

Benefit Payments

Benefit payments are made monthly. For members retiring after March 6, 2003, benefit payments will be made via electronic fund transfers only. Involuntary deductions shall not reduce a benefit payment to less than 50% of the gross amount, unless required by law.

Cost-of-Living Adjustments

- a. Pursuant to Government Code section 31874, the San Bernardino County Board of Supervisors, through San Bernardino County Ordinance 2764, approved an annual cost-of-living adjustment for every retirement allowance, optional death allowance or annual death allowance, not to exceed 2% per year in accordance with the provisions of Government Code section 31870, effective April 1, 1984.
- b. Pursuant to Article 16.6 of the 1937 Act, the San Bernardino County Board of Supervisors, through San Bernardino County Ordinance 2019, approved a non-compounding cost-of-living adjustment of 7% for all retired members who were members on or before August 18, 1975.

Errors and Omissions

- a. SBCERA shall comply with Government Code sections 31525 and 31539 for the purposes of payments into or out of the retirement fund for adjustments of errors or omissions.
- b. If an incorrect payment is made due to lack of information or inaccurate information regarding the eligibility of a member, former member, beneficiary, or annuity beneficiary to receive benefits, the period of limitation shall commence with the discovery of the incorrect payment.
- c. Notwithstanding any other provision of this section, if an incorrect payment has been made on the basis of fraud or intentional misrepresentation by a member, beneficiary, annuity beneficiary, or other party in relation to or on behalf of a member, beneficiary, or annuity beneficiary, then the Board may commence an action up to 10 years from the date of the payment or upon discovery of the facts, fraud, or intentional misrepresentation, whichever is later.
- d. Collection for Overpayments – less than \$100.

The Board believes that considerations of cost effectiveness make it prudent and reasonable to pursue recovery of overpayments only where the cumulative total amount overpaid to the Member is \$100 or more. Accordingly, the CEO is authorized to not seek recovery of any overpayments where the total amount overpaid to the Member is less than \$100.

- e. Collections for Overpayments of \$100 or More – Recipient Receiving an On-Going Benefit:
 - i. If the recipient is receiving an on-going benefit and the Board, system, or employer error caused an overpayment in a benefit, then the Board may collect from the recipient's on-going benefit up to 10% of the gross monthly benefit (unless this percentage-based payment collection would result in a payment schedule longer than five (5) years), until all prior overpayments have been reimbursed to the Board.
 - ii. If the recipient is receiving an on-going benefit and the member/recipient error caused the overpayment in a benefit, then the Board may collect from the recipient's on-going allowance up to 20% of the gross monthly benefit (unless this percentage-based payment collection would result in a payment schedule longer than five (5) years), until all prior overpayments have been reimbursed to the Board.

Notwithstanding (i) or (ii) above, the CEO has the discretion to set up a contract or repayment plan from the recipient's on-going benefit, allowing payment terms of up to five (5) years, or through a lump-sum payment to fully satisfy the overpayment amount.

- f. Collections for Overpayments of \$100 or More – Recipient Received a Lump Sum:

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- i. If the recipient is not receiving an on-going benefit and has received an overpayment in a lump sum benefit of up to \$25,000, then the CEO or designee shall have authority pursuant to Article I, section (2) of these By-laws to take action to recover the overpayment.
 - ii. If the recipient is not receiving an on-going benefit and has received an overpayment in a lump sum benefit of more than \$25,000, then the CEO or designee may pursue collection efforts after consultation with and concurrence by the Board.
- g. Recipient, defined:

For the purposes of this policy, a "recipient" shall include but not be limited to the following person(s): a member, retired member, surviving spouse, child, beneficiary, domestic relations order (DRO) recipient, non-member, or any other person receiving an ongoing benefit.

- h. Collections, General:

Staff may pursue all legal remedies to collect overpayments, including making a claim on an estate or trust, if appropriate. Upon the death of the Member before full repayment has been made, SBCERA shall pursue a claim or claims against the Member's estate, survivors, heirs and/or beneficiaries to recover the unpaid amounts.

- i. Error Corrections Made In Accordance with IRS Rules

Consistent with SBCERA's status as a tax-qualified retirement plan and in order to maintain that favorable tax-qualified status, SBCERA will make error corrections using methods consistent with the IRS's Employee Plans Compliance Resolution System ("EPCRS") under Revenue Procedure 2019-19 or any subsequent guidance promulgated by the Secretary of the Treasury for correcting qualification errors.

Normal Retirement Age

Refer to Section VII, Internal Revenue Code Section 401(a): Normal Retirement Age under SBCERA Policy No. 31, Tax Compliance regarding the "normal retirement age" for SBCERA Members for purposes of applying the Pension Protection Act of 2006 and complying with other applicable tax-related law, such as the in-service distribution rules.

Bona Fide Separation from Service

- a. In order to comply with federal tax law restriction on in-service distributions, a member who retires at an age younger than the "normal retirement age," as defined herein, may not enter into a prearrangement, either oral or written, prior to the date the member's retirement commences, to be reemployed while retired by any SBCERA employer, regardless of the length of the member's break in service after retirement. A member who retires at an age younger than the normal retirement age, as defined herein, also must have at least a continuous 60-day break in service from the date of the member's last day of employment prior to being reemployed while retired by any SBCERA employer. A "break in service" is defined as separation from employment in any and all positions held with an SBCERA employer, including but not limited to extra help under the "960 hour" provisions of the '37 Act, seasonal, temporary, part-time, reserve, independent contractor, and paid-call positions.
- b. The member must acknowledge in writing to SBCERA at the time of retirement that the member has been informed of the requirement set forth in this section imposing limitation on post-retirement employment and that no prearrangement to be reemployed while retired exists. The member must also agree that, if any of the provisions of this section regarding bona fide separation from service are violated as determined by the Board, the member's retirement allowance shall be suspended immediately and shall not be reinstated until the member has a bona fide separation from service or reaches normal retirement age, whichever occurs first.

Board Determinations

Pursuant to section 31542 of the CERL, those pay items determined by the Board to be "compensation earnable" or "pensionable compensation" shall be so treated in determining benefit amounts pursuant to a member's application for retirement, unless it appears that the item was included for the purpose of enhancing the member's benefit. In such case, the CEO or designee shall inform the member in writing of the determination to exclude the item and explain the reasons for that determination, and the member shall have the right to a review of that determination pursuant to Board Benefits Policy No. 025 – Requests and Appeals for Pension Benefits.