

LACERA

Spotlight on Retirement

December 2004
Vol. 15 No. 4

LOS ANGELES COUNTY EMPLOYEES RETIREMENT ASSOCIATION • NEWS FOR RETIRED MEMBERS

Ventura Update: A Review

It's been a while since we've written about the specifics of the Ventura Decision, so here is a review of the basics.

Retirement allowances are calculated as a percentage of final compensation. A person's final compensation is equal to the average pensionable earnings during either a 12-consecutive-month or 36-consecutive-month period, depending on the member's retirement plan.

Historically, LACERA excluded from final compensation many items of pay on the basis that they were not received by everyone in the same job

classification. We refer to these as "special pay" items. Examples are bonuses for utilizing a foreign language on the job, additional pay for working an evening shift, and bonuses for achieving certain certifications that evidence advanced skills applied on the job. The practice of excluding special pay items was challenged in court by the Ventura County Deputy Sheriff's Association. The case was litigated all the way to the California Supreme Court, which held that the practice of excluding special pay

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Continuing Allowance and Domestic Partners

Retirees with domestic partners should be aware of a difference in beneficiary benefits between contributory and non-contributory plans.

The law entitles your spouse or domestic partner, whether named as a beneficiary or not, to a continuing monthly allowance upon your death. To be eligible for the continuing

monthly allowance under the Unmodified retirement option, you must have been married or in a registered domestic partnership at least one year prior to retirement. If there is no spouse or domestic partner, the eligible minor children will receive the continuing allowance.

Contributory Plans A, B, C, or D:
For members who have elected the

Unmodified allowance, the eligible minor children's rights will *supersede* those of the domestic partner upon the member's death.

Non-Contributory Plan E:
For retired members of Plan E, the rights of a domestic partner will supersede those of any eligible minor children. 

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From the Executive Office

Marsha D. Richter, Chief Executive Officer



2004: An Eventful Year

It's hard to believe it, but another year has come and gone! While looking forward to 2005, I would like to take a moment to reflect on some of the accomplishments that have made LACERA a better retirement association this year. Every area of LACERA contributed to our members' overall satisfaction, as well as the health of the retirement fund.

One of LACERA's proudest accomplishments is winning the PPCC Award from the Public Pension Coordinating Council (PPCC). The Achievement Award recognizes excellence in plan design and providing retirement services. The Public Pension Standards are intended to reflect minimum expectations for public retirement systems management and administration, and serve as a benchmark by which all public defined benefit plans should be measured.

This year has seen great improvements in customer service at LACERA. The Member Services Division continues to serve you with increasing accuracy and efficiency. This year alone approximately 136,000 telephone inquiries were received from members, 86% of which were answered within 30 seconds.

The Quality Assurance & Metrics Division has also been working diligently to raise the bar on serving the LACERA membership. Three full months of training and orientation are required before a new Benefits Specialist is ready to answer your benefits questions. The intense training required to become a

Member Benefits Specialist reflects how important it is for us to have knowledgeable and well-informed staff on the other end of the phone line.

The Claims Processing Division also delivered excellent customer service this year. In fact, its staff's overall processing accuracy rating increased from 86% to 93%. And during the annual March "rush" of retirements, Claims Processing was able to pay 99.3% or 798 of 804 retirees within 30 days of their retirement date. Numbers like these reflect our dedication to continue striving to bring you 100% member satisfaction. The Popular Financial Annual Report (PAFR) and the Comprehensive Annual Financial Report (CAFR) were both compiled and printed again this year with terrific cooperation among the LACERA Boards, staff, and other professional service providers. There are many different kinds of information that must be compiled for these reports, including data that reflects financial, benefit, and customer service accomplishments. It speaks to the superb teamwork at LACERA that, year after year, both of these reports win awards for excellence in their fields.

As we continue on our quest to deliver the highest quality customer service to our members, LACERA pledges to be on the cutting edge of new technologies and innovative solutions for work processes and services. It's important to you—so it's important to us. Happy New Year, everyone! 

Legislative Updates

by Jan Barcus

Several bills amending the County Employees Retirement Law (CERL) were enacted by the State Legislature during the recently concluded legislative session. This article provides a summary of those bills.

