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Sent Via US Mail


San Bernardino County Employees'
Retirement Association
348 W. Hospitality Lane, Suite 100
San Bernardino, CA 92408
P: 909.885.7980

November 30, 2023

Michael Milligan


Subject: Service Purchase Request

Dear Michael Milligan,

This letter is in response to your request to purchase credit for non-membership service with San Bernardino County for the period of January 1995 through December 1999 as an independent contractor with the Office of the Public Defender. After reviewing the information provided by you and San Bernardino County Human Resources, your request to purchase credit for the period 1995 through 1999 is denied.

The San Bernardino County Human Resources has declined to certify the service you claim in your request. County Human Resources replied that "the Public Defender does not have any data that Mr. Milligan worked as a County contract employee prior to April 22, 2000." You provided a copy of records from the ATC's office titled the County of San Bernardino-Accounts Payable, which pertain to payments made to you during the relevant period. (Attachment A)

Regarding the documentation provided, you are listed as a vendor and not an employee. Also, there are no payments to you as a vendor for the year 1995 or for January 1996 through July 1996. Given that third party vendors and not employees of San Bernardino County, are paid through the ATC accounts payable system, as you were here, your work as a third-party vendor (i.e., an independent contractor) cannot be purchased under the County Employees' Retirement Law as the position of an independent contractor does not qualify for membership in San Bernardino County Employees' Retirement Association (SBCERA) because persons hired as independent contractors do not meet the statutory definition of "employee" as provided in Government Code section 31649, and thus, are not entitled to membership. SBCERA is without sufficient information as to the terms of your contractual relationship with San Bernardino County for the period of January 1995 through December 1999, except that San Bernardino County Human Resources on behalf of San Bernardino County could not certify you as an "actual employee" for that period.

Without San Bernardino County Human Resources certifying and providing records of your service as an employee of San Bernardino County, you are not eligible to purchase service credit as permitted by the County Employees' Retirement Law.

You may appeal this decision pursuant to SBCERA's Benefits Policy 025 – Requests and Appeals for Pension Benefits, a copy of which is enclosed. Please send your request to appeal

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to Debby Cherney, Chief Executive Officer, San Bernardino County Employees' Retirement Association, 348 W. Hospitality Lane, Suite 100, San Bernardino, California 92408.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy".

Amy McInerney
Chief Financial Officer
SBCERA

Status **Active** PolicyStat ID **12890238**



San Bernardino County Employees'
Retirement Association

Origination 11/2019
Last Approved 12/2022
Effective 12/2022
Last Revised 12/2022
Next Review 11/2025

Area Benefits
Applicability SBCERA
systemwide

Requests and Appeals for Pension Benefits

POLICY NO. 025

1. General Instructions.

Requests for the award or change of any pension benefit, other than disability benefits, should begin with the member addressing the request, in writing, to the Chief Executive Officer (CEO) or designee.

2. Initial Determination.

The CEO or designee shall provide a written determination of the member's request that either approves or denies the request. For any request the CEO denies, the member shall have 30 days to submit a request to appeal the CEO's determination.

3. Board Adoption of Initial Determination.

In the event the member fails to appeal the CEO's determination, then the CEO's determination will be placed on the Board's next consent agenda with a recommendation to adopt the CEO's determination. The Board's adoption of the CEO's determination shall be final. Staff will provide a summary of the determination to the member prior to the Board's decision.

4. Member Appeal of Initial Determination.

The member may request to appeal the CEO's denial to the SBCERA Board. As part of the written appeal request, the member may submit additional documentation, including affidavits, to the CEO or designee within thirty (30) days after the date upon which the recommendation was sent to the member.

5. Board Hearing of Appeal.

Thirty (30) days from receipt of the member's written appeal, the member's appeal shall be placed on the agenda at the next regularly scheduled SBCERA Board meeting. The CEO or designee will provide copies of the member's written request for benefits, staff recommendation and supporting documentation, along with any additional documentation from the member to the Board. The member may attend the Board meeting and may address the issue consistent with the Board's policies on public comment, which may be modified in such instances in the sole discretion of the Board Chair, prior to the Board's decision on the matter.

6. Board Decision Upon Hearing Appeal.

A decision by the Board is final unless the Board refers the matter to an Administrative Hearing as governed by *Procedures for Disability Retirement Applications and Formal Hearings*.

Judicial review of final retirement decisions shall be subject to the Code of Civil Procedure Section 1094.6. Judicial review of final compensation earnable and/or pensionable compensation decisions shall be subject to Code of Civil Procedure Section 1085.

Following final decision on disputed matters, the CEO or designee shall send to the member written notice of their appeal rights.

COPY

Approval Signatures

Step Description	Approver	Date
HR Final Review & Distribution	Iliana Torres	01/2023
Board Approval - Policy Owner Quality Assurance Review	Barbara Hannah: Chief Counsel	01/2023
Board Approval - Policy Owner Quality Assurance Review	Yolanda Bullock: Sr Legal Secretary	01/2023
Committee - Policy Owner Quality Assurance Review	Yolanda Bullock: Sr Legal Secretary	01/2023
Committee - Policy Owner Quality Assurance Review	Barbara Hannah: Chief Counsel	12/2022
Chief Executive Officer Review	Debby Cherney: Chief Executive Officer	12/2022
Policy Owner & Chief Counsel Review	Barbara Hannah: Chief Counsel	12/2022



DECLARATION OF CUSTODIAN OF RECORDS

I, Rhawnie Berg, declare:

That I am the Custodian of Records for the County of San Bernardino – Accounts Payable and have the authority to certify said records.

That attached hereto are the true and complete copies of all records pertaining to payments made to Michael P Milligan for the period of January 1995 through December 1999.

That all said records were prepared by the personnel of the Office of the Auditor-Controller/Treasurer/Tax Collector and are contained in the County’s official system of record (Financial Accounting System -FAS).

I declare, under penalty of perjury, that the foregoing information is true and correct to the best of my knowledge.

Executed on this date, Monday, May 8, 2023, at San Bernardino, California.

A handwritten signature in blue ink, appearing to read 'Rhawnie Berg', is written over a horizontal line.

Rhawnie Berg, APM
Deputy Chief, Disbursements Division





Payments issued to Michael Milligan
 For the period of January 1995 through December 1999
 As contained in San Bernardino County Financial Accounting System - FAS

Year	Date	Warrant #	Amount	VEND NAME
1995	No payments found			
1996	No payments found			
1996	8/1/1996		606.25	MICHAEL MILLIGAN
1996	8/23/1996		1,200.00	MICHAEL MILLIGAN
1996	9/16/1996		1,200.00	MICHAEL MILLIGAN
1996	10/2/1996		1,400.00	MICHAEL MILLIGAN
1996	10/24/1996		1,400.00	MICHAEL MILLIGAN
1996	11/14/1996		1,200.00	MICHAEL MILLIGAN
1996	12/18/1996		1,800.00	MICHAEL MILLIGAN
1997	1/9/1997		1,800.00	MICHAEL MILLIGAN
1997	1/31/1997		1,200.00	MICHAEL MILLIGAN
1997	3/4/1997		2,000.00	MICHAEL MILLIGAN
1997	3/25/1997		2,000.00	MICHAEL MILLIGAN
1997	4/9/1997		1,200.00	MICHAEL MILLIGAN
1997	5/13/1997		1,800.00	MICHAEL MILLIGAN
1997	6/4/1997		1,800.00	MICHAEL MILLIGAN
1997	7/30/1997		1,800.00	MICHAEL MILLIGAN
1997	7/30/1997		2,200.00	MICHAEL MILLIGAN
1997	7/30/1997		1,000.00	MICHAEL MILLIGAN
1997	8/28/1997		2,400.00	MICHAEL MILLIGAN
1997	9/29/1997		2,800.00	MICHAEL MILLIGAN
1997	11/10/1997		2,400.00	MICHAEL MILLIGAN
1998	1/21/1998		4,200.00	MICHAEL MILLIGAN
1998	1/21/1998		3,000.00	MICHAEL MILLIGAN
1998	3/10/1998		2,200.00	MICHAEL MILLIGAN
1998	3/10/1998		2,400.00	MICHAEL MILLIGAN
1998	3/27/1998		2,400.00	MICHAEL MILLIGAN
1998	5/7/1998		2,600.00	MICHAEL MILLIGAN
1998	9/24/1998		2,400.00	MICHAEL MILLIGAN
1998	3/18/1999		2,400.00	MICHAEL MILLIGAN
1998	7/2/1998		2,400.00	MICHAEL MILLIGAN
1998	7/2/1998		2,400.00	MICHAEL MILLIGAN
1998	7/2/1998		2,000.00	MICHAEL MILLIGAN

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Year	Date	Warrant #	Amount	VEND NAME
1998	8/12/1998		1,600.00	MICHAEL MILLIGAN
1998	8/12/1998		2,375.00	MICHAEL MILLIGAN
1998	8/25/1998		1,950.00	MICHAEL MILLIGAN
1998	9/1/1998		2,400.00	MICHAEL MILLIGAN
1998	10/22/1998		2,400.00	MICHAEL MILLIGAN
1998	11/18/1998		2,600.00	MICHAEL MILLIGAN
1998	12/7/1998		40.65	MICHAEL MILLIGAN
1998	12/7/1998		2,725.00	MICHAEL MILLIGAN
1999	2/16/1999		5,200.00	MICHAEL MILLIGAN
1999	4/26/1999		3,200.00	MICHAEL MILLIGAN
1999	4/26/1999		2,400.00	MICHAEL MILLIGAN
1999	4/26/1999		80.00	MICHAEL MILLIGAN
1999	4/26/1999		2,175.00	MICHAEL MILLIGAN
1999	4/26/1999		2,062.50	MICHAEL MILLIGAN
1999	5/26/1999		2,400.00	MICHAEL MILLIGAN
1999	6/4/1999		2,880.00	MICHAEL MILLIGAN
1999	6/4/1999		811.82	MICHAEL MILLIGAN
1999	6/11/1999		273.57	MICHAEL MILLIGAN
1999	6/11/1999		960.00	MICHAEL MILLIGAN
1999	6/11/1999		267.19	MICHAEL MILLIGAN
1999	6/11/1999		960.00	MICHAEL MILLIGAN
1999	8/2/1999		1,680.00	MICHAEL MILLIGAN
1999	8/2/1999		960.00	MICHAEL MILLIGAN
1999	8/2/1999		264.34	MICHAEL MILLIGAN
1999	8/2/1999		255.69	MICHAEL MILLIGAN
1999	8/2/1999		960.00	MICHAEL MILLIGAN
1999	8/2/1999		502.58	MICHAEL MILLIGAN
1999	8/2/1999		234.97	MICHAEL MILLIGAN
1999	8/2/1999		960.00	MICHAEL MILLIGAN
1999	8/17/1999		2,880.00	MICHAEL MILLIGAN
1999	8/17/1999		811.82	MICHAEL MILLIGAN
1999	9/15/1999		3,360.00	MICHAEL MILLIGAN
1999	9/15/1999		462.78	MICHAEL MILLIGAN
1999	10/1/1999		243.90	MICHAEL MILLIGAN
1999	10/1/1999		1,920.00	MICHAEL MILLIGAN
1999	10/26/1999		3,696.00	MICHAEL MILLIGAN
1999	10/26/1999		116.29	MICHAEL MILLIGAN
1999	11/30/1999		6,650.00	MICHAEL MILLIGAN