined in Section 9(a) of the Compensation Earnable Policy) <b>do not</b> include time before January 1, 2001.	Automobile, uniform, or other allowances
Terminal "Final" pay, to the extent not included in Cash Out items	Severance or other termination pay that is received while employed
	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

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Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
	the form of a cash payment in the final average salary period.
	Any ad hoc or one-time pay of any sort

3. OCERS staff reviews each pay period that contains a pay item to determine whether the pay item is included in the approved list of pay items and is reported as pensionable. Staff then confirms that the member is eligible to receive the pay item by verifying the member’s job classification, bargaining unit and MOU that was applicable during the measuring period. Staff also validates that the pay item was reported and paid correctly according to the applicable MOU.
  4. For Legacy members, to determine whether a cash out item should be included in Compensation Earnable, OCERS reviews all payroll records from the employer and any relevant documents the member may have. Then, using the MOU that was applicable during the measuring period, OCERS confirms that the item was earned, not taken as time off and cashable during a 12-month period for each year of the measuring period. Members cannot receive credit for time that was used for time off.
 

If payment for compensatory time for holidays has not been reported as a cash out item by the employer, the member may be required to provide supporting documentation, including pay stubs and timesheets to show that the holiday hours accrued were not used as time off and that the member either received payment for the holiday hours, or could have received payment for those hours within 12-months of the measuring period.

No cash out items are included in Pensionable Compensation for PEPRA members.
5. OCERS will research any item of compensation that may look inconsistent or appear to have been paid to spike a member’s retirement benefit.
6. OCERS may request additional documentation from the employer or member to verify what has been provided and reported.
7. If OCERS staff determines that one or more items of compensation were paid to inappropriately enhance a member’s retirement benefit, OCERS staff will send written notification to the member and the employer of its determination.
8. OCERS may conduct written or oral follow-up communication with the member and/or employer as appropriate in the exercise of reasonable diligence. Staff will document any such communications and when concluded, will issue a final notice of determination.
9. Once all pay items and applicable cash out items have been validated, staff adds each pay item and/or applicable cash out item to the base salary to compute the total Compensation Earnable or Pensionable Compensation.

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### *4. FAS Calculation*

After completing the compensation review, OCERS calculates the Final Average Salary.

- For **Legacy members in Tier 1**, FAS is calculated by taking the sum of the member's highest consecutive 12-months of Compensation Earnable and dividing it by 12.
- For **Legacy members in Tier 2**, FAS is calculated by taking the sum of the member's highest 36-months of Compensation Earnable and dividing it by 36.
- For **PEPRA members**, FAS is calculated by taking the sum of the member's highest 36-months of Pensionable Compensation and dividing it by 36.

FAS is limited to applicable IRS 401(a)17 and Social Security limits.

The FAS is then applied to the calculation of the member's monthly retirement allowance.

### *Part-Time or Full-Time Members with Less than One (1) Year (Tier 1) or Three (3) Years (Tier 2) of Service*

If a member is a part-time employee or a full-time employee with less than 1 year of service (Tier 1) or 3 years of service (Tier 2), then the FAS is calculated using the member's Gross Salary. The member's sum of Gross Salary is divided by the number of months of service credited in OCERS and multiplied by 12.

### *Part-Time Members with Equivalent of Three (3) Years of Full-Time Service*

For part-time members, FAS is calculated by using the member's Gross Salary over 6272 hours and dividing it by 36.