

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CALIFORNIA**

**GOVERNANCE COMMITTEE MEETING
December 11, 2018
8:00 a.m.**

Members of the Committee

Shawn Dewane, Chair
Roger Hilton, Vice Chair
Chris Prevatt
David Ball

AGENDA

This agenda contains a brief general description of each item to be considered. The Committee may take action on any item included in the agenda; however, except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda. The Committee may consider matters included on the agenda in any order, and not necessarily in the order listed.

PUBLIC COMMENT

At this time, members of the public may comment on (1) matters not included on the agenda, provided that the matter is within the subject matter jurisdiction of the Committee; and (2) any matter appearing on the Consent Agenda.

When addressing the Committee, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

CONSENT AGENDA

C-1 [APPROVE GOVERNANCE COMMITTEE MEETING MINUTES](#)

Governance Committee Meeting Minutes

October 11, 2018

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Committee's discussion of the item. Persons wishing to address items on the agenda should provide written notice to the Secretary of the Committee prior to the Committee's discussion on the item by signing in on the Public Comment Sign-In Sheet located at the back of the room.

A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA

A-2 [MASTER FINAL AVERAGE SALARY PROJECT UPDATE AND PROPOSED POLICIES AND PROCEDURES \(FIRST READING\)](#)

Presented by Suzanne Jenike, Asst. CEO, External Operations

Recommendation: Take appropriate action.

A-3 [REVIEW OF PROPOSED REVISIONS TO THE OCERS EMPLOYEE HANDBOOK \(PREVIOUSLY TITLED PERSONNEL POLICIES AND REGULATIONS OR PP&R\)](#)

Presented by Brenda Shott, Assistant CEO Finance and Internal Operations

Recommendation: Approve, and recommend that the Board approve, the revised OCERS Employee Handbook as presented.

A-4 [UNDERPAID AND OVERPAID PLAN CONTRIBUTIONS POLICY \(SECOND READING\)](#)

Presented by Suzanne Jenike, Asst. CEO, External Operations

Recommendation: Approve and recommend that the Board approve the Underpaid and Overpaid Plan Contributions Policy as presented.

A-5 [TRIENNIAL REVIEW OF THE WHISTLEBLOWER POLICY](#)

Presented by Cynthia Hockless, Director of Administrative Services

Recommendation: Approve and recommend that the Board approve the Whistleblower Policy as presented.

A-6 [TRIENNIAL REVIEW OF THE MONITORING AND REPORTING POLICY](#)

Presented by Steve Delaney, Chief Executive Officer

Recommendation: Recommend that the Board rescind the Monitoring and Reporting Policy.

INFORMATION ITEMS

I-1 [SENIOR EXECUTIVE CHARTERS](#)

Presented by Steve Delaney, Chief Executive Officer

I-2 [UPDATE RE: WITHDRAWING PLAN SPONSOR POLICY AND THE DECLINING PAYROLL POLICY](#)

Presented by Suzanne Jenike, Asst. CEO, External Operations

COMMITTEE MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

ADJOURNMENT

NOTICE OF NEXT MEETINGS

INVESTMENT COMMITTEE MEETING

December 17, 2018

9:00 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

REGULAR BOARD MEETING

December 17, 2018

**11:00 A.M. OR UPON ADJOURNMENT OF THE INVESTMENT COMMITTEE MEETING,
WHICHEVER IS LATER**

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

All supporting documentation is available for public review in the retirement office during regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Thursday and 8:00 a.m. – 4:30 p.m. on Friday.

It is OCERS' intention to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or participant at this meeting, you will need any special assistance beyond that normally provided, OCERS will attempt to accommodate your needs in a reasonable manner. Please contact OCERS via email at adminsupport@ocers.org or call 714-558-6200 as soon as possible prior to the meeting to tell us about your needs and to determine if accommodation is feasible. We would appreciate at least 48 hours notice, if possible. Please also advise us if you plan to attend meetings on a regular basis.

C-1

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CALIFORNIA 92701**

**GOVERNANCE COMMITTEE MEETING
October 11, 2018
9:30 a.m.**

MINUTES

The Chair called the meeting to order at 9:30 a.m. Attendance was as follows:

Present: Shawn Dewane, Chair; Roger Hilton, Vice Chair; David Ball; Chris Prevatt

Staff: Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Sonal Sharma, Recording Secretary; Anthony Beltran, Audio Visual Technician

CONSENT AGENDA

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes

July 10, 2018

ACTION ITEMS

A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA

A-2 PROPOSED RESCISSION OF THE ACCEPTANCE AND REPORTING OF GIFTS POLICY AND AMENDMENTS TO THE BOARD OF RETIREMENT CHARTER

Presented by Gina M. Ratto, General Counsel

Recommendation: That the Governance Committee recommend to the Board that the Board:

- (1) Rescind the Acceptance and Reporting of Gifts Policy; and
- (2) Amend the Board of Retirement Charter to add key provisions of the Acceptance and Reporting of Gifts Policy.

Ms. Ratto presented item A-2 to the Governance Committee. Ms. Ratto explained that the operative provisions of the Policy are more appropriately included in the Board of Retirement Charter, and that once the Charter has been amended to include these provisions, the Policy is no longer needed and should be rescinded.

Accordingly, staff recommends that the Board of Retirement Charter be amended to add:

- A provision to the “Board Members” subcategory under “Duties and Responsibilities” to state that Board members will observe the reporting requirements with respect to personal financial interests and income and the limitations and reporting requirements with respect to gifts, as required by the Political Reform Act and the regulations of the Fair Political Practices Commission (*new Paragraph 5.e.*); and

- A new subcategory under “Duties and Responsibilities” titled, “Conflicts of Interest,” to provide that the Board will:
 - Adopt and maintain an OCERS Conflict of Interest Code and list of Designated Filers, and obtain the approval of both by the Board of Supervisors (*new Paragraph 9.a.*);
 - Review and update the OCERS Conflict of Interest Code every two years as required by the Political Reform Act (*new Paragraph 9.b.*); and
 - Designate the CEO as the OCERS Filing Officer who is responsible for ensuring Board members and Designated Filers are aware of and comply with the requirement of an annual disclosure of financial interests (Form 700) (*new Paragraph 9.c.*). (Note that the CEO Charter already states that the CEO is the OCERS Filing Officer.)

Following discussion, a **motion** was made by Mr. Ball, **seconded** by Mr. Hilton to approve, and recommend that the Board approve the staff recommendation.

A-3 FIRST READING OF NEW POLICY: OVERPAID AND UNDERPAID PLAN CONTRIBUTIONS POLICY
Presented by Suzanne Jenike, Asst. CEO, External Operations

Recommendation: Take appropriate action.

Suzanne Jenike, Assistant CEO of External Operations, presented item A-3 to the Governance Committee. The Committee expressed concerns about the policy and directed this item back to staff for further analysis.

Following discussion, a **motion** was made by Mr. Ball, **seconded** by Mr. Hilton to send the policy back to staff for further analysis.

A-4 FIRST READING OF NEW POLICY: WRITE OFF POLICY
Presented by Suzanne Jenike, Asst. CEO, External Operations

Recommendation: Take appropriate action.

Ms. Jenike presented item A-4 to the Committee. The proposed Write-Off Policy is designed to provide guidelines regarding when OCERS is permitted to forgo collection of amounts overpaid by or owing to OCERS, and when OCERS will not be required to make corrective distributions to OCERS members and/or their beneficiaries.

Ms. Jenike advised that this Policy will be reviewed every three years and reminded the Committee that the amount listed in the Write-Off Policy will be adjusted if needed.

Following discussion, a **motion** was made by Mr. Ball, **seconded** by Mr. Hilton to approve, and recommend that the Board approve the Write-Off Policy.

COMMITTEE MEMBER COMMENTS

None.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS:

None.

Governance Committee Meeting
October 11, 2018

COUNSEL COMMENTS:

Ms. Ratto discussed bringing the personnel policies, Declining Payroll Policy and Withdrawing Plan Sponsor Policy to the next Governance Committee Meeting.

ADJOURNMENT:

The meeting adjourned at 10:44 a.m.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane, Chair

A-2

Memorandum

DATE: December 11, 2018
TO: Members of the Governance Committee
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: **MASTER FINAL AVERAGE SALARY PROJECT UPDATE AND PROPOSED POLICIES AND PROCEDURES (FIRST READING)**

Recommendation

Take appropriate action.

Background/Discussion

Staff committed to performing a comprehensive review of all pay items across all Employers to determine pensionable attributes as one of the 2018 Business Plan Initiatives.

GOAL: ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND PLAN SPONSORS

OBJECTIVE: PROVIDE ACCURATE AND TIMELY BENEFITS

INITIATIVE: PERFORM A COMPREHENSIVE REVIEW OF ALL EMPLOYER PAY ITEMS TO DETERMINE PENSIONABLE ATTRIBUTES

The goal of this initiative is to have a comprehensive list of all pay items so that every element of pay that is transmitted to OCERS has been analyzed for pension attributes (e.g. pensionable or non-pensionable). Upon completion of the project OCERS staff, Employers and Members will have valuable resources showing all pay components, pension attributes, and legal criteria for determining pensionable pay going forward.

Over the last 11 months the Final Average Salary Project team, consisting of representatives from the Member Services and Legal departments, has developed a series of legal standards to determine whether pay is considered Compensation Earnable (Legacy) or Pensionable Compensation (PEPRA) under the law. We have gathered copies of all applicable MOUs, salary agreements, side letters and various other documents documenting the pay practices of our Employers and compiled a comprehensive list of all pay items. We have also developed a process for Employers to request new pay items, which includes the relevant legal questions and a dispute resolution process in the event the Employer disagrees with the OCERS staff determination.

We are in the process of finalizing our analysis of the pay items and will forward our determinations to each Employer for their input prior to bringing the comprehensive list to the Committee for review. Once our review is complete and we have received stakeholder feedback, the goal is to have the OCERS Board of Retirement approve the comprehensive list of pay items and their pensionable status in the first quarter of 2019.

We have prepared four new policies, two new OCERS Administrative Procedures (OAP) and an Employer Procedure for the Committee's review. We have shared these documents with key stakeholders, employers and labor groups to solicit their input.

- Compensation Earnable Policy – codifies existing law and the Ventura Decision (Resolution 98-001)
- Pensionable Compensation Policy
- Retirement Enhancement “Spiking” Review Policy
- Pay Item Review Policy
- Final Average Salary Calculation (OAP)
- Compensation Earnable and Pensionable Compensation Analysis & Determination Procedures (OAP)
- Pay Item Request & Approval Procedures for Employers

Other items for consideration:

Paid Time Off (PTO). Annual leave, vacation and any other hours of paid time off may be included in a retiring Legacy member's final average salary up to the amount that is earnable/cashable in a 12-month period. It is extremely difficult, if not impossible, to have these amounts accurately transmitted to OCERS on a biweekly basis, and therefore, a reconciliation is done at the time of retirement so that any pensionable hours that should be included are manually added to the retiring members' final average salary. This process of manually reconciling the hours is the preferred method given that the member is not required to cash out the hours in order for them to be included in final average salary and members are able to cash out more hours than what can be included. Without the manual reconciliation at the time of retirement, over collection of employee and employer contributions will result. This reconciliation process has been discussed at length with Segal and does not impact OCERS' funding the plan. The amount added manually is communicated to Segal via the valuation process so that the future liabilities associated with the hours are included in the calculation of employee and employer contribution rates (“load factor”). The County of Orange and majority of OCERS Employers do not transmit cash outs of PTO to OCERS via the transmittal file but rely on the reconciliation process.

OCERS recently worked with OCTA to change its process to bring it in line with the process followed by the County and other Employers whereby cash outs of leave are NOT reported to OCERS biweekly. All applicable pensionable hours will be added to a retiring member's final average salary as appropriate. OCERS staff would like to send a circular letter to all Employers informing them of the process so that they all follow a consistent approach. This process does NOT impact the amount of hours included in final average salary or the calculation of a retirement allowance.

Implementation Plan. Staff would like to use the new pay item request form and employer procedures effective immediately. We have distributed a draft of the new pay item form to a couple of Employers as a pilot and we believe it is an improvement to our communication efforts, documentation and ability to accurately determine pensionable attributes. Staff would also like to propose that the Board delegate the initial determination of pensionable attributes to Staff and allow us to use an annual report to the Board, or Governance Committee, as a means of keeping the process as efficient as possible. In the event an Employer disagrees with the initial determination made by Staff we will follow the dispute process outlined in the *Pay Item Review* policy.

Next steps:

- Determine whether the Committee will review the comprehensive list of pay items prior to the list being presented to the Board of Retirement.
- Determine whether the policies and documents presented to the Committee today should be forwarded to the Board for review and approval or if staff should wait for full pay item list before proceeding.
- Determine corrective action for pay items currently being reported incorrectly as pensionable compensation for PEPRA members (On Call and Canine Pay).

Submitted by:

A handwritten signature in blue ink, appearing to read "Suzann Jenike", written over a horizontal line.

Suzann Jenike
Assistant CEO, External Operations

DRAFT OCERS Board Policy **Compensation Earnable**

Purpose and Background

1. The purpose of this policy is to affirm OCERS' interpretation of the term Compensation Earnable as set forth in California Government Code section 31461 (Section 31461) and OCERS Board of Retirement Resolution 98-001 (Resolution 98-001).
2. Resolution 98-001 was adopted by the OCERS Board of Retirement (Board) on February 6, 1998, in order to implement the decision of the California Supreme Court (Supreme Court) in the case *Ventura County Deputy Sheriffs' Association vs. Board of Retirement of Ventura County Employees Retirement Association* (1997) 16 Cal.4th 483 (Ventura Decision). The Supreme Court in the Ventura Decision interpreted Section 31461 and the term Compensation Earnable as set forth therein and mandated a change in the method for calculating pension benefits for members and their beneficiaries by retirement systems governed by the County Employees Retirement Law of 1937 (CERL).
3. Resolution 98-001, among other things, reflects the Board's interpretation of the Ventura Decision as it applies to various types or categories of speciality or premium pay received by OCERS members from their employers, and delineates those items of pay that are to be included in and those that are to be excluded from Compensation Earnable.
4. On May 4, 1998, Resolution 98-001 was amended by Board Resolution 98-009 in response to litigation brought by the County of Orange and others challenging the legality of Resolution 98-001. Resolution 98-009 deleted Sections 6, 8 and a portion of Section 9 of Resolution 98-001 related to the imposition of contributions in arrears stemming from the change in contribution rates that resulted from the implementation of Resolution 98-001. Additionally on December 18, 2000, Resolution 98-001 was further amended by Resolution 00-003 to address the treatment of certain automobile allowances. For purposes of this policy, any reference to Resolution 98-001 shall be as Resolution 98-001 was amended by Resolutions 98-009 and 00-003.
5. OCERS was a party to several litigation matters that arose subsequent to the Ventura Decision and adoption of Resolution 98-001. These cases were coordinated as class actions in San Francisco Superior Court with other litigation involving other county retirement systems involving the interpretation and implementation of the Ventura Decision (Coordinated Cases).
6. On November 1, 2002, the San Francisco Court entered a judgment (Judgment) approving a settlement agreement of the Coordinated Cases that, among other things, included an agreement that all parties would " . . . accept as final and binding the inclusions and exclusions from compensation, compensation earnable and final compensation . . . " as set forth in Resolution 98-001.
7. In 2012, the California Legislature adopted the Public Employees Pension Reform Act of 2012 ("PEPRA"), which among other things, effective January 1, 2013, amended Section 31641 to add a list of items of compensation that are expressly excluded from Compensation Earnable. PEPRA also added a new term – Pensionable Compensation – to define the items of compensation to be included in the calculation of the retirement allowances of all OCERS members enrolled in the pension system on or after January 1, 2013. OCERS members who were members of the system prior to January 1, 2013 are referred to as Legacy members in this policy.