I. Bills Amending the LACERA Plans without Further Action by the Board of Retirement or the Board of Supervisors

AB 2234 (Chapter 533)

Survivors Right to Complete Plan Transfer Contract

Existing law authorizes members of LACERA Retirement Plan E to transfer their membership to the contributory plan by making specified contributions. If the member dies prior to completing payment, his or her spouse may receive benefits under the contributory plan if he or she pays the balance of the contributions due within 90 days after the member's death. Section 10 of AB 2234 extends the period for completing payment to 120 days.

Response to Catastrophic Event

Section 19 of AB 2234 allows the retirement system to contract with a third party to temporarily administer the system if a catastrophic event destroys or severely damages the retirement system's administrative facilities or otherwise prevents or significantly hinders administration of the system.

The cost of contracting with the third party shall be a charge against the investment earnings of the retirement fund.

Brown Act

Sections 20 and 21 authorize the Board of Retirement to hold closed sessions to consider the purchase or sale of a specific pension fund investment. All decisions made in closed session shall be by roll call

vote and disclosed at the first open meeting following the close of the transaction or transfer of assets.

AB 2982 (Chapter 379) Reemployment Plan for Service-Connected Disability

Existing law provides that after the Board of Retirement finds that a member is incapacitated for the performance of his or her duties but is capable of performing other duties, the employer is asked to initiate a reemployment plan under vocational rehabilitation provisions of the Labor Code which were repealed effective January 1, 2004. For members who become incapacitated after January 1, 2004, this bill requires the employer to notify the member of suitable County positions and to consult with the member to develop a reemployment plan for approval by the member. The provisions of this bill take effect immediately.

AB 3094 (Chapter 506) Benefit Payment Collection

This bill adds an exemption to the California Right to Privacy provisions of the Government Code on Exceptions to require financial institutions to provide a retirement system with information about member accounts which received direct deposit transfers after the date of the member's death. This bill also amends the County Employees Retirement Law to require that retirement benefit payments that are directly deposited by electronic fund transfer into the member's account after the member's death are to be refunded to the retirement system.

SB 1206 (Chapter 466) Overpayment Adjustment and Collection

This bill gives the Board of Retirement the discretion to adjust a member's retirement allowance and collect any overpayment if the member made, or caused, fraudulent compensation reports that resulted in his or her compensation being overstated.

II. Bills Enacting Provisions Which Do Not Take Effect in Los Angeles County Unless Adopted by Majority Vote of the Board of Retirement

AB 979 (Chapter 441) Alternate Retired Member

Existing law authorizes the Board of Retirement to appoint an alternate retired member (alternate to the eighth (retired) member). Section 1 of AB 979 provides that an alternate retired member shall receive compensation for all meetings attended. Section 1 also gives the Board of Retirement the discretion to define the duties of the alternate retired member.

III. Bills Enacting Provisions That Do Not Take Effect in Los Angeles County Unless Adopted by Majority Vote of the Board of Supervisors

AB 979 (Chapter 441) Survivor Continuance

Section 5 of AB 979 authorizes the Board of Supervisors to allow a

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retired member to elect a reduced allowance to provide a survivor's continuance when the marriage occurs after retirement. The Board may also allow a member to elect a reduced monthly allowance to "purchase" a "pop-up" provision should his or her named beneficiary die before the member.

AB 2234 (Chapter 533) Plan E Service Purchases

Section 9 of AB 2234 authorizes the Board of Supervisors to allow Plan E members to receive service credit for time not otherwise recognized, under the same purchase rules and upon payment of contributions calculated under the same purchase formulas as apply to members of the contributory plan.

SB 1260 (Chapter 152) Increased Survivor Allowance

SB 1260 authorizes the Board of Supervisors to allow a member to provide an increased survivor continuance benefit paid to his or her eligible spouse. To provide the increased allowance the member takes a reduction in his or her monthly retirement allowance equal to the actuarial difference between the continuing allowance under the Unmodified settlement option and the increased survivor allowance.

IV. Other Bills That Impact LACERA Operations

AB 2167 (Chapter 575) Corporations Code Related to Securities

This bill codifies certain recessionary

rights for securities purchased from a broker/dealer not qualified under state law to act in that capacity, and spells out certain measures of damage. The bill extends the statute of limitations for securities fraud actions to within 5 years after the violation (now 4 years) or within 2 years of the plaintiff's discovery of the violation (now one year), whichever occurs first.

AB 2687 (Chapter 888) Probate Code: Public Administrator

This bill authorizes the Public Administrator to take control of a person's estate without requiring a death certificate or a court order. The bill includes property held by a retirement fund administrator. 

Battling the Holiday Bulge

During festive times, celebrations, and family get-togethers, it can be hard to say no to all of the sweet treats on the table. But there are ways to combat the caloric temptation and still enjoy the celebrations. Below are five simple tips to keep in mind as you gear up for parties and get-togethers throughout the year.

1. One for Good Measure

It's nearly impossible to avoid candy and sweets all together, but you can limit your intake. Instead of trying every truffle flavor in the box, limit yourself to just one...and savor it sloooooowly.

2. Avoid Temptation

Try and keep the most tempting foods out of easy reach. If you know there will be donuts in the kitchen at work, don't pass by just to take a look at the sprinkles.

3. Don't Start Off with Sweets

If you start your day with a miniature chocolate bar, chances are you'll have a sweet tooth for the rest of the day. If you feel like snacking, make yourself some tea with a drop of honey. It will subtly satisfy your sugar craving without launching your taste buds into sugar shock.

4. Eat Your Veggies

Besides being nutritious and crunchy,

vegetables are filling and satisfying, too. By supplementing your meals and snacks with a healthy dose of greens, veggies also fill you up, curbing your craving to keep eating.

5. Guilty Conscience?

It happens to the best of us. Sometimes overindulging just can't be avoided—too many cookies, too much turkey—the diet-ruining possibilities are endless! Step one, forgive yourself. You're only human! Step two, remember that tomorrow is a new day; just because you fell off the chocolate wagon today doesn't mean you're ruined for the rest of the season. 

WorldCom Securities Litigation Update

On June 21, 2002, WorldCom shocked the financial community when it filed the largest bankruptcy in United States history. With investors still reeling from the Enron debacle, the financial community was again thrown into turmoil by allegations of massive accounting fraud at the telecommunications giant. In the aftermath of WorldCom's historic collapse, thousands of WorldCom employees lost their jobs, senior executives resigned and/or were convicted of securities fraud, and institutional investors, including many state and private pension funds, lost hundreds of millions of dollars in investments.

Beginning in April, 2002, defrauded investors filed more than 20 federal class action lawsuits throughout the country against WorldCom and related defendants, including many of the Wall Street banks that underwrote WorldCom's securities. But many large institutional investors, particularly those with prior experience prosecuting securities cases, were concerned that any recovery obtained through the federal class action would be significantly diluted given the large number of defrauded investors with billions of dollars of combined losses. This became an even greater concern after WorldCom filed for bankruptcy. As a result, many institutional investors elected to opt out of the federal class action and pursue their own individual actions in state court.

In July, 2002, LACERA, the California Public Employees Retirement System (CalPERS), and the California State Teachers'

Retirement System (CalSTRS) filed a joint complaint in Los Angeles County Superior Court against several WorldCom related defendants, including former executives, the company's auditor (Arthur Anderson), and several banks that underwrote WorldCom securities, including Citigroup and several others. Our complaint alleges that senior executives—assisted by Arthur Anderson—perpetrated the largest corporate fraud and accounting scandal in history by overstating the company's earnings by billions of dollars over several years. We further contend that WorldCom and several underwriter banks exploited these artificially inflated earnings to defraud investors into buying billions of dollars worth of WorldCom securities that later became worthless when the fraud was revealed. According to recent calculations, LACERA suffered damages of approximately \$50 million on certain WorldCom bonds issued in 1998, 2000, and 2001.

Earlier this year, Citigroup announced that it would pay \$2.65 billion to settle claims by WorldCom investors in the class action lawsuit. Under the Citigroup settlement, class members will recover \$.006 per dollar on their stock claims, and \$.09 per dollar for their bond claims. After it announced the \$2.65 billion payout, Citigroup also announced that it had set aside an additional \$6.7 billion to resolve outstanding litigation. This came as welcome news to WorldCom investors deciding whether to opt out of the Citigroup settlement and continue pursuing their individual actions.

By Michael D. Herrera, Staff Counsel

LACERA, together with CalPERS and CalSTRS, decided to stay the course and continue pursuing our individual action in order to recover a premium over the Citigroup class settlement. Our case, which was removed to federal court and transferred to New York after it was filed, will eventually be sent back to federal court in California for trial. In the meantime, we continue to vigorously prosecute our case and are confident that we will succeed in obtaining a satisfactory recovery. LACERA is represented by the Lerach, Coughlin, Stoia and Robbins law firm.

In 2001, LACERA adopted a Securities Litigation Policy in response to growing incidents of corporate corruption and fraud. The policy implements procedures designed to enhance recovery of damages from corporate wrongdoers. Shortly after the policy was adopted, LACERA was appointed lead plaintiff in the Enterasys Networks, Inc. securities litigation and obtained a \$50 million settlement on behalf of class members, as well as significant corporate governance changes at the company. More recently, LACERA increased the net recovery for class members in the AMF Bowling, Inc. securities litigation by getting the attorneys' fees in that case reduced by more than \$1 million dollars. LACERA, through its Legal Office, is actively engaged in identifying, evaluating and prosecuting securities fraud cases in which the fund has an interest.

Michael D. Herrera is Staff Counsel for LACERA handling litigation matters.

Do you have questions
regarding your
retirement benefits?

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Your Social Security
number is the key to
finding your records.

Editor's Note

Spotlight on Retirement is published by the staff of LACERA. Signed articles represent the opinion of the writers and not necessarily the opinion of the LACERA Management, Board of Retirement, or Board of Investments.

Contributing Writers:
Jan Barcus
Alison Herschberg
Michael D. Herrera

Design: Allen Helbig

Letters to the Editor may be sent to:
Delia Price, Editor-in-Chief
Spotlight on Retirement
LACERA
PO Box 7060
Pasadena, CA 91109-7060

*Alternative formats are available
upon request.*

Talking to Someone with Alzheimer's Disease

Excerpted from the *Harvard Health Letter*

If you know someone with Alzheimer's Disease, you know how difficult it can be to communicate as the disease progresses. Here are a few ideas to keep in mind:

- Don't shout. Hearing is not the problem. Speak in a calm, even, and warm tone of voice.
- Don't carry on a conversation with someone else as if the person wasn't there. It's understandable that this happens when communication seems impossible, but people with experience in caring for Alzheimer's patients say that patients notice and resent the fact that they are being treated as if they didn't exist. One complaint of people at the early stages of the disease is that doctors talk to family members rather than to them, even when they are present.
- Use common, simple words. But avoid too many pronouns. The person may get confused about who "he," "she," and "we" are referring to.
- Use leading statements rather than open-ended questions. "Would you like a cup of coffee?" is better than, "What would you like to drink?" But a simple, inviting statement like, "Let's have a cup of coffee" is even better.
- Make eye contact, touch the person, be conscious of your body language. Nonverbal cues become increasingly important as the disease erodes language-oriented thought. Because these cues are so important, talking on the telephone is often a poor substitute for being there in person.

is often a poor substitute for being there in person.

- Say things that express positive emotions explicitly. In *Talking to Alzheimer's*, Claudia J. Strauss suggests some lovely things you might say as you're leaving after a visit: "I enjoyed this so much," "I always feel good after talking to you," and "Seeing you is the best part of my day." All of these statements send a strong emotional message.
- Make the most out of the last word. According to Alzheimer's disease expert Joanne Koenig Coste, sufferers will often latch on to the last word in a statement, probably because it's the easiest one to remember. If you ask, "Would you like to wear the green or the blue shirt?" only the last word, "shirt" may stick in the person's mind, and you won't get an answer. But, Coste says, "care partners" (a term she prefers to caregivers) can turn this tendency to their advantage. Ask "Would you like to wear this green shirt today or the one that's blue?" and the person will say "blue." She feels as though she has decided for herself rather than being told what to wear, but the choice has been made so easy that she feels little anxiety about it.

Being an Alzheimer's care partner can be both rewarding and draining at times. To find support groups or other local resources that may be of help, try doing an internet search on Google, using the key words "Alzheimer's Support." 

Moving a Family Member to a Nursing Facility

Retirees of a certain age know how difficult it can be to raise children at home while caring for elderly parents and relatives. The responsibilities that come with caring for family can drain overextended budgets and emotions. From nursing facilities to in-home care, there are many different possibilities for how to bring comfort and care into the lives of aging relatives. If you decide that a nursing home is the only option for you and your family, approach the subject with sensitivity and compassion.

The best way to ease the transition of moving a parent from an independent life to an alternative living situation is to be informed about the choices available, and talk it over with everyone involved. When family members recognize the possible need for physical care, they should not hesitate to speak with the older adult about the idea of relocating.

Alternative living options meet the challenges of older adults in declining health, leaving more time and energy to pursue activities that enhance their lives.

Moving is not an easy decision, however it can be less stressful if family members research the options and assist their elderly relative in

choosing the living arrangement that is most suitable to his or her needs. The following “levels of care” represent alternative living options.

Senior Apartments

Fully equipped apartments with safety features and a receptionist who keeps



tabs on the seniors’ whereabouts.

Retirement Hotels

A large hotel-like facility that can house 60 to 300 older adults. Include separate living units with a kitchenette and bathroom safety features.

Assisted Living Facility (ALF)

Much like a retirement hotel with additional care and supervision provided.

Continuum of Care Retirement Community (CCRC)

A large planned community offering different levels of care: Independent living, assisted living, and skilled nursing.

Residential Care Facility (RCF) or Board and Care Homes

An alternative living arrangement, usually in a residential neighborhood, accommodating 4 to 6 older adults.

Nursing Home

Also referred to as Skilled Nursing Facility (SNF) or Convalescent Hospital.

Change is never easy, but it can be especially difficult for older people with established routines who may have close ties to the community. When broaching the subject about moving to an assisted living facility, remember that an open mind and a compassionate attitude can go a long way in making this trying time a little easier for everyone. 🌱

Member Q&A

Question: I don't understand AB 3094 in the Legislative Updates regarding benefit payment collection. If my husband dies in March, will his March retirement benefit only be paid through his

date of death?

Answer: No, LACERA does not prorate benefits for the month of death. If a member dies in the middle of the month, his or her retirement benefit will be paid through the end of that month. However, any payment

made in the following month is an overpayment, and will be collected. It is important to remember to report a member's death as soon as possible, to avoid overpayment. 

The 2004 PAFR

We are pleased to include the Popular Annual Financial Report (PAFR) in this issue of *PostScript*. This publication summarizes financial and service accomplishments from the fiscal year ended June 30, 2004. If you

wish to review the full Comprehensive Annual Financial Report (CAFR), please visit www.lacera.com, click on the Investments tab at the top of the page, and click on the "CAFR" link. 



Ventura Update cont'd from pg. 1

items was invalid. The Supreme Court's decision came to be known as the "Ventura Decision." It required LACERA to include special pay items in final compensation starting October 1, 1997. The Court left for a later decision whether its ruling should be applied retroactively, i.e., whether special pay items must be included in final compensation for periods *prior* to October 1, 1997.

LACERA's refusal to apply the decision retroactively to members who retired prior to October 1997 resulted in the current litigation. The court has now ordered LACERA to recalculate the final compensation for all members who retired with a final compensation period prior to October 1997 and who received compensation under one of the special pay items during their final compensation period. LACERA was further ordered to adjust each affected retiree's retirement allowance, going back to

May 1995. Adjustments for earlier periods are barred by the statute of limitations.

It is important to note that funds received *after* termination, such as cash-outs for unused vacation and 100% sick time (Termination Pay) are not considered in the recalculation of retirement allowances. To find out which pay items may be counted as pensionable, go to www.lacera.com, click on the left-hand menu link, "Implementing Ventura Retroactively," and follow the link at the bottom of the page to the list of pensionable items.

There are five steps that must be taken before the Ventura Decision can be implemented, and we are currently on Step 2 of the process (see below). The attorneys are getting closer to reaching an agreement on the implementation process to be presented to the Court. As always, we will provide further updates as they become available.

Steps of the process:

- 1) Attorneys and their clients analyze actuarial estimates.
- 2) **Attorneys finalize an agreement on the implementation process to be presented to the Court. (We are at this point in the process.)**
- 3) Attorneys present the implementation process to the Court.
- 4) LACERA and the County notify members of the plaintiff class of the terms of the implementation agreement and the right to file objections with the Court.
- 5) Court holds a hearing to consider any objections and makes a ruling that either approves an implementation process or provides further instructions to the parties.

Once the Court has approved an implementation process, LACERA will begin the implementation, which includes adjustment of retirement allowances for eligible retirees. 