DRAFT OCERS Board Policy **Compensation Earnable**

Policy Objectives

8. The objectives of this policy are to ensure that OCERS fully complies with applicable law when calculating Compensation Earnable and Legacy members' retirement benefits, and to reaffirm the continued applicability of Resolution 98-001 as upheld by the Judgment in the Coordinated Cases.

Policy Guidelines

9. **Compensation Earnable.** Compensation Earnable for Legacy members shall be calculated by OCERS in accordance with the following guidelines.

(a) Pay Items Included in Compensation Earnable. In accordance with Resolution 98-001, (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 other employees in the same grade/class, will be included in Compensation Earnable, including, but not limited to the following items of compensation, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting
- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose "final compensation" period (as defined under Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation Period) includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income.
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation and Sick Leave and Holiday to the extent (i) earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU, regardless of when actually paid or cashed out

DRAFT OCERS Board Policy **Compensation Earnable**

- Employee Contributions to a Deferred Compensation Plan [already included in Base Wages and Salary, above]
 - "Overtime" (i) that is required to be worked; and (ii) that is ordinarily worked by others in same grade/class/rate of pay [Mandatory and Regularly Scheduled Overtime]
 - Compensatory Time (excluding "True Overtime" as defined in Section 9(b) below) in excess of minimum required reserve
 - "Madera" Pay (see, *Madera Police Officers Association v. City Of Madera* 36 Cal.3d 403)
 - Additional Compensation for Scheduled Meal Periods
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring before January 1, 1991
- (b) Pay Items Excluded from Compensation Earnable. In accordance with Resolution 98-001, (i) remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the final compensation period; and (ii) is not for working the ordinary time required of other employees in the same grade/class shall be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:
- True Overtime (i.e., amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class) [Overtime that does not qualify as Mandatory or Regularly Scheduled Overtime]
 - Employer Contributions to a Deferred Compensation Plan
 - Employer Contributions to the Retirement System
 - Employer "pick up" of Employee Contributions to the Retirement System
 - 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
 - Flexible Benefits ("Cafeteria Plan") provided in-kind
 - Flexible Benefits ("Cafeteria Plan") paid in cash to members retiring on and after January 1, 1991
 - Terminal ("Final") Pay, unless included in Compensation Earnable under Section 9(a), above
 - Expense Reimbursements
 - In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
 - Fees, Licenses, Memberships provided to the member by the 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), above) **do not** include time before January 1, 2001.

DRAFT OCERS Board Policy **Compensation Earnable**

- (c) Calculation of Compensation Earnable. The retiring employee's compensation shall be "regularized" to what would have been received had the employee been paid for a normal work schedule during the Final Compensation Period (as defined in Section 9(a), above). OCERS Staff will calculate Compensation Earnable [Earnable Salary] by creating a fraction, the numerator of which is the amount of the employee's qualifying compensation and the denominator of which is the number of ordinary work hours for which the employee was actually paid. The Staff will then multiply that fraction by the number of paid hours ordinarily required to be worked by others in the same grade/class. The result will be the retiring employee's Compensation Earnable for the Final Compensation Period.

Policy Review

10. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

11. The Board of Retirement adopted this policy on _____.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

Date

DRAFT OCERS Board Policy **Pensionable Compensation**

Purpose and Background

1. Effective January 1, 2013, the State of California enacted the Public Employees Pension Reform Act of 2012, Government Code section 7522, et.seq. (PEPRA). PEPRA created a new class of pension plan members composed of those members enrolled in the pension plan on or after January 1, 2013 ("PEPRA Members").
2. Under Government Code section 7522.34 (Section 7522.34), the earnings that are to be included in a retiring PEPRA Member's final compensation are defined as Pensionable Compensation.
3. The purpose of this policy is to set forth OCERS' interpretation of the term Pensionable Compensation as defined in Section 7522.34.

Policy Objectives

4. The objective of this policy is to ensure that OCERS fully complies with applicable law when calculating a PEPRA Member's retirement benefit.

Policy Guidelines

5. **Pensionable Compensation.** Pensionable Compensation for PEPRA Members shall be calculated by OCERS in accordance with the following guidelines.
 - (a) Pay Items Included in 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 group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; (vi) pursuant to publicly available pay schedules; and (vi) subject to the limitations of Section 5(b), below. Pensionable Compensation includes the following items of compensation: Base Salary and Wages (which includes any employee contributions to deferred compensation plans) and including additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay categories, and others substantially similar to them:
 - Bilingual Pay
 - Educational Pay
 - Aircraft Rescue Firefighting Pay
 - Paramedic Pay
 - Motorcycle Pay
 - Emergency Dispatch Pay
 - Field Training Officer Pay
 - Shift Differential Pay
 - Confined Space Pay

DRAFT OCERS Board Policy **Pensionable Compensation**

- Longevity Incentive Pay (other than one-time payments based on longevity)
- (b) Pay Items Excluded From Pensionable Compensation. The following categories of compensation shall be excluded from "Pensionable Compensation":
 - Any compensation determined by the Board to have been paid to increase a member's retirement benefit or is inconsistent with the requirements of subsection (a) above
 - Overtime other than as defined in Section 207k 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
 - Employer contributions to deferred compensation plan or retirement system
 - Flexible benefits (Cafeteria Plan") provided in-kind or paid in cash
 - Automobile, uniform or other allowances
 - Payments for unused vacation, annual leave, personal leave, sick leave, holiday pay or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
 - Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
 - Fees, licenses, or memberships provided to or for a member by employer
 - Any bonus paid in addition to the compensation defined in (a) above
 - Any ad hoc or one-time pay of any sort including one-time longevity pay
 - 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 the form of a cash payment.
 - Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.
- 6. **Publicly Available Pay Schedule.** In accordance with Section 7522.34, OCERS shall not recognize as Pensionable Compensation any pay code or item of compensation that is not included in a Publicly Available Pay Schedule. For purposes of this policy, "Publicly Available Pay Schedule" means a document or documents that reflect the amount or category of pay that meets all of the following requirements:
 - (a) Has been duly approved and adopted by the employer's governing body in accordance with requirements of applicable public meetings laws;
 - (b) Identifies the position title for every employee position;
 - (c) Shows the payrate for each identified position, which may be stated as a single amount or as

DRAFT OCERS Board Policy **Pensionable Compensation**

multiple amounts within a range;

- (d) Is posted on the employer's internet website. If not on the website it shall be posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours; and
- (e) Does not reference a document which is not available in accordance with (d), above in lieu of disclosing the payrate.

The requirement for a Publicly Available Pay Schedule can be met by posting on the employer's internet website the applicable labor memoranda of understanding, compensation resolutions or ordinances and all salary schedules or matrices, so long as taken together the documents contain all required information. The employer must not necessarily create a new document to comply with this requirement.

If an employer fails to meet the foregoing requirements, the OCERS Board, in its sole discretion, may consider which amounts will be considered qualifying compensation based on available evidence of pay codes that meet the statutory requirements.

Policy Review

- 7. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

- 8. The Board of Retirement adopted this policy on _____.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

Date

Purpose and Background

1. California Government Code section 31542 (Section 31542) requires the Orange County Employees Retirement System (OCERS) Board of Retirement (Board) to establish a procedure for assessing and determining whether an element of compensation was paid to inappropriately enhance an OCERS member's benefit, otherwise known as "spiking". The purpose of this policy is to establish a procedure in compliance with Section 31542.

Policy Objectives

2. The objectives of this policy are to comply with the requirements of the County Employees Retirement Law (CERL; California Government Code Title 3, Part 3, Chapters 3 & 3.9), as amended by the Public Employees Pension Reform Act (PEPRA; California Government Code sections 7522 - 7522.74) and to ensure OCERS' effective assessment and determination of whether an element of compensation was paid to inappropriately enhance or "spike" a member's retirement benefit contrary to Section 31542, while providing the member and employer required notice and due process with respect to OCERS' determinations regarding the member's retirement application.

Policy Guidelines

3. OCERS staff shall review all items of compensation included within the calculation of the member's final compensation within the meaning of California Government Code sections 7522.32 & 7522.34 (Pensionable Compensation), and 31460, 31461 & 31462 (Compensation Earnable), and related applicable sections, for the purpose of making an initial assessment as to whether there is any evidence that any item of compensation included in final compensation was paid to "spike" a member's retirement benefit. In conducting such review and making such initial assessment, staff shall consider:
 - a. Whether the item of compensation was earned within the period during which final compensation is to be calculated;
 - b. As to each pay code or element of pay whether it meets the definition of, as applicable, compensation earnable or pensionable compensation;
 - c. Any other factors that cause staff to believe that an item of compensation included in final compensation was paid to enhance a member's retirement benefit; and
 - d. Information and explanation provided by the member and the employer in response to OCERS' written request as to the facts and circumstances concerning an item of compensation that staff believes may have been paid to enhance the member's retirement benefit.
4. If, after concluding the foregoing assessment, OCERS staff determines that one or more items of compensation were paid to enhance a member's retirement benefit, OCERS staff shall send written notification to the member and the employer of its determination.
5. The notice shall set out the reasons for staff's determination, including the specific supporting facts, circumstances and analyses. Staff may conduct such written and oral follow-up

DRAFT-OCERS Board Policy

Retirement Enhancement Review Policy

communication with the member and/or employer as appropriate in the exercise of reasonable diligence. Staff shall document any such communication and when concluded, shall issue a final notice of determination.

6. The member and employer shall have 30 calendar days from the date of staff's final notice of determination within which to appeal the staff determination to the Board. Failure of the member or employer to timely request Board review shall constitute a waiver of further administrative or judicial review.
7. An appeal of the staff determination to the Board by the member or employer shall be in writing and delivered to the CEO or his/her designee within the time period set forth in Paragraph 6, above. The appeal shall set forth in reasonable detail the evidence and analysis supporting the member's or employer's argument that the staff determination is erroneous.
8. Upon receipt of a timely appeal, staff shall place the matter on the agenda of a future meeting of the Board and shall prepare a written report to the Board making a recommendation to the Board that the item, or items, should not be included in the calculation of the member's retirement benefit.
 - a. The report shall contain a description of the reasons for staff's recommendation, including the specific facts and circumstances supporting staff's recommendation.
 - b. Before the Board acts, the member and the employer shall be given an opportunity to be heard by the Board and to submit any additional materials for the Board's consideration.
 - c. Written notice of the Board meeting and a copy of staff's report and all materials to be considered by the Board shall be provided to the member and the employer no less than ten days before the scheduled Board meeting.
 - d. At the meeting, the Board shall consider the all written materials submitted as well as any arguments by the member or the member's employer. The Board shall then make a decision as to whether the item of compensation was paid to enhance the member's retirement benefit.
 - e. OCERS shall provide the member and the employer written notice of the Board's decision within five business days, along with information regarding the rights of the member and the employer to seek judicial review of the Board's action by filing a petition for writ of mandate within 30 days after the mailing of that notice.
 - f. If the Board finds the item of compensation should be included, staff shall adjust the member's benefits accordingly, retroactive to the effective date of retirement.
9. If the payment of the member's benefit would be delayed by seeking resolution through these administrative processes, OCERS staff shall process the benefit excluding the compensation in question. If it is later determined the compensation should be included, OCERS shall adjust the benefit retroactive to the effective retirement date.

Policy Review

10. The Board shall review this policy at least every three (3) years to ensure that it remains relevant and appropriate.



DRAFT-OCERS Board Policy
Retirement Enhancement Review Policy

Policy History

11. The Board adopted this policy on _____, 201__.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

A handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney
Secretary of the Board

Date

Purpose and Background

1. The purpose of this policy is to set forth a procedure for the submittal and approval of pay Items by OCERS participating employers to assist OCERS in properly and timely determining whether elements of compensation are appropriately treated as Compensation Earnable (for Legacy Member) or pensionable compensation (for PEPRA members).

Policy Objectives

2. The objectives of this policy are to comply with the requirements of the County Employees Retirement Law (CERL; California Government Code Title 3, Part 3, Chapters 3 & 3.9), as amended by the Public Employees Pension Reform Act (PEPRA; California Government Code sections 7522 - 7522.74) and to ensure OCERS' effective assessment and determination of whether an element of compensation is properly categorized for purposes of collecting contributions.

Policy Guidelines

3. OCERS shall not accept any new pay Items from employers for processing contributions and reporting compensation until each pay Item has been reviewed by OCERS staff and approved by the CEO or his/her designee for inclusion as Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members. OCERS staff under the direction of the CEO and with assistance of OCERS legal counsel is responsible for implementing this Policy. OCERS staff will analyze each pay Item to determine whether each meets the definition of Compensation Earnable or Pensionable Compensation. Unless appealed, the CEO's determination shall be final.
4. Employers are responsible notifying OCERS of new or modified pay Items for review and approval sufficiently in advance of implementation of the Items. Failure to do so may result in OCERS imposing costs on the employer in accordance with Government Code section 31542.5.
5. OCERS staff will review employer pay Item listings for compliance with this Policy. When reviewing items of compensation, OCERS will audit pay items to determine whether each of them meets the applicable statutory definitions and applicable Board Policies.
6. After concluding the foregoing assessment, OCERS staff shall send written notification to the employer of staff's determination, including the specific supporting facts, circumstances, reasoning and analyses.
7. The employer shall have 30 calendar days from the date of staff's final notice of determination within which to appeal the staff determination to the Board. If the employer accepts staff's determination, or if a timely appeal it to the Board is not filed, the matter shall be deemed concluded and the staff determination shall be final and the employer shall comply with the determination.
8. Upon receipt of a timely request for appeal to the Board of staff's determination, staff shall place the matter on a future Board agenda and shall prepare a written report to the Board making a recommendation to the Board on the pay Items in question. Staff shall provide the employer with advance notice of the Board meeting and a copy of staff's report and all materials to be considered by the Board.



DRAFT-OCERS Board Policy

Pay Item Review Policy

9. The Board shall consider the all written materials submitted as well as any arguments presented by the employer. The Board shall then make a decision as to whether the pay Item qualifies as Compensation Earnable or Pensionable Compensation, or both, which decision shall be final and the employer shall comply with the Board’s determination.

Policy Review

10. The Board shall review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

11. The Board adopted this policy on _____, 201__.

Secretary’s Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

A handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney
Secretary of the Board

Date

DRAFT 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 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 group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; (vi) pursuant to publicly available pay schedules; and (vii) subject to limitations. Pensionable Compensation is applicable to all OCERS members enrolled on or after January 1, 2013, referred to as PEPPRA 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, based on 80 (or 112) hours for full-time, and 40 hours for part-time, as based on designated member status.

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.

DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

IV. Limitations

This administrative procedure shall 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 and the Ventura Decision 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 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

DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

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 (i) that is required and (ii) that is ordinarily worked by the entire grade/class/rate of pay.

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

DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

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 – PEPRAs MEMEBRS

For PEPRAs 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
- 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.

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 PEPRAs members including, but not limited to the following items, and others substantially similar to them.

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRAs Members
Any compensation determined by the Board to have been paid to spike a member’s retirement benefit or is inconsistent with the requirements of OCERS Board Policies Compensation Earnable and Pensionable Compensation.	
True overtime (amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class)	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.	

DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

Items Excluded from Compensation Earnable and Pensionable Compensation	
Compensation Earnable Legacy Members	Pensionable Compensation PEPRA Members
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) do not 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 the form of a cash payment in the final average salary period.
	Any ad hoc or one-time pay of any sort

- 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.

DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

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.

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.



DRAFT OCERS Administrative Procedure (OAP) Final Average Salary Calculation

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.



DRAFT OCERS Administrative Procedure (OAP)

Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

I. Purpose

The purpose of this OAP is to describe the procedure for determining whether an element of pay is pensionable and can be included as Compensation Earnable and/or Pensionable Compensation for inclusion in the Final Average Salary that is used to calculate a member’s pension benefit.

II. Authority

This OAP is established pursuant to OCERS Board Policies: Compensation Earnable Policy, Pensionable Compensation Policy, Retirement Enhancement Review Policy and Pay Item Review Policy.

OCERS Board Resolution 98-001 and OCERS Compensation Earnable Policy affirm the OCERS interpretation of the term Compensation Earnable as defined in California Government Code Section 31461.

The Public Employees Pension Reform Act of 2012 (PEPRA) created the term Pensionable Compensation for members hired on or after January 1, 2013. OCERS Pensionable Compensation Policy explains OCERS interpretation of the term Pensionable Compensation as defined in California Government Code Section 7522.34.

California Government Code Section 31542 requires the OCERS Board to establish a procedure for assessing and determining whether an element of compensation was paid to enhance a member’s retirement benefit. In keeping with this requirement, the Board adopted the Retirement Enhancement Review Policy and the Pay Item Review Policy, which include policy guidelines for assessing compensation included in the calculation of the member’s final average salary to ensure that an element of pay was not paid to spike a member’s retirement benefit.

III. Definitions

Following are definitions of terms that are used throughout this OAP.

Compensation Earnable: See Section V.

Final Average Salary: One of the factors used to calculate a member’s monthly retirement allowance. It is a measure of a member’s level of earnings based on the member’s average salary for a specified period of time (e.g. one-year of 12 consecutive months or three-years of 36 consecutive months). It includes base salary and may also include other pay items that the OCERS Board of Retirement has defined as Compensation Earnable or Pensionable Compensation.

Legacy member: Member hired before January 1, 2013.

Non-pensionable: Pay item is not included in Final Average Salary and not subject to pension contributions; no pension contributions are collected from the employee or employer.

Pay Item: Element of compensation.

Pensionable Compensation: See Section V.



DRAFT OCERS Administrative Procedure (OAP)

**Compensation Earnable and Pensionable
Compensation Analysis & Determination Procedure**

Pensionable: Pay item is included in the Final Average Salary and subject to pension contributions; pension contributions are collected from the employee and employer.

PEPRA member: Member hired on or after January 1, 2013.

Publicly Available Pay Schedule: A document that:

- a) Has been duly approved and adopted by the employer’s governing body in accordance with requirements of applicable public meetings laws;
- b) Identifies the position title for every employee position;
- c) Shows the pay rate for each identified position, which may be stated as a single amount or as multiple amounts within a range;
- d) Is posted at the office of the employer or immediately accessible and available for public review from the employer during normal business hours or posted on the employer’s internet website;
- e) Does not reference an unavailable document in lieu of disclosing pay rate.

IV. Limitations

This administrative procedure shall 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, and the Ventura Decision and other interpretations issued thereunder.

V. Compensation Earnable and Pensionable Compensation

Compensation Earnable

Compensation Earnable applies to Legacy members who are existing members of OCERS as of January 1, 2013.

ITEMS INCLUDED IN COMPENSATION EARNABLE

As set out in Resolution 98-001 and further clarified in OCERS’ Compensation Earnable Policy, elements included in Compensation Earnable are (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring member, (ii) during the final compensation period, and (iii) for working the ordinary time required of other employees, in the same grade/class, including, but not limited to the following items of compensation, and others substantially similar to them:

- Base Salary and Wages
- Bilingual Premium Pay
- Educational Incentive ("POST") Pay
- Aircraft Rescue Firefighting

DRAFT OCERS Administrative Procedure (OAP) Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- Paramedic Pay
- Motorcycle Bonus
- Emergency Dispatch Pay
- Field Training Officer Bonus
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive
- Automobile Allowance, if paid in cash; and for members whose "final compensation" period (as defined under Sections 31462 and 31482.1 of the Government Code; hereafter Final Compensation) includes time before January 1, 2001, also to the extent that the automobile was provided for personal use and declared as income
- Uniform Allowance
- Uniform Maintenance Allowance
- Payoffs of Vacation and Sick Leave and Holiday to the extent (i) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed -out (prorated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed out
- Employee Contributions to Deferred Compensation Plan (already included in Base Salary and Wages, above)
- "Overtime" (i) that is required to be worked; and (ii) that is ordinarily worked by others in same grade/class/rate of pay. Overtime must be mandatory and regularly scheduled for the entire grade/class/rate of pay.
- Compensatory Time (excluding "True Overtime" in excess of minimum required reserve)
- "Madera" Pay and additional Compensation for Scheduled Meal Periods

ITEMS EXCLUDED FROM COMPENSATION EARNABLE

As further set out in Resolution 98-001 and clarified in the Compensation Earnable Policy, (i) remuneration or other value to the employee that (i) is neither earned nor payable in cash to the employee during the final compensation period; and (ii) is not for working the ordinary time required of other employees in the same grade/class shall be excluded from Compensation Earnable, including but not limited to the following items, and others substantially similar to them:

- True Overtime (i.e. amounts paid for working in excess of the time required and ordinarily worked by others in the same grade/class)
- Employer Contributions for Deferred Compensation plan or to Retirement System

DRAFT OCERS Administrative Procedure (OAP) Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- Employer “pick up” of Employee Contributions to Retirement System
- 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 cashed out.
- Flexible Benefits (“Cafeteria Plan”) provided in-kind
- Flexible Benefits paid in cash to the extent paid to members retiring on or after January 1, 1991
- Terminal (“Final”) Pay, unless included in Compensation Earnable under the section above
- Expense Reimbursements
- In-Kind Advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, Licenses, Memberships provided to member by employers
- 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) **do not** include time before January 1, 2001.

Pensionable Compensation

Pensionable Compensation applies to PEPPRA members, who are OCERS members hired on or after January 1, 2013.

ITEMS INCLUDED IN PENSIONABLE COMPENSATION

For PEPPRA members, 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 group or class of employment; (iv) for services rendered on a full-time basis; (v) during normal working hours; pursuant to publicly available pay schedules; and (vi) subject to limitations. Pensionable Compensation includes the following items of compensation: Base Salary and Wages, (which includes any employee contributions to deferred compensation plans) and additional compensation for scheduled meal periods, plus the following skill-based or shift-based premium pay categories, and others substantially similar to them:

- Bilingual Pay
- Educational Pay
- Aircraft Rescue Firefighting Pay
- Paramedic Pay
- Motorcycle Pay
- Emergency Dispatch Pay

DRAFT OCERS Administrative Procedure (OAP) Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

- Field Training Officer Pay
- Shift Differential Pay
- Confined Space Pay
- Longevity Incentive Pay (other than one-time payments based on longevity)

ITEMS EXCLUDED FROM PENSIONABLE COMPENSATION

As described in OCERS Board Policy Pensionable Compensation, Pensionable Compensation does not include items explicitly excluded from Pensionable Compensation under Government Code Section 7522.34, including the following and others substantially similar to them:

- Any item of compensation determined by the Board to have been paid in order to increase a member's retirement benefit (pension spiking) or is inconsistent with the requirements of Pensionable Compensation Policy.
- Overtime other than as defined in Section 207(k) of the 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
- Employer Contribution to deferred compensation plan or retirement system
- Flexible benefits ("Cafeteria Plan") provided in-kind or paid in cash
- Automobile, uniform or other allowances
- Payments for unused vacation, annual leave, personal leave, sick leave, or compensatory time off, however denominated, whether paid in a lump sum or otherwise, regardless of when reported or paid.
- Expense reimbursements and in-kind advantages (e.g. food, lodging, board, laundry, fuel)
- Fees, licenses, or memberships provided to or for a member by employer
- Any bonus paid in addition to the compensation defined as Pensionable Compensation above
- Any ad hoc or one-time pay of any sort including one-time longevity pay
- 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 the form of a cash payment.
- Severance or any other payment that is granted or awarded to a member in connection with or in anticipation of a separation from employment, but is received by the member while employed.



DRAFT OCERS Administrative Procedure (OAP)

**Compensation Earnable and Pensionable
Compensation Analysis & Determination Procedure**

VI. Process

As pay items are requested, each item must be evaluated by OCERS to determine whether it is Compensation Earnable and/or Pensionable Compensation. Employers are required to submit a request for a new pay item or changes to a pay item for OCERS review and approval in compliance with the Pay Item Request and Approval Procedures for Employers.

The following describes the process of analyzing and determining if a pay item is Compensation Earnable and/or Pensionable Compensation.

1. Upon receiving a pay item request, OCERS staff reviews and analyses the following:
 - a. Pay item description;
 - b. Relevant MOU/contract/side letter;
 - c. Specific provision(s)/section(s) of the MOU/contract, and
 - d. Any other relevant policy or governing code.

Staff will ask the employer for clarification if the descriptions of the pay item or requirements are unclear.

2. OCERS staff reviews the information provided by the employer to determine:
 - a. What job classifications are eligible to receive the pay item
 - b. Whether payment is provided to all members in the same grade/class
 - c. How the pay item is calculated – fixed amount or % of pay
 - d. Type of pay – allowance, reimbursement, bonus, cash-out, etc.
 - e. Frequency of payment – recurring, ad-hoc, one time
 - f. If payment is for work performed during normal working hours
3. Then the following criteria and guidelines are applied to determine if the pay item qualifies for inclusion in Compensation Earnable and/or Pensionable Compensation:

For Legacy members, if the answer to questions 1-4 below is "Yes" and "NO" to questions 5 and 6, the pay item is Compensation Earnable. If the answers to questions 1-4 are "NO" and "Yes" to questions 5 and 6, the pay item is **not** Compensation Earnable.

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		Qualifier	YES	NO	N/A
1.	Compensation at same pay rate as persons in same grade/class	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	
2.	One-time or ad hoc payment paid to all similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/vacation payout earned & payable in 12-month	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DRAFT OCERS Administrative Procedure (OAP)

**Compensation Earnable and Pensionable
 Compensation Analysis & Determination Procedure**

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		<u>Qualifier</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
	period				
4.	Terminal pay earned & payable in 12-month period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation previously paid in-kind & now in cash	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for services rendered outside normal working hours	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compensation Earnable?					

For PEPRAs members, Pensionable Compensation must meet the following qualifying criteria pursuant to Government Code Section 7522.34 If the answers are “YES” to questions 1-4 below, the pay item is determined Pensionable Compensation. If the answer is “NO” to questions 1-4 and/or “YES” to questions 5-10, the pay item is **not** Pensionable Compensation.

PENSIONABLE COMPENSATION CRITERIA – PER GC SECTION 7522.34(a)		<u>Qualifier</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1.	Normal rate of pay or base pay	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Payable to similarly situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Earned for normal working hours	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	In public pay schedule	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Allowance, reimbursement or previously paid in-kind	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Bonus, one-time or ad-hoc	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Severance or terminal pay	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Overtime other than Section 207(k) time	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Payment for any unused leave	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Employer contribution to deferred compensation	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pensionable Compensation?					

DRAFT OCERS Administrative Procedure (OAP)

Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

4. If the pay item is determined to be Compensation Earnable and/or Pensionable Compensation it will be entered into the pension system as pensionable.¹ OCERS will collect retirement contributions on the approved pay item and include it in retirement benefit calculations.

If the pay item is not Compensation Earnable or Pensionable Compensation, it will be entered into the pension system as non-pensionable. OCERS will not collect retirement contributions on the pay item and will not include it in retirement benefit calculation.

5. After completing its assessment, OCERS staff will notify the employer of its determination. The employer will implement the pay code for the new pay item with the approved pay item status.

OCERS will add the approved pay item to the master list of approved pay codes. A listing of approved pay items may be found on the Plan Sponsor Section page of the OCERS website.

¹ Exceptions may apply. For example, payoff of compensatory time for holidays, sick leave, vacation, and annual leave may be Compensation Earnable but is reported as non-pensionable for salary reporting purposes. The payoff amount may be considered at the time of retirement.



DRAFT OCERS Administrative Procedure (OAP) Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

Reference Guide to Compensation Earnable for Legacy Members and Pensionable Compensation for PEPRA Members

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Base Salary and Wages	Yes	Yes
Bilingual Premium Pay	Yes	Yes
Educational Incentive (“POST”) Pay	Yes	Yes
Aircraft Rescue Firefighting	Yes	Yes
Paramedic Pay	Yes	Yes
Motorcycle Pay	Yes	Yes
Emergency Dispatch Pay	Yes	Yes
Field Training Officer Bonus	Yes	Yes
Shift Differential Pay	Yes	Yes
Confined Space Pay	Yes	Yes
Longevity Incentive	Yes	Yes
Employee Contributions to Deferred Compensation Plan	Yes	Yes
Overtime (i) that is required to be worked; and (ii) that is ordinarily worked by the entire same grade/class/rate of pay	Yes	Only Yes, if Section 207k time
“Madera” Pay and additional compensation for scheduled meal periods	Yes	Yes
Automobile Allowance, if paid in cash; and, for members whose “final compensation” period (as defined under Sections 31462 and 31482.1 of the Government Code) includes time before January 1, 2001, also to the extent automobile was provided for personal use and declared as income	Yes	No
Uniform Allowance and Uniform Maintenance Allowance	Yes	No



DRAFT OCERS Administrative Procedure (OAP)

**Compensation Earnable and Pensionable
Compensation Analysis & Determination Procedure**

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
Payoffs and cash outs of Vacation and Sick Leave and Holiday provided that the time (1) was earned (pro-rated on a monthly basis); (ii) was not taken as time off; and (iii) was permitted to be cashed-out (pro-rated on a monthly basis) under the applicable MOU regardless of when actually paid or cashed-out	Yes	No
Compensatory Time (excluding "True-Overtime" in excess of minimum required reserve)	Yes	No
Any compensation determined by the Board to have been paid to increase a member's retirement benefit	No	No
True Overtime (amounts paid for working in excess of the time required an ordinary worked by others in the same grade/class)	No	No
Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise	No	No
Employer contributions for deferred compensation plan or to retirement system	No	No
Employer "pick up" of employee contributions to retirement system	No	No
Payoffs 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 cashed out.	No	No
Flexible benefits ("Cafeteria Plan") provided in-kind	No	No
Flexible benefits paid in cash to the extent paid to members retiring on or after January 1, 1991	No	No
Terminal ("Final") pay in excess of what is earned in 12-month period	No	No
Expense reimbursements	No	No
In-kind advantages (e.g. food, lodging, board, laundry, fuel)	No	No
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	No	No



DRAFT OCERS Administrative Procedure (OAP) Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure

	Compensation Earnable Legacy (GC 31461)	Pensionable Compensation PEPRA (GC 7522.34)
member and which was converted to and received by the member in the form of a cash payment		
Fees, licenses, memberships provided to member by employers	No	No
Automobile allowance to the extent automobile is provided for personal use and not paid in cash, whether or not declared as income, for members whose "final compensation" periods (as defined under Sections 31462 and 31482.1 of the Government Code) do not include time before January 1, 2001.	No	No
Any ad hoc or one-time pay of any sort including one-time longevity pay	Yes - if payment made to all similarly situated members in the member's grade/class. No – if not paid to all similarly situated members in the member's grade/class.	No
Any bonus paid in addition to normal monthly rate of pay or base pay	Yes - if payment made to all similarly situated members in the member's grade/class.	No

PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

I. Purpose

This document explains the process for requesting OCERS’ review and approval of new pay items or changes to existing pay items. In accordance with OCERS Board Policy - Pay Item Review, employers must submit a new pay item request for approval to OCERS 30-days before implementation of the pay item so that OCERS can make a determination as to whether the requested pay item is pensionable and can be included in the final average salary. This analysis will help ensure proper, timely, and accurate reporting of pay on transmittal files, collection of contributions and calculation of members’ pension benefits. It is part of the overall compensation review process.

II. Process Summary

When an employer has a new pay item and is requesting a new pay code for the transmittal file, the employer must submit a Pay Item Request describing the pay item including details regarding how, to whom and when it is paid. OCERS will analyze the pay item and make a determination as to whether the pay item is pensionable or non-pensionable under the County Employees Retirement Law (“CERL”) or Public Employees Pension Reform Act (“PEPRA”). OCERS will notify the employer of the determination of the pay item to implement. The pay item and status will then be added to the system and the master list of pay items. If the employer disagrees with the determination, it will have 30 days from the date of OCERS’ notice of determination to appeal the determination to the Board. Upon receipt of a timely appeal, the Board will consider the appeal and make a decision on whether or not the pay item is pensionable.

III. Critical Aspects of Procedures

For this process, the most important elements are the following:

- **Timing:** Request must be submitted 30-days prior to the implementation of the pay item to provide sufficient time for OCERS to analyze the pay item and set up the code in OCERS’ system. **The pay item must be properly reviewed, approved and set up in the system, or else exceptions will be created when validating the payroll transmittal and calculation of contributions and member retirement benefits may be miscalculated.**
- **Publicly Available Pay Schedule:** PEPRA requires that in order for a pay item to be included in a PEPRA member’s final average salary, it must be included in a “publicly available pay schedule.” In accordance with PEPRA, the pay item must be included in a pay schedule that:
 - Was duly approved by the employer’s governing body;
 - Identifies the position title for every employee position along with the applicable elements of compensation;
 - Is posted or immediately accessible and available for public review at the office of the employer or posted on the employer’s internet website; and
 - Does not reference an unavailable document in lieu of disclosing the element of compensation.

PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

- **OCERS' Approval:** OCERS must approve the pay item for it to be pensionable.
- **Accuracy:** The pay item must be coded and reported correctly to prevent under or overpayment of contributions and/or a member's pension.
- **Implementation:** Employers must transmit the pay item in accordance with OCERS' determination. Failure to do may result in OCERS imposing administrative costs on the employer. Employers also will be required to prepare appropriate adjustments and calculate any refunds that may be due to an employee.

IV. Required Documents

The following documentation will be required to process new pay item requests:

1. Copy of the applicable sections of the Memorandum of Understanding (MOU) or contract.
2. Completed Pay Item Request Form, which includes:
 - General information
 - Pay item
 - Description of the pay item
 - List of job classification(s) of employees eligible for the pay item
 - Type of payment
 - Basis for eligibility

A separate Pay Item Request is required for each new or changed pay item
3. Access to the publicly available pay schedule as described in section IV.

V. Preceding Step (Prerequisites)

To the extent possible, OCERS should be notified of pending negotiations that may result in new items of compensation or modifications to current pay items, so that OCERS can assist the bargaining parties in determining whether the pay item(s) will be considered pensionable. OCERS must approve the pay item for it to be pensionable. Advance notice will also allow OCERS staff to be prepared for the new pay item request and minimize the review time.

VI. Procedure Detail for Submitting Pay Item Request for Review and Approval

As new pay items are approved by the employer's governing body, the employer must submit each item for review and approval by OCERS to determine if it is pensionable or non-pensionable.

The following describes the steps for submitting your request:

1. Gather required documentation listed in Section IV.
2. Download the Pay Item Request Form from the Plan Sponsor Section of the OCERS website at www.ocers.org.

PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

3. Fill in and complete the Pay Item Request Form (see attached form)
4. Send the completed form and required documentation to:
OCERS Employer Payroll Unit
By Email: Employerpayroll@ocers.org
By FAX: 714-558-6234

VII. Subsequent Steps for Approval and Implementation

Once the request for new pay item has been received:

1. The pay item will be reviewed by OCERS staff for compliance with the OCERS Pay Item Review Policy.
2. OCERS staff will evaluate the pay item to determine whether it is pensionable by using the applicable criteria for Compensation Earnable for Legacy members and Pensionable Compensation for PEPRA members. Legacy members refer to existing OCERS members as of January 1, 2013. PEPRA members refer to OCERS members hired on or after January 1, 2013. For more information on Compensation Earnable or Pensionable Compensation, please refer to the Compensation Earnable Policy and Pensionable Compensation Policy at www.ocers.org.
3. After completing the review, staff will send the employer a written notification of its determination, including the reasons for its determination and supporting facts and analyses.
4. If staff determines that the pay item meets the criteria for either Compensation Earnable or Pensionable Compensation but not both, a separate pay code will be required; the employer must submit a separate Pay Item Request for the non-pensionable component.
5. Employer will implement the pay item with the approved pay item status (pensionable or non-pensionable) as determined by OCERS.
6. OCERS will set up the pay code in the pension administration system and add the pay item to the approved Pay Item Master List.

VIII. Appeal Process

If the employer disagrees with OCERS determination, the employer will have 30 calendar days from the date of the final notice of determination to file an appeal to the Board. To file an appeal, the employer must send a letter including the reasons for the appeal and specific supporting facts and documentation to the CEO or his/her designee.

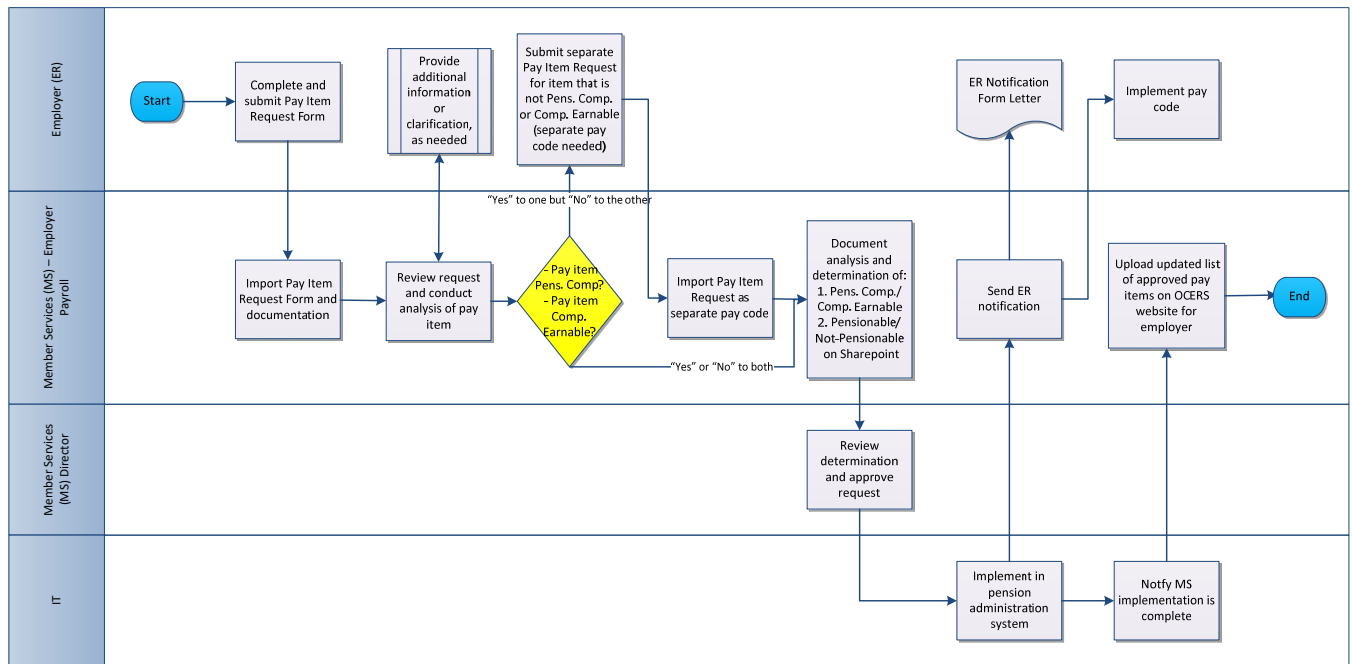
Upon receipt of a timely request, OCERS staff will schedule the appeal for a future Board meeting and will prepare a written report with its recommendation on the pay item in question. OCERS will provide the employer with advance notice of the Board meeting and a copy of staff's report and all materials to be considered by the Board.

PAY ITEM REQUEST & APPROVAL PROCEDURES FOR EMPLOYERS

At the meeting, the Board will consider the written materials and any arguments provided by the employer. The Board will then make a determination as to whether the pay item qualifies for either or both Compensation Earnable or Pensionable Compensation. The Board's decision is final.

IX. Overall Process Flow

The following process flowchart is an overview of the pay item request and approval process.



Attachment



OCERS Pay Item Request Form

2223 E. Wellington Ave Suite I 100 Santa Ana, CA 92701 | Office: 714.558.6200 | FAX: 714.558.6234 | www.ocers.org

IMPORTANT INFORMATION REGARDING PAY CODES:

Please complete and submit this request form for review and approval of new codes or changes to existing pay codes. New or changed **Pay Items must be submitted 30-days prior to the time of implementation of the code.** Once the code has been approved and entered into the pension system the pay code can be sent on the transmittal. **The pay code must be set up in the system or exceptions are created when validating the file.**

Return completed form and required documentation to Employer Payroll Unit by **Email:** Employerpayroll@ocers.org or **Fax:** 714-558-6234

Use only one form per code

SECTION 1:	GENERAL INFORMATION			
Plan Sponsor Name	Plan Sponsor Representative	Contact Number	Date	
SECTION 2:	PAY CODE & EFFECTIVE DATES			
Pay Code ID	Pay Code Description (Title)	Pay Period Effective	Pay Period Begin Date	Pay Period End Date
SECTION 3:	PAY ITEM MOU REFERENCE MATERIAL & INFORMATION			
Name of the governing MOU/Contract:	Term of MOU/Contract:	Date of Adoption:	MOU Page Number(s)	
NOTE: Please attach a copy of the applicable MOU article, section, and page(s), amendment and/or "side letter" (Do not provide copy of entire MOU)				
Please provide a full description of the pay item:				
1. List all job classification(s) of employees are eligible for this pay item? (Please list job classifications)				
2. Indicate if all members or employees in the job classification(s) listed above are eligible to receive this pay item.			<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>
3. Indicate how this Pay Item is calculated.			<u>Fixed Amount</u> <input type="checkbox"/>	<u>% of Base Pay</u> <input type="checkbox"/>
			<u>N/A</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>



OCERS Pay Item Request Form

2223 E. Wellington Ave Suite I 100 Santa Ana, CA 92701 | Office: 714.558.6200 | FAX: 714.558.6234 | www.ocers.org

4. Is the pay item for work performed outside of regular working hours (i.e. payment for work or services performed outside of employee's regular shift or 40-hour work week)?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
5. Is the pay item a bonus?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
6. Is the pay item paid one-time or ad hoc?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
7. Is the pay item an allowance (i.e. car allowance, uniform allowance, cell phone allowance)?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
8. Is the pay item a reimbursement?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
9. Is the pay item for deferred compensation?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
10. Is the payment for accrued unused Leave/Vacation Payout, earned and payable within 12-month period?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
11. Is the payment for 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 or employee?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
12. Is the payment severance or other payment in connection with or in anticipation of a separation or termination from employment?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
13. If terminal pay, pay is earned and payable within 12-month period?	<u>YES</u> <input type="checkbox"/>	<u>NO</u> <input type="checkbox"/>	<u>N/A</u> <input type="checkbox"/>
a) What is the basis of eligibility for the pay item (i.e. certification of completion)?			
14. In what publicly available salary schedule is the pay item listed or described? (Please provide the title and location of the document)			



OCERS Pay Item Request Form

EMPLOYEES RETIREMENT SYSTEM 2223 E. Wellington Ave Suite I 100 Santa Ana, CA 92701 I Office: 714.558.6200 I FAX: 714.558.6234 I www.ocers.org

SECTION BELOW RESERVED FOR

PEPRA PENSIONABLE COMPENSATION CRITERIA – PER GC SECTION 7522.34(a)		<u>Qualifier</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1.	Normal Monthly Rate of Pay or Base Pay:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	Payable to Similarly Situated:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	In Public Pay Schedule:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Earned for Normal Working Hrs:	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Allowance, Reimbursement or Previously Paid In-Kind:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Bonus, one-time ad hoc payment:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Severance or Terminal Pay:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.	Overtime other than Section 207(k) time:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Payment for any Unused Leave:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Employer contribution to deferred comp:	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PEPRA Pensionable?:					
Notes & Comments Regarding Decisions					

COMPENSATION EARNABLE CRITERIA – PER GC SECTION 31461		<u>Qualifier</u>	<u>YES</u>	<u>NO</u>	<u>N/A</u>
1.	Compensation at Same Pay Rate as Persons in Same Grade or Class	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	One-Time or Ad Hoc Payment Paid to All Similarly Situated	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Leave/Vacation Payout Earned & Payable in 12 Month Period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Terminal Pay Earned & Payable in 12 Month Period	<u>YES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Compensation Previously Paid In Kind & Now as Cash	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Payment for Services Rendered Outside Normal Working Hours	<u>NO</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comp Earnable?					
Notes & Comments Regarding Decisions					

Applicable Plans		Pensionable	Used in FAS	Prorated in FAS	Additional Notes:
<input type="checkbox"/>	PEPRA	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	LEGACY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/>	BOTH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
_____		_____			
APPROVED BY		DATE			

A-3

Memorandum

DATE: December 11, 2018
TO: Members of the Governance Committee
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations
SUBJECT: **REVIEW OF PROPOSED REVISIONS TO THE OCERS EMPLOYEE HANDBOOK (PREVIOUSLY TITLED PERSONNEL POLICIES AND REGULATIONS OR PP&R)**

Recommendation

Approve, and recommend that the Board approve, the revised OCERS Employee Handbook as presented.

Background/Discussion

OCERS operates with a “split staff structure;” that is, with a workforce that is employed by the County of Orange and a workforce that is employed directly by OCERS, as provided by Government Code Section 31522.5.¹

As required by subdivision (b) of section 31522.5, OCERS follows Orange County’s Personnel and Salary Resolution (P&SR), Merit Selection Rules, and the Memorandums of Understanding between the County and the respective unions for the County employees assigned to work at OCERS. The proposed revisions to the OCERS Employee Handbook do not change in any way the terms and conditions applicable to County employees.

However, for the employees that are appointed pursuant to subdivision (a) of section 31522.5, OCERS must maintain personnel policies that set forth the terms and conditions of employment of those individuals.

¹ Government Code section 31522.5 states, in pertinent part, as follows:

- (a) In a county in which the board of retirement has appointed personnel pursuant to Section 31522.1, the board of retirement may appoint an administrator, an assistant administrator, a chief investment officer, senior management employees next in line of authority to the chief investment officer, subordinate administrators, senior management employees next in line of authority to subordinate administrators, and legal counsel.
- (b) Notwithstanding any other provision of law, the personnel appointed pursuant to this section may not be county employees but shall be employees of the retirement system, subject to terms and conditions of employment established by the board of retirement. Except as specifically provided in this subdivision, all other personnel shall be county employees for purposes of the county’s employee relations resolution, or equivalent local rules, and the terms and conditions of employment established by the board of supervisors for county employees, including those set forth in a memorandum of understanding.

Memorandum

Generally, personnel polices serve the following purposes:

- Ensure compliance with current federal and state laws
- Help ensure key policies are clearly and consistently communicated
- Outline workplace logistics, expectations of employees, terms and conditions of employment and consequences of violations of the policies
- Educate employees about what they can expect from management and leadership and where they can turn for help

To date, OCERS’ personnel related policies have been documented in the OCERS “Personnel Policies and Regulations” (referred to as the PP&R). The PP&R was approved by the Board on November 18, 2002, when legislation first designated OCERS managers and above as employees of OCERS instead of employees of the County of Orange. The PP&R was largely a verbatim adoption of the County’s P&SR and was intended to evolve over time. As the County has amended its P&SR over the years, OCERS has implemented those provisions related to employee benefits as required by the MOU between the County of Orange and OCERS for Employee Benefits. However, the PP&R itself has not gone through a formal revision and approval since its original adoption in 2002.

Due to the long period of time that has elapsed since the PP&R was adopted, Staff formed a committee and consulted with outside legal counsel to develop a new Employee Handbook that includes all personnel related policies. The new Employee Handbook was developed using the existing PP&R as its basis, with updates to several provisions to reflect current practices and laws. In addition, there are some proposed changes to the existing policies that we believe will better support and reflect OCERS Mission, Vision and Values and our culture and address areas that can be improved.

Staff has formatted the new Employee Handbook as a compendium of individual polices that will be more easily amended or updated individually in the future, without the need to update the entire Employee Handbook.

There are many changes from the existing PP&R both in substance and in form. As such, a “red-line” of the two documents was not helpful. A copy of the proposed Employee Handbook and the PP&R are attached. However, a few recommended changes to the PP&R are deemed to be significant, and those items are summarized below. Further, it should be noted that several provisions apply only to individuals employed on or after January 1, 2018. That date will be updated to reflect the effective date of the revised Employee Handbook as approved by the OCERS Board of Retirement.

Item #	Policy Name	Employee Handbook Page #	Current PP&R Provision	Recommended Change in Employee Handbook
1	At Will Policy	9	A progressive discipline process is outlined in the PP&R (does not apply to Senior Executive who have an At-Will contract)	All OCERS direct employees hired after the new Employee Handbook is approved would be at-will, which means employment may be terminated at any time and for any reason with or without cause or advance notice (existing employees

Memorandum

				grandfathered under current terms of PP&R)
2	Annual Leave	91	Employees accrue annual leave at same rate as County employees, based on the number of years of service. There is currently no limit to the amount of time that may be accrued. At termination all leave on the books must be paid out to the employee. (OCERS is not legally permitted to use the same policy on payout of accrued leave as the County uses because that is a term negotiated in the County’s MOU with its employees and OCERS direct employees are not a party to the MOU)	All OCERS direct employees hired after the New Employee Handbook is approved would accrue annual leave at the same rate as all other employees; however, the maximum annual leave balance will be limited to two times the annual accrual rate for each employee. Employees will stop accruing annual leave when the maximum is reached. At termination the full amount of time accrued must be paid out (which will be limited to the new maximum leave balance) (existing employees grandfathered under current annual leave provisions)
3	Discipline	41	Applies to all current OCERS direct employees (except at-will executives)	Will apply only to those employees hired prior to the date the new Employee Handbook is effective
4	Grievance/Appeals	43	Grievance/Appeal process was verbatim from the County and included language that didn’t apply to OCERS direct employees	Would remove reference to grievance procedure and include only the appeal procedure. The revision to the appeal process would delete the steps that were deemed not applicable to OCERS direct employees and clarify the process into four possible steps. Will apply only to those employees hired prior to the effective date of the revised Employee Handbook
5	Probation		New, promoted, or re-employed employees placed on 52 week probation.	New, promoted, or re-employed employees are at –will therefore no probation period is necessary

Memorandum

6	Merit Increases	111	CEO makes final determination of salary awards	Clarified that CEO will make the final determination of merit increases based on the Board approved merit and salary adjustments included in the annual budget. Merit increases may be either a lump sum or added to base salary.
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The revised Employee Handbook has been shared both with the County of Orange and OCEA to solicit any comments or concerns they may have as it relates to policies that apply to County of Orange employees assigned to work at OCERS. Any feedback received will be shared with the Governance Committee at the December 11, 2018 meeting.

Submitted by:



Brenda Shott
 Assistant CEO, Finance and Internal Operations

OCERS

Employee Handbook

V1.0

January 2019



Orange County Employees Retirement System (OCERS)
2223 E Wellington Avenue Suite 100
Santa Ana, CA 92701 USA
1 (714) 558-6200
<http://www.ocers.org>

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Serving the Active and Retired Members of:

CITY OF SAN JUAN
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COUNTY OF ORANGE

ORANGE COUNTY
CEMETERY DISTRICT

ORANGE COUNTY CHILDREN &
FAMILIES COMMISSION

ORANGE COUNTY DEPARTMENT
OF EDUCATION (CLOSED TO
NEW MEMBERS)

ORANGE COUNTY
EMPLOYEES
RETIREMENT SYSTEM

ORANGE COUNTY FIRE
AUTHORITY

ORANGE COUNTY IN-HOME
SUPPORTIVE SERVICES
PUBLIC AUTHORITY

ORANGE COUNTY LOCAL
AGENCY FORMATION
COMMISSION

ORANGE COUNTY PUBLIC LAW
LIBRARY

ORANGE COUNTY
SANITATION DISTRICT

ORANGE COUNTY
TRANSPORTATION
AUTHORITY

SUPERIOR COURT OF
CALIFORNIA, COUNTY
OF ORANGE

TRANSPORTATION
CORRIDOR AGENCIES

UCI MEDICAL CENTER AND
CAMPUS (CLOSED TO NEW
MEMBERS)

Congratulations on your employment with the Orange County Employees Retirement System.

You are now a member of a working team passionate about providing outstanding service to our members.

This Handbook is meant to facilitate your success. You will find it provides you with an overview of pertinent OCERS policies, your benefits and your responsibilities as an OCERS employee. Please take the time to read it thoroughly. We have found that we are more effective as a team when each and every individual has a clear understanding of expectations and obligations.

During your professional employment with OCERS, the staff members of the Administrative Service Department and your manager will work with you to ensure that you have the information you need to be successful at OCERS and will be available to assist you with questions or concerns you may have along the way.

I hope you will find your employment with OCERS both satisfying and rewarding. Your job is essential to fulfilling our mission every day to the members who trust and respect us. We are happy that you have chosen to contribute to our ongoing commitment to providing the outstanding service our member rely on and deserve.

Once again, I welcome you to the OCERS team.

Best regards,



Steve Delaney

Chief Executive Officer



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Introduction to Personnel Policies

Policy Statement

Orange County Employees Retirement System's ("OCERS") Employee Policy Handbook is provided to employees for their use as a ready reference and as a collection of OCERS' personnel policies, work rules, and benefits. Employees are required to become familiar with the policies in a timely manner after the start of employment with OCERS.

Scope/Coverage

These Personnel Policies supersede all previously promulgated policies on this topic, including the PP&R (defined below) and Employee Handbook and apply to personnel who are employed by the following entities unless otherwise specified:

1. OCERS;
2. Orange County (County employees who work at OCERS); and
3. Third-party vendors and contract employees.

Authority

OCERS' Personnel Policies and Regulations ("PP&R") were adopted originally by the Board of Retirement (Board) on November 11, 2002, pursuant to California Government Code Sections 31468, 31522.5, 31557.3, and 31678.3.

The Chief Executive Officer ("CEO") has the duty to recommend to the Board these Personnel Policies. Additionally, the CEO is authorized to assess human resources needs; to establish and implement appropriate human resources programs and procedures, consistent with the personnel policies of the Board; to hire, manage and terminate senior management, and oversee the hiring of management and termination of staff; and to develop training and job development programs for OCERS as approved in the Administrative Budget.

These Personnel Policies do not create a contract for employment. With respect to employees employed by the County of Orange, the intent is that these personnel policies will be interpreted in a manner that is consistent with the provisions of applicable Memorandums of Understanding ["MOU"]; provided, however, to the extent they do conflict, the MOU will control as long as it is consistent with applicable law.

OCERS retains the right to modify, change, revise, supplement, delete, or rescind any or all of its Personnel Policies, at any time, without notice, whenever OCERS determines that such action is required.

For questions regarding any of these policies, please contact Administrative Services.

Recruitment and New Hires

This chapter contains the following policies related to personnel recruitment and new hires:

- At Will Policy

At Will Policy

Policy Statement

Employment with OCERS is “at-will”, which means it may be terminated at any time and for any reason, with or without cause or advance notice, by either the employee or OCERS.

Purpose

The purpose of this policy is to establish an at-will relationship between OCERS-direct employees hired directly by OCERS on or after January 1, 2019 and OCERS.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals employed directly by OCERS on or after January 1, 2019.

Provisions

1. Employees hired by OCERS on or after January 1, 2019, are employed on an at-will basis. All such employees are hired for an unspecified duration and are not guaranteed employment for any specified length of time.
2. Employment is at the mutual consent of each employee and OCERS, and as a result, may be terminated by OCERS or the employee at any time, with or without cause or advance notice.
3. The at-will status of the employment relationship between OCERS and its employees hired on or after January 1, 2019, cannot be altered by any oral or written statements, guidelines or policies contained in any of OCERS documents or communications, except where there is an express written agreement that is signed by the employee and OCERS’ Chief Executive Officer.
4. Completion of, or participation in, an introductory period of employment does not change an employee’s status as an at-will employee.

General Personnel Policies

This chapter contains the following policies related to general personnel policies:

- Discrimination and Harassment Policy
- Confidentiality Policy
- Electronic Resources Policy
- Social Media Policy
- Personnel Records Policy
- Telecommuting Policy
- Personnel Policy

Discrimination and Harassment Policy

Policy Statement

OCERS is committed to a work environment in which all individuals are treated with respect and dignity. It is the policy of OCERS to provide and promote equal employment opportunity for all personnel.

Purpose

OCERS is committed to fostering a work environment that is free from Discrimination. OCERS will not tolerate any kind of Discrimination against or Harassment of employees or applicants for employment by anyone.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and all OCERS personnel who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Policy Statement

- a. All persons covered by this policy will not be discriminated against on the basis of any Protected Characteristic.
- b. Employees are prohibited from discriminating against or harassing OCERS and County personnel, applicants for employment and third party vendors' if the conduct adversely affects OCERS' operations or reputation or takes place during an OCERS employment related event, whether or not the incidents occur on OCERS' premises and whether or not the incidents occur during working hours.
- c. This policy applies to all terms, conditions and privileges of employment including, but not limited to recruitment, hiring, pay, benefits, job assignments, promotion, training, transfer, discipline, and termination.
- d. All personnel must review this policy on an annual basis and affirm his or her understanding of the policy and obligation to comply with it.

2. Conduct Prohibited by this Policy

- a. Conduct prohibited under this policy includes, but is not limited to:
 - i. Racial, ethnic, sexual or religious slurs, epithets, comments, stereotyping, teasing or jokes.
 - ii. Verbal abuse or derogatory or stereotypical comments based any Protected Characteristic.
 - iii. Abusive or hostile treatment or similar offensive and unwelcome conduct based on any Protected Characteristic.

- iv. Any use or transmission of electronic communication or access or viewing of websites with ethnic or racial cartoons, jokes, or any other message that may offend, disparage, or harass an individual based on any Protected Characteristic.
- v. Sexual propositions, stating or implying that sexual favors are required as a condition of employment or continued employment, preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct; repeated unwanted sexual flirtations, advances, or invitations.
- vi. Unwanted physical contact, such as touching, pinching, grabbing, kissing, patting, or brushing against another's body
- vii. Offensive leering, flirtatious eye contact, staring at parts of a person's body, sexually oriented gestures
- viii. Displays or distribution of offensive pictures or objects, drawings, cartoons, graffiti, calendars, posters, printed material, or clothing containing sexually oriented language or graphics or derogatory content based on race, ethnicity, gender, religion, disability, or any other Protected Characteristic.
- ix. Sexual Harassment at OCERS is strictly prohibited.

3. Reporting Obligations

Any executive, manager, or supervisor who witnesses or has knowledge of Discrimination or other conduct prohibited by this policy, is obligated to promptly report such behavior to an appropriate representative in Administrative Services so that it can be appropriately investigated. Failure of executive, management, or supervisory personnel to promptly report or otherwise address incidents of Discrimination, Harassment, or retaliation or conduct prohibited by this policy that are either reported to them or that they witness, may result in disciplinary action, up to and including termination of employment.

4. Complaint Procedure

- a. All OCERS employees, County employees and applicants for employment who are subjected to, witness, or have knowledge of any actions or conduct in violation of this policy or that could be perceived as discriminating or harassing in nature should report it promptly to an appropriate manager, supervisor, or to Administrative Services. However, an employee is not required to report it to his or her supervisor or manager, particularly if the supervisor or manager is the individual who is engaging in the prohibited conduct.
- b. OCERS employees, County employees and applicants for employment may utilize the County of Orange's Equal Employment Opportunity (EEO) Access Office reporting procedure. Information regarding this procedure may be found at <http://ocgov.com/gov/hr/eo/complaint/form>, by calling the EEO Access Office at 714-834-5259, or by visiting the EEO Access Office at 333 W. Santa Ana Blvd. Room 200, Santa Ana, CA 92701.

5. Investigation and Remedial Action

- a. All reports of violations of this policy will be timely, fairly, and thoroughly investigated. Reasonable efforts will be made to protect the confidentiality and privacy of the parties involved.

- b. If an investigation confirms that a violation of this policy has occurred, appropriate corrective action will be taken, up to and including termination of employment or the employment contract.

6. Retaliation is Prohibited

- a. OCERS policy, as well as applicable federal and state laws, prohibits retaliation, intimidation or reprisal against applicants, employees, and independent contractors who file complaints and/or who cooperate with or participate in any procedures or investigations related to complaints of Discrimination or Harassment.
- b. Employees are encouraged to report violations of this policy without fear of reprisal or retaliation.
- c. If it is determined that an employee has committed acts of retaliation in response to the actual or perceived filing of a complaint or participation in the investigation of a complaint under this policy, that person will be subject to disciplinary action, up to and including termination of employment.

7. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided in the Title VII of the Civil Rights Act of 1964 (“Title VII”), the Rehabilitation Act of 1973, the Americans with Disabilities Act (“ADA”), and the Fair Employment and Housing Act (“FEHA”).
- b. An employee may file a complaint with the U.S. Equal Opportunity Commission or the California Department of Fair Employment and Housing, or may bring a private lawsuit against an employer for failure to comply with Title VII, the Rehabilitation Act, the ADA, or the FEHA.
 - i. For the federal government, personnel may contact the Equal Opportunity Commission (EEOC) at 1-800-669-4000 or www.eeoc.gov, or they may visit a local EEOC office.
 - ii. For the State of California, personnel may contact the Department of Fair Employment and Housing (DFEH) at 1-800-884-1684 or www.dfeh.ca.gov, or they may visit a local DFEH office.

For questions about the exercise of rights pursuant to Title VII, the Rehabilitation Act, the ADA, or the FEHA, contact Human Resources, the EEOC, or the DFEH.

8. Violation of Policy

Any violation of this policy may result in disciplinary action up to and including termination of employment.

Related Topics

- 1. County of Orange - Equal Employment Opportunity Access Office
- 2. Whistle Blower Policy

Confidentiality Policy

Policy Statement

OCERS expects its employees to take all reasonable steps to protect confidential and business information from unauthorized access, use or disclosure.

Purpose

The purpose of this policy is to establish confidentiality obligations for individuals with access to confidential information.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Protection of Confidential Information

- a. Individuals covered by this policy are responsible for protecting the confidentiality of information obtained or accessed during the course of employment at OCERS. They must limit distribution of confidential member, personnel or financial information regarding OCERS, and its members and employees to persons who are authorized to receive the information and have a business need to know.
- b. Individuals covered by this policy must take all steps necessary to protect confidential information from accidental or unauthorized disclosure, including, but not limited to:
 - i. taking precautions to prevent unauthorized users from accessing confidential data;
 - ii. not disclosing user IDs or passwords to others or using anyone else's user ID or password; and
 - iii. promptly placing discarded material that identifies a member's social security number, address, contribution balance, pension amount, or other confidential information in the secured/locked shredding bins placed throughout OCERS' facility.
- c. Individuals covered by this policy must create communications and documents with the understanding that all such items created in the course of employment are the property of OCERS. Employees should not have any expectation of personal privacy in any messages or documents created or transmitted using OCERS systems, including email and voicemail.

2. Prohibited Conduct

- a. Individuals covered by this policy may not access, use or disclose confidential business, financial or personnel information without authorization or a business need to do so.

- b. Individuals covered by this policy authorized to access, use or disclose confidential information must do so in a manner that limits access, use or disclosure only as necessary to perform their assigned job duties.

3. Violation of Policy

Any violation of this policy could result in discipline up to and including termination.

Related Topics

1. OCERS Electronic Resources Policy
2. OCERS Code of Conduct Policy
3. OCERS Board Policy – Records Retention Guidelines

Electronic Resources Policy

Policy Statement

Personnel must use electronic devices provided to them by OCERS in a manner that is legal, ethical, and appropriate. OCERS' Electronic Resources are business resources and tools. OCERS gives its personnel access to Electronic Resources to assist them in the performance of their work duties. Limited personal use of OCERS' Electronic Resources is permitted, as described in this policy.

Purpose

The purpose of this policy is to set forth OCERS' expectations regarding the appropriate use of its Electronic Resources to ensure compliance with applicable laws and the policies established by OCERS.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Electronic Asset Usage

- a. Individuals must use sound judgment when using OCERS' Electronic Resources.
- b. OCERS' policies against Harassment and Discrimination extend to the use of its Electronic Resources. Electronic Resources should not be used in any way that would violate those policies.

2. Prohibited Use of OCERS' Electronic Resources

- a. Individuals may not use OCERS' Electronic Resources to access any member information except as authorized in accordance with established OCERS' processes and only for business purposes.
- b. Individuals may not use OCERS' Electronic Resources in any way that may be insulting, disruptive, or offensive to other persons, harmful to morale, or that may harass or disparage others.
- c. Individuals may not use OCERS' Electronic Resources to send, forward or store sexually explicit messages, cartoons, jokes, videos, or unwelcome propositions; and individuals may not access or view gambling, weapons production, pornographic or sexually-oriented websites.
- d. Individuals may not use OCERS' Electronic Resources in a manner that infringes upon the rights of other persons, entities, or organizations to proprietary, confidential or trade secret information.
- e. Individuals may not download or run audio, video, picture or other large data files that require significant computer storage space and that may impact OCERS' system operations unless such uses are business-related.

- f. Individuals may not use voicemail to make unauthorized broadcast messages or solicitations.
- g. Individuals may not download unauthorized software to any OCERS' Electronic Resource Systems.
- h. Individuals may not use Electronic Resources to advocate a partisan position or to support his or her personal political activities or viewpoints.

3. Personal Use of OCERS' Electronic Resources

- a. Personal use of OCERS' Electronic Resources must be incidental, limited in frequency and take place outside of the employee's official duty time.
- b. Personal use of OCERS' Electronic Resources cannot interfere with productivity or job performance.
- c. Personal use of OCERS' Electronic Resources shall not involve Internet sites that would be objectively viewed as inappropriate for a business setting.
- d. Personal use of OCERS' Electronic Resources shall not involve personal business transactions except for personal banking transactions.

4. Access by OCERS

- a. While Electronic Resources are made accessible to personnel to assist them in the performance of their positions, all such Electronic Resources, whether used entirely or partially on OCERS' premises or with the aid of OCERS' equipment or resources, must remain fully accessible to OCERS and, to the maximum extent permitted by law, will remain the sole and exclusive property of OCERS.
- b. OCERS personnel and all others using OCERS' Electronic Resources should not have an expectation of privacy with respect to information transmitted over, received by, or stored in any Electronic Resources owned, leased, or operated in whole or in part by or on behalf of OCERS. OCERS retains the right to gain access to any information received by, transmitted by, or stored in any such Electronic Resources at any time, with or without an employee's or individual's knowledge or permission.
- c. OCERS personnel and all others using OCERS' Electronic Resources to access personal web-based email or social networking accounts (for example, Gmail, Twitter, Facebook), must understand that those communications are subject to review, imaging, and disclosure by OCERS.

5. Maintaining Security and Confidentiality

- a. Individuals covered by this policy using OCERS' Electronic Resources are responsible for maintaining the security of OCERS' Electronic Resources and complying with the Confidentiality Policy.
- b. Individuals covered by this policy, must limit distribution of confidential, private, or personnel information to persons who are authorized to receive the information and have a business need to know.

6. Violation of Policy

Any violation of this policy could result in discipline up to and including termination.

Related Topics

1. OCERS Discrimination and Harassment Policy
2. OCERS Social Media Policy
3. OCERS Confidentiality Policy

Social Media Policy

Policy Statement

While appropriate uses of Social Media may aid in achieving certain business objectives, all personnel at OCERS must take care to protect Confidential Information while using Social Media.

Purpose

The purpose of this policy is to provide employees with guidelines for participation in Social Media when an employee's affiliation with OCERS is known, identified, or presumed. This policy is intended to promote legal and ethical behavior while prohibiting inappropriate activities that may violate OCERS' policies or the law.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Prohibited Conduct

- a. Personnel may not disclose confidential or proprietary information of or about OCERS, including but not limited to non-public business and financial information.
- b. Personnel may not represent that they are communicating the views of OCERS, or represent themselves in a manner that might reasonably create the impression that they are communicating on behalf of or as a representative of OCERS whether retirement related or not.
- c. Personnel may not use or disclose member information of any kind on Social Media without the express written permission of the member, even if a member is not identified by name.

2. Policy Applicability

- a. This policy applies to personnel using Social Media while at work. The use of Social Media while at work shall be limited to work related assignments or during breaks and/or lunch.
- b. This policy also applies to the use of Social Media when away from work, when an individual's OCERS affiliation is identified, known, or presumed.
- c. This policy does not apply to content that is non-retirement related or is otherwise unrelated to OCERS, except for the provisions in section 1.b stated above.
- d. Personnel must comply with all OCERS' Personnel Policies, when engaging in Social Media.

- e. Nothing in this policy is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment.

3. Violation of Policy

Any violation of this policy may result in discipline up to and including termination.

Related Topics

1. OCERS Discrimination and Harassment Policy
2. OCERS Electronic Resources Policy

Personnel Records Policy

Policy Statement

Personnel Records are confidential and access to them is limited.

Purpose

The purpose of this policy is to govern access to Personnel Records.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Access to Personnel Records

- a. OCERS managers and supervisors who have an OCERS business need for the information, an employee's supervisor, Administrative Services, internal or outside legal counsel, and the OCERS' Worker's Compensation administrator, will have access to Personnel Records.
- b. Orange County will have access to specific Personnel Records when necessary to effectuate the administration of benefits and payroll processing. Authorized representatives of Orange County will have access to all Personnel Records for County employees who work at OCERS.
- c. Individuals covered by this policy will have access to their own Personnel Records.

2. Confidential Information

Personnel Records that contain certain confidential information (e.g., medical information) are kept in separate, restricted files, with regulated and limited access.

3. Disclosure of Personnel Records

- a. Except for those individuals mentioned in Section 1 above, OCERS will not release or disclose Personnel Records without the written authorization of an employee or former employee, unless OCERS is compelled to do so by one of the following:
 - i. A lawful court order, administrative summons, search warrant, or subpoena;
 - ii. A lawful orders or demands as a part of a statutorily authorized governmental investigation or audit; and
 - iii. As otherwise required by law.

4. Personnel Records Inspection

- a. An employee, former employee or authorized representative (e.g. attorney, labor representative or anyone with written authorization to access information), wishing to

inspect his/her Personnel Records must submit a written request to Administrative Services. Before making Personnel Records available to an employee, former employee or authorized representative, Administrative Services will review the contents of the files to determine which documents the employee, former employee or authorized representative, is entitled to inspect.

- i. An employee, former employee or authorized representative is entitled to inspect or receive copies of any records related to his/her work performance or to any complaints concerning the employee or former employee. These documents include:
 1. Employment Application;
 2. Performance Reviews;
 3. Attendance Records;
 4. Complaints;
 5. Records used to determine an employee's qualifications for promotion; and
 6. Any other documents required by applicable law.
- ii. Except to the extent required by applicable law, an employee, former employee or authorized representative, is not entitled to inspect the following documents:
 1. Records relating to the investigation of conduct constituting a possible violation of the criminal laws of California or another state of the United States;
 2. Confidential reports from previous employers or letters of reference;
 3. Ratings, reports, or records that were obtained as a part of the pre-hire process; ratings, reports or records prepared by any examination committee members who were a part of the hiring process; and ratings, reports or records created in connection with a promotional evaluation;
 4. Any confidential records, such as medical records of persons other than the employee, records of other employees or third parties, or records Administrative Services reasonably believes raise issues of confidentiality;
 5. Any privileged documents, including those subject to an attorney-client privilege; and
 6. Any other documents that applicable law requires to be held confidential.
- iii. Administrative Services will redact the names of any non-supervisory personnel and any other information Administrative Services deems confidential before providing Personnel Records to an employee, former employee or authorized representative.

- b. OCERS will make the records available no later than 30 calendar days from receipt of the written request from an employee, former employee or authorized representative , to inspect or copy his/her Personnel Records.
- c. Administrative Services will contact the employee, former employee or authorized representative, who has submitted a written request to inspect or copy the Personnel Records to schedule a time to review or copy the documents during normal business hours at OCERS.
- d. An Administrative Services representative will be present during the time the employee, former employee or authorized representative inspects the Personnel Records.
- e. An employee, former employee or authorized representative may not remove or alter any Personnel Record.
- f. Upon written request, Administrative Services will provide an employee, former employee or authorized representative, with a copy of any Personnel Records that the employee, former employee or authorized representative, is permitted to inspect. OCERS may charge the actual cost of copying the Personnel Records to the employee, former employee or authorized representative.
- g. When a former employee who was terminated due to a violation of law, or an employment-related policy involving Harassment or workplace violence, makes a request to inspect or copy his/her Personnel Records, OCERS will mail a copy of the Personnel Records to an address designated by the former employee.

Related Topics

- 1. Applicable MOUs
- 2. OCERS Board Policy – Records Retention

Telecommuting Policy

Policy Statement

Telecommuting may be permitted when, in individual cases, it is cost effective, supports OCERS' business objectives, is acceptable to executive management and supervisors and is desirable to the employee.

Purpose

The purpose of this policy is to set forth OCERS' standards and expectations with respect to Telecommuting.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Requests to Telecommute

- a. Employees who want to Telecommute must submit a request in writing to both their supervisor and department head. For requests from Non-Exempt Employees, the supervisor/department head should consult with Administrative Services. The request must include a description of the following:
 - i. The reasons the employee needs or wants to Telecommute;
 - ii. A description of the location from which the employee wants to Telecommute;
 - iii. The manner in which the employee will be able to complete his/her work duties through Telecommuting;
 - iv. The manner in which the employee can Telecommute without experiencing any reduction in work quality, efficiency or productivity; and
 - v. The manner in which the employee will be able to preserve member privacy and confidentiality while Telecommuting.
- b. Requests to Telecommute may be granted or denied at OCERS' sole discretion.

2. Approval of Requests to Telecommute

- a. No employee is guaranteed the right to Telecommute.
- b. Requests to Telecommute can only be granted in writing by both the employee's supervisor and the department head.
- c. Approval to Telecommute will be granted only where OCERS determines, in its sole discretion, that the requesting employee can perform all of the duties of his/her position in a productive, efficient, and satisfactory manner that is consistent with the needs of the organization.

- d. Requests to Telecommute that are based on the existence of a disability or the need for a reasonable accommodation will be evaluated in compliance with OCERS' Interactive Process and Accommodations Policy and applicable law.

3. Meal and Rest Periods

- a. Non-Exempt Employees who receive approval to Telecommute must comply with all record-keeping requirements and must accurately record all working time.
- b. Non-Exempt Employees who receive approval to Telecommute must take all meal and rest periods in accordance with applicable legal requirements, OCERS policy, and applicable Memoranda of Understanding (MOUs).
- c. Non-Exempt Employees who receive approval to Telecommute may not perform any Telecommuting work (regular or occasional) that is outside of regular work hours without advance written approval from their supervisor. This includes checking email and phone messages, which is considered work time and must be documented.
- d. Non-Exempt Employees who receive approval to Telecommute are prohibited from working overtime except with the advance written approval of their supervisor.

4. Termination of Telecommuting Approval

- a. OCERS may terminate a Telecommuting arrangement at any time, with or without cause, and will provide at least two weeks' notice when practicable.
- b. An employee who Telecommutes on a regular basis may request the termination of his/her Telecommuting arrangement with at least two weeks' notice. The request will be granted at the department head's discretion based on factors such as the availability of workspace.

Related Topics

OCERS Interactive Process and Accommodation Policy

Personal Conduct Policies

This chapter contains the following policies related to general personnel policies:

- Code of Conduct Policy
- Conflict of Interest Policy
- Outside Employment Policy (PLACEHOLDER)
- Attendance Policy
- Alcohol and Controlled Substance Policy
- Professional Business Attire Policy
- Workplace Relationships Policy
- Employment of Relatives Policy
- Disciplinary Actions and Appeal Procedure

Code of Conduct Policy

Policy Statement

OCERS desires its employees to conduct themselves in a manner that promotes efficiency, productivity, and cooperation among its employees.

Purpose

The purpose of this policy is to provide guidelines to employees for acceptable and lawful business practices, promote professionalism, and establish standards of conduct applicable to all OCERS' employees.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. General Policy

- a. Individuals covered by this policy will provide coworkers, active and retired members, Plan Sponsors, and Board Members with the highest level of customer service.
- b. Individuals covered by this policy shall conduct OCERS business in compliance with any and all applicable state, federal and local laws, statutes, regulations and Board policies.
- c. Individuals covered by this policy have the duty to deal honestly, ethically, and respectfully with each other, the Board of Retirement, Plan Sponsors, active and retired members, vendors, visitors, and members of the public.
- d. Individuals covered by this policy will act in a manner consistent with all Personnel Policies that apply to them.
- e. Individuals covered by this policy will devote their full efforts and energies while performing their duties for OCERS.

2. Violation of Policy

Any violation of this policy may result in discipline up to and including termination.

Conflicts of Interest Policy

Policy Statement

Avoiding Conflicts of Interest and the appearance of Conflicts of Interest is critical to OCERS' reputation. Individuals covered by this policy must avoid Conflicts of Interest, including the appearance of Conflicts of Interest, at all times.

Purpose

The purpose of this policy is to provide direction regarding actual, potential and apparent Conflicts of Interest.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS;
2. County of Orange (County employees who work at OCERS); and
3. Third party vendors

Provisions

1. General Provisions

Individuals covered by this policy are expected to comply with all applicable laws, including those regarding government contracts, Conflicts of Interest, and disclosures of interest.

2. Prohibited Conduct

- a. OCERS strictly prohibits activities or relationships that create an actual, potential, or the appearance of a Conflict of Interest. Such activities or relationships include, but are not limited to:
 - i. The use of OCERS time, facilities, or equipment for private gain or advantage, or the personal gain or advantage of another;
 - ii. The use of prestige or influence of employment at OCERS for private gain or advantage, or the personal gain or advantage of another;
 - iii. The use of confidential information acquired by virtue of employment at OCERS for personal gain or advantage, or the personal gain or advantage of another;
 - iv. The acceptance of money (including gift cards, checks, and the like) or other consideration from any person or non-employing entity for the performance of an act which would be required or expected in the regular course of one's position at OCERS; and
 - v. The solicitation of future employment with an entity engaged in business with OCERS over which the employee has some control or influence in his or her official capacity at OCERS.

3. Outside Business Activities and Employment

Individuals covered by this policy shall not engage in outside business activities or employment, including self-employment or related activities, whether paid or unpaid, that are inconsistent, incompatible, or in conflict with the employee's duties to OCERS; or might imply that OCERS endorses the work performed.

4. Violation of Policy

Any violation of this policy may result in discipline up to and including termination.

Related Topics

OCERS Outside Employment Policy

Outside Employment Policy

This page serves as a placeholder for the Outside Employment Policy.

Attendance Policy

Policy Statement

Attendance and punctuality are important to the efficient operation of the business of OCERS and are essential components to successful employee performance.

Purpose

The purpose of this policy is to set forth OCERS' expectations regarding attendance and punctuality.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to all personnel who are employed by the following entities:

1. OCERS; and
2. Orange County (County employees who work at OCERS)

Provisions

1. Hours of Operation

OCERS' office is open five days per week, Monday through Friday with the exception of County holidays. OCERS regular business hours are Monday through Thursday from 8:00 a.m. to 5:00 p.m. and Friday from 8:00 a.m. to 4:30 p.m. Individual work hours are determined by each department manager and may include hours before or after OCERS business hours and weekends and holidays.

2. Attendance

Regular and reliable attendance is expected from all employees. Employees should be at their work station and /or conducting OCERS business by the start of each workday at the time designated by their supervisor. Excessive absenteeism or tardiness will not be tolerated.

3. Punctuality

- a. Employees with regularly scheduled work hours must be prepared to commence work at the start of their work day.
- b. Notice Required for Tardiness of 15 minutes or more
 - i. An employee who is unable to report to work within 15 minutes of the commencement of his/her regularly scheduled work time, who has not previously requested the use of Annual Leave or other time off from work, must promptly report the tardiness and an expected arrival time to his/her supervisor. The employee may report the tardy to his/her supervisor by phone, voicemail message, text message, and/or email, and must do so no later than the start of OCERS' regular business hours, unless it is impracticable to do so. It is the employee's responsibility to ensure that OCERS has been notified regarding his/her late arrival.
 - ii. Supervisors should document an employee's unscheduled tardiness and the reasons provided for each late arrival.

- c. Excessive Tardiness
 - i. Excessive tardiness exists when an employee has had more than three unexcused and unscheduled tardies in any thirty day period.
 - ii. Excessive tardiness may result in discipline up to and including termination.

4. Unscheduled Absences

- a. Notice of an Unscheduled Absence
 - i. An employee who is unable to report to work should contact his/her supervisor by phone, voicemail message, text message, and/or email, no later than the start of OCERS' regular business hours, unless it is impracticable to do so. It is the employee's responsibility to ensure that OCERS has been notified regarding his/her absence.
 - ii. An employee must provide the reason for his/her absence and the expected duration of the absence to his/her supervisor at the commencement of an absence.
 - iii. An employee's supervisor may request that the employee provide satisfactory evidence of a reported illness, injury or medical condition.
- b. Excessive Absenteeism
 - i. An employee's absences may be considered excessive when the number of his/her unscheduled and unapproved absences exceed twelve days in any twelve month period and/or three days in any thirty day period prior to an employee's most recent absence.
 - ii. An employee's absences may be considered excessive when his/her unapproved absences occur with a common pattern. Examples of such patterns include, but are not limited to:
 - 1. Unscheduled leave on days for which annual leave was requested and denied.
 - 2. Unscheduled leave on the days before or after scheduled annual leave.
 - 3. Unscheduled leave on the days before or after OCERS-recognized holidays.
 - 4. Repeated use of unscheduled leave due to illness in increments of one or two days.
 - 5. Frequent family or personal emergencies.
 - iii. OCERS reserves the right to investigate patterns of absenteeism. The determination of whether a pattern exists is within OCERS' sole discretion.
 - iv. Excessive absenteeism may result in discipline up to and including termination.

5. Job Abandonment

An employee who fails to provide notice of an absence and fails to report to work for three consecutive days will be considered to have abandoned his/her job and to have voluntarily resigned unless a reasonable excuse is offered and accepted by the Chief Executive Officer.

Related Topics

1. OCERS Annual Leave Policy
2. OCERS Extra Help Employee Sick Leave Policy
3. OCERS Family and Medical Leave Policy
4. OCERS Pregnancy Leave Policy
5. OCERS Workers' Compensation Leave Policy
6. OCERS Discipline Policy
7. Applicable MOUs

Alcohol and Prohibited Drugs Policy

Policy Statement

To maintain a safe and healthy workplace, OCERS prohibits the use of or being under the influence of alcohol or Prohibited Drugs by all persons on OCERS property.

Purpose

The purpose of this policy is to articulate the position of OCERS with respect to the possession, use or influence of alcohol or Prohibited Drugs while on OCERS property.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to all applicants for employment at OCERS, Contract Workers, and individuals who are employed by any of the following:

1. OCERS;
2. County of Orange (County employees who work at OCERS); and
3. Third party vendors

Provisions

1. The use of Alcohol or Prohibited Drugs on OCERS property at any time is prohibited.
2. Being Under the Influence of Alcohol or a Prohibited Drug while on OCERS property is prohibited.
3. The possession of Prohibited Drugs on OCERS property is prohibited.
4. The use of Alcohol or Prohibited Drugs, on or off OCERS property, in a manner that causes reputational risk to OCERS is prohibited.
5. Consequences of Violations of this Policy
 - a. Persons violating this Policy will be subject to disciplinary action up to and including termination of employment. The services of any third party vendor who violates this policy will be terminated in accordance with the provisions of OCERS' contract with the third party vendor.
 - b. The sale or possession (e.g., on the person or in a desk or vehicle) of Prohibited Drugs may also result in criminal prosecution; any such Prohibited Drugs found by OCERS will be provided to the appropriate law enforcement agency.
6. Drug and Alcohol Testing
 - a. An employee may be required by OCERS to submit to testing procedures designed to detect the presence of Prohibited Drugs and/or Alcohol when there is a reasonable suspicion that the employee is Under the Influence of Prohibited Drugs and/or Alcohol.
 - b. A supervisor may have a "reasonable suspicion" that an employee is Under the Influence based upon observation of conduct and/or events, including without limitation:

- i. Acting in a manner that suggests that the employee is Under the Influence of Alcohol or Prohibited Drugs (e.g., illogical or slurred speech)
 - ii. Sudden unexplained changes in behavior that adversely impact work performance.
 - iii. Discovery or presence of Prohibited Drugs or any open container of Alcohol in an employee's possession or near the employee's work space.
 - iv. Odor and/or residual odor associated with Alcohol or Prohibited Drugs.
 - v. Personality changes or disorientation.
 - c. When there is a reasonable suspicion that an employee is Under the Influence of Alcohol or Prohibited Drugs, the employee, at the sole discretion of OCERS, will be asked to provide breath, blood and/or urine specimens for testing by a third party laboratory as soon as practical.
 - i. The provision of a specimen is voluntary; however, if an employee refuses to submit to required testing, the refusal will be considered a significant factor in reaching a decision regarding disciplinary action, including termination.
- 7. OCERS and the County of Orange have established a voluntary Employee Assistance Program (EAP) to assist and support employees who voluntarily seek help before becoming subject to discipline or termination under this or other OCERS policies.

Professional Business Attire Policy

Policy Statement

OCERS' professional atmosphere is maintained, in part, by the image that employees present. Employees are expected to use their best judgment in determining their professional appearance and attire.

Purpose

The purpose of this policy is to set forth OCERS' standards for professional business attire in the workplace and outside OCERS' workplace while on OCERS business.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. All persons covered by this policy are expected to present a professional, businesslike image.
2. All persons covered by this policy should use their best judgment in determining their attire and appearance. Persons covered by this policy are expected to be well groomed and clean.
3. These guidelines apply to all staff without regard to gender, gender identity, or gender expression. Exceptions to this policy will be made to accommodate religious dress pursuant to the Religious Accommodations Policy.
4. Questions about these guidelines should be directed to Administrative Services.

Workplace Relationships Policy

Policy Statement

To avoid the appearance of favoritism, possible claims of Sexual Harassment, or the creation of an uncomfortable work environment that may arise from personal relationships of a romantic or sexual nature in the workplace, all OCERS personnel must adhere to this policy governing Workplace Relationships.

Purpose

The purpose of this policy is to provide direction regarding personal relationships within the workplace to ensure a comfortable and Harassment-free environment for all OCERS personnel.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Prohibited Workplace Relationships

- a. Executives, managers and supervisors are strictly prohibited from engaging in Workplace Relationships with employees who report directly or indirectly to them.
- b. Individuals covered by this policy are prohibited from engaging in Workplace Relationships when, in the sole opinion of OCERS, the relationship creates a potential conflict of interest, causes disruption, creates a negative or unprofessional work environment, or presents concerns regarding supervision, safety, judgment, security, or morale.

2. Violation of Policy

Any violation of this policy may result in discipline up to and including termination.

Employment of Relatives Policy

Purpose

To provide guidelines for employment of close relatives as situations involving relatives working at OCERS may result in morale problems, inappropriate supervision, conflict of interest, or public criticism. The intent is to avoid the opportunity for an employee to use personal influence to aid or hinder another in the employment setting or situation.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. General

No person may be appointed, promoted, reduced, transferred or reassigned to a position in which that person will be in the direct line of supervision of a close relative; nor shall close relatives have the same immediate supervisor. "Supervision" includes the assignment of work, evaluation of performance and setting or influencing the pay or granting of benefits to the other.

2. Disclosure

- a. All applicants for employment, promotion, reduction, transfer or reassignment to a position in an agency/department shall be required to disclose the name(s) and position title(s) of any close relative currently employed in that agency/department prior to appointment, promotion, reduction, transfer or reassignment. An employee who becomes a "close relative" by marriage subsequent to appointment shall disclose the new relationship(s) to his/her supervisor.
- b. The Director of Administrative Services shall provide appropriate forms and procedures for the disclosure process.

3. Exemptions

OCERS' CEO may grant exemptions required for the effective and efficient operation of the agency/department. OCERS' CEO shall develop appropriate procedures to ensure the objective review of requests for exemption.

Procedure for Exemption from Policy

1. The hiring supervisor shall request authority for an exemption from policy from the OCERS' CEO prior to appointing, promoting, reducing, transferring or reassigning a close relative of an employee if such action will result in a violation of policy above.
2. The written request for exemption from policy shall include:

- a. Names of prospective employee and known close relative employee(s) and relationship(s).
 - b. Titles and summary of duties, and work relationship of affected positions.
 - c. Qualifications of applicant indicating why the selected applicant is the best qualified or better qualified than other candidates.
 - d. Justification for exemption, indicating why it is necessary for the effective and efficient operation of the agency/department and including a statement of why supervisor believes problems will not result.
3. OCERS' CEO will approve or disapprove supervisor's recommendation and notify the Director of Administrative Services of specific reasons for decision. Upon request, the Director of Administrative Services will review and provide comments to OCERS' CEO. The Director of Administrative Services shall maintain a listing of exemptions granted after the effective date of this policy.

Violation of Policy

Any violation of this policy may result in discipline up to and including termination.

Disciplinary Actions and Appeals Procedure Policy

Policy Statement

Employees are required to abide by applicable federal, state, and local laws and regulations and to comply with the policies and procedures of OCERS. If an employee fails to comply with any of these, or engages in misconduct or poor performance, the employee may be subject to disciplinary action, up to and including termination.

Purpose

The purpose of this policy is to set forth the disciplinary actions available to OCERS for employee violations of the law or OCERS' policies, and for employee misconduct or poor performance. This policy also sets forth the appeal procedures available to employees who desire to contest employment actions taken by OCERS.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to all OCERS personnel who are employed by OCERS.

Provisions

1. Disciplinary Actions

- a. An employee who fails to comply with applicable legal/regulatory requirements or OCERS policies and procedures, engages in misconduct (including insubordination, inappropriate conduct, or disruptive behavior), and/or performs the duties of his or her position in an unsatisfactory manner may be subject to discipline up to and including termination.
- b. Disciplinary actions may include, but are not limited to:
 - i. Oral counseling and/or warning;
 - ii. Written warning;
 - iii. Final written warning; and
 - iv. Termination.
- c. The above disciplinary actions serve as general guidelines; they are not mandatory and do not have to be issued in any particular order. Disciplinary actions are not required to be progressive in nature, and will be issued at the discretion of an employee's supervisor in consultation with Administrative Services.
- d. There are instances where conduct and/or performance is of such an egregious or serious nature that immediate termination, without prior warning, may be the appropriate course of action.
- e. Factors that may be considered in determining the level of disciplinary action include, but are not limited to:
 - i. The severity of the violation;

- ii. The number of violations;
 - iii. Whether the violation was part of a pattern or practice of improper behavior;
 - iv. The individual's past history of non-compliance or discipline;
 - v. Whether the employee knew or should have known the rules, regulation or policy at issue;
 - vi. Length of employment with OCERS;
 - vii. Whether the violation was intentional or negligent;
 - viii. Whether the action was committed for personal gain.
- f. The level of disciplinary action will be determined by management in consultation with Administrative Services after review of the circumstances and a determination of which laws, policies, performance standards, and/or practices were violated.
 - g. When disciplinary action is taken, it will be documented to indicate the conduct that resulted in the discipline and what specific disciplinary action was taken.
 - h. Employees who report compliance or ethics concerns in good faith will not be subject to disciplinary action for doing so.

2. Employment Commencing After January 1, 2018

- a. For employees who commenced their employment after January 1, 2018, employment with OCERS will be At-Will, that is the mutual consent of OCERS and the employee. Employment may be terminated at any time, with or without cause, with or without prior warning, by OCERS or an employee.
- b. OCERS reserves the right to immediately terminate an At-Will employee, at any time, with or without cause. The use of disciplinary actions prior to termination will not alter OCERS' right to terminate At-Will employees at any time, with or without cause.

3. Employment Commencing Before January 1, 2018

- a. Termination for Cause Only
 - i. Employees who commenced their employment before January 1, 2018 discipline, up to and including terminated shall be for cause.
 - ii. For purposes of this policy, cause means:
 - 1. a violation of an OCERS policy or procedure, including, but not limited to, policies concerning attendance, conflicts of interests, discrimination and Harassment, social media, and use of electronic resources;
 - 2. insubordination, inappropriate conduct, or disruptive behavior;
 - 3. failure to satisfactorily perform the duties of one's position;
 - 4. an act of fraud, embezzlement, theft or any other material violation of law committed in one's capacity as an OCERS employee;
 - 5. intentional or reckless disclosure of confidential information;

6. job abandonment, including an unauthorized absence from work for more than three (3) consecutive work days, or failing to return to work after the completion of an authorized absence;
7. failure to provide requested medical documentation supporting a leave of absence, or failure to return to work following an approved leave of absence.

b. Appeal Procedure

- i. An employee who wishes to contest a personnel action taken against oneself, may do so in accordance with this appeal procedure.
- ii. Specifically excluded from the scope of appeals are:
 1. Subjects involving an action by the Board of Retirement, administrative orders or policies, legislative mandates, or selection/appointment decisions and procedures which do not incorporate the provisions of these policies and regulations.
 2. matters that the employee has other means of appeal including, but not limited to, matters which may be appealed through the Workers' Compensation Appeals Board;
 3. Position classification;
- iii. The appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.

Step 1: Immediate Supervisor

An employee may submit an appeal to his or her immediate supervisor within fourteen (14) calendar days from the occurrence that gives rise to the personal action. Such submission shall be in writing and shall state the nature of the appeal and the suggested solution. Upon receipt of the written appeal, the immediate supervisor and/or such other representative(s) as may be designated by OCERS shall meet with the employee to discuss the appeal. Thereafter, the immediate supervisor and/or the OCERS designee shall inform the employee of OCERS' determination regarding the appeal.

Step 2: Senior Executive Level

If the employee is unsatisfied by the determination issued at Step 1, he or she may present the appeal to the respective Senior Executive and/or such other representative(s) as may be designated by OCERS within seven (7) calendar days after receipt of the Step 1 determination. Upon receipt of the written appeal, the respective Senior Executive and/or the OCERS designee shall meet with the employee to discuss the appeal. Thereafter, the respective Senior Executive and/or the OCERS designee shall inform the employee of his or her determination regarding the appeal.

Step 3: Chief Executive Officer

If the employee is unsatisfied by the determination issued at Step 2, he or she may present the appeal to the Chief Executive Officer within seven (7) calendar days after receipt of Step 2 determination. The Chief Executive Officer (CEO) shall meet with the employee to discuss the appeal. Thereafter, the CEO shall inform the employee of his or her determination regarding the appeal. The CEO shall have the right to uphold, modify, or reject any personnel action. The determination of the CEO shall be final, except in the cases of terminations and as specified in Step 4 below.

Step 4: The Board of Retirement

If the employee is unsatisfied by the determination issued at Step 3 concerning a termination, he or she may present the appeal to the Board of Retirement within seven (7) calendar days after receipt of Step 3 determination. OCERS will then place the employee's appeal on the Board's agenda after which the Board will have the unlimited right to uphold, modify, or reject any personnel action. The determination of the Board shall be final.

Each of the above-referenced steps may involve the review of documentation provided by the employee and his or her supervisor and interviews of the supervisor and other OCERS personnel.

Professional Development Policies

This chapter contains the following policies related to general personnel policies:

- Performance Evaluation Policy
- Educational and Professional Reimbursement Policy

Performance Evaluation Policy

Policy Statement

OCERS employees will receive an annual evaluation of their job performance.

Purpose

The performance evaluation provides a means for discussing, planning and reviewing the performance of each employee, and performance goals for the future year.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by OCERS.

For County of Orange employees, OCERS will follow the performance evaluation process outlined in their applicable MOUs and PIP (Performance Incentive Program) for County of Orange Employees.

Provisions

OCERS shall maintain a system of employee performance ratings designed to give a fair evaluation of the quality and quantity of work performed by an employee. Such rating shall be prepared and recorded in the employee's personnel file for all regular and part-time employees at least once each year.

OCERS shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.

An employee has the right to submit written objections about his or her performance, and may have such objections documented in his or her personnel file.

When a performance evaluation is recorded in the personnel file of an employee, a copy of such evaluation, together with any related attachments shall be given to the employee.

Education and Professional Reimbursement Policy

Policy Statement

OCERS supports the continued professional development of its employees by offering the Educational and Professional Reimbursement Program.

Purpose

The Educational and Professional Reimbursement Program is designed to reimburse eligible employees for qualifying educational costs. OCERS encourages employees to continue their professional development by taking advantage of a variety of educational opportunities available to them.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. General Provisions

Educational opportunities will be eligible for reimbursement if they must have a reasonable potential for contributing to the achievement of OCERS' business objectives, and meet one or more of the following criteria:

- a. Relate to the work of the employee's position or occupation at OCERS;
- b. Prepare the employee to transition to an alternate OCERS/COUNTY OF ORANGE position or occupation; or
- c. Prepare the employee for advancement to positions of greater responsibility at OCERS/COUNTY OF ORANGE.

2. Eligible Employees

All full time regular, part time, regular and probationary employees with a performance rating in his/her job of "meets expectations" or above are eligible for reimbursement.

3. Reimbursement Eligibility

- a. The following types of educational courses are eligible for reimbursement:
 - i. Courses related to obtaining a degree (AA, BA, BS, Masters, Ph.D);
 - ii. Accredited certificate programs;
 - iii. Vocational skills programs;
 - iv. Courses related to obtaining or maintaining a business-related certification, license, or accreditation;
 - v. Courses that prepare one to take a test to obtain business-related certifications, licenses, or accreditation;

- vi. Professional conferences, conventions, and seminars that are related to business objectives;
 - vii. Fees related to obtaining and/or renewing a license, including special driver's licenses;
 - viii. Fees related to certifications or accreditations;
 - ix. Fees related to taking professional examinations; and,
 - x. Professional association membership fees.
- b. In general, courses taken through the program must be taken on the employee's time. At the discretion of the department head, a course may be taken on OCERS' time when the course specifically meets a business need and is not available during the employee's non-work hours.

4. Reimbursement Non-Eligibility

The following types of educational courses are not eligible for reimbursement:

- a. Courses taken to bring unsatisfactory performance up to an acceptable level;
- b. Courses taken to acquire skills or knowledge which were a minimum qualification for the employees' position.
- c. Courses that duplicate courses available for in-service training; and,
- d. Courses which are duplicative of training that the employee has already taken.

5. Nature of Reimbursement

- a. An employee may be reimbursed for required fees and costs related directly to the approved educational or professional course or program. This may include, but is not limited to, registration fees, books, class materials, lab fees, testing fees, parking, processing fees, etc.
- b. Expenses for travel, meals, and lodging are not reimbursable; however, the department head may authorize payment for these items when it meets the department's business needs and is budgeted in the department's travel expense budget.
- c. For degree programs, reimbursement shall be made to the employee upon completion of the course with a minimum final grade of a "C" or its equivalent in an undergraduate course, and a "B" or its equivalent in a graduate level course.
- d. Reimbursement for non-graded courses shall be made upon completion of an approved course and proof of payment.
- e. Tuition may be reimbursed up to three times for a failed test.
- f. If an employee is receiving reimbursement from another source that covers a portion of the cost, OCERS will only pay the remaining amount after other reimbursements are exhausted.
- g. The maximum reimbursement that may be received by eligible employees in one (1) fiscal year shall be \$3,000.

6. Request Procedure

- a. The employee shall apply for approval for reimbursement through normal supervisory channels on forms provided by Administrative Services.
- b. The employee's department head shall either approve or deny the application based on the criteria set forth in this policy.
- c. Upon completion of an approved course, or payment of fees for approved memberships, licenses, certifications, or accreditations, the employee shall furnish proof of payment and proof of grade (where applicable) to the department head.
- d. Upon proof of satisfactory grade and/or payment of fees, final approval for the reimbursement will be given by the department head.

Leave and Workplace Accommodation

This chapter contains the following policies related to different types of leave situations, from annual leave to workers' compensation:

- Interactive Process and Accommodations Policy
- Family and Medical Leave of Absence Policy
- Pregnancy Disability Leave Policy
- Lactation Policy
- Leave of Absence with Pay Policy
- Authorized Unpaid Leaves of Absence Policy
- Military Related Leaves of Absence Policy
- Military Family Leave Policy
- Catastrophic Leave Donation Policy
- Bereavement Leave Policy
- Voting, Jury and Witness Duty Policy
- Extra Help Sick Leave Policy

Interactive Process and Accommodations Policy

OCERS is committed to principles of equal employment opportunity for all employees.

Purpose

The purpose of the policy is to comply with state and federal law and to enable qualified individuals with disabilities to perform the essential functions of their jobs and to enjoy equal employment opportunities.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Eligibility

Any qualified individual with a physical disability, mental disability or medical condition that limits a major life activity, including his or her ability to work, is eligible for Reasonable Accommodations from OCERS to enable him or her to perform the Essential Job Functions.

2. Accommodation Request

- a. An employee may make a request for an accommodation or a family member, friend, health professional, or other representative may make a request on behalf of an employee. The request does not have to be made in writing and there are no specific words required to request an accommodation.
- b. Employees or their representatives are encouraged to make requests for Reasonable Accommodations directly to Administrative Services. Employees may also make a request for accommodations to his or her supervisor who must immediately relay the request to Administrative Services.
- c. Administrative Services will consider each request for Reasonable Accommodation and determine: (1) whether the accommodation is needed, (2) if needed, whether the accommodation would be effective, and (3) if effective, whether providing the Reasonable Accommodation would impose an undue hardship to OCERS.

3. Accommodations Absent a Request

- a. When OCERS is put on notice that an employee cannot perform his or her job duties due to a physical disability, mental disability, or medical condition, OCERS must engage an employee in the Interactive Process (see below), even when that employee has not made a request for an accommodation. OCERS can be put on notice that an employee may require an accommodation by a third party, by observation, or when a disabled employee has exhausted his/her protected leave (see OCERS Family and Medical Leave Policy) and his/her health care provider indicates the need for continued leave or other accommodations.

4. Interactive Process

- a. Upon an employee's request for an accommodation or acceptance of OCERS' offer to consider an accommodation, Administrative Services, with input from the employee's supervisor when appropriate, and County Human Resources where applicable, will initiate a dialogue with the employee to determine what accommodations are available to the employee. This dialogue may include:
 - i. A review of the employee's work limitations or restrictions that require accommodation;
 - ii. A review of the employee's Essential Job Functions;
 - iii. The identification of accommodations requested by the employee; and,
 - iv. The identification of potential accommodations available to OCERS and an assessment of the effectiveness that each would have in enabling the employee to perform the Essential Job Functions.
- b. OCERS will not ask an employee or his or her health care provider to reveal the diagnosis or underlying medical condition that requires an accommodation.
- c. An employee must cooperate with OCERS in the Interactive Process. Cooperation includes providing documentation regarding work restrictions or limitations, communicating with OCERS, and exchanging essential information without delay or obstruction of the process.
- d. An employee may refuse the offer of an accommodation that the employee deems unnecessary or not needed. However, the employee may not be qualified to remain in the job if he/she needs a Reasonable Accommodation to perform an essential function and refuses to accept a Reasonable Accommodation. Further, the rejection of a Reasonable Accommodation may terminate OCERS' obligation to engage further in the Interactive Process under certain circumstances.
- e. Administrative Services may require an employee to provide reasonable medical documentation of the need for accommodation. However, any genetic information is to be excluded when responding to requests for medical information, in accordance with the Genetic Information NonDiscrimination Act of 2008 (GINA).
- f. Upon identifying possible accommodations, Administrative Services may grant the employee's requested accommodation, or reject it after due consideration and initiate discussion with the employee regarding alternative accommodations.
- g. The Interactive Process will be documented.

5. Accommodation Request Grant

- a. While OCERS will consider an employee's preference for accommodation, OCERS has the right to implement an accommodation that is effective to assist the employee to perform his/her Essential Job Functions. OCERS has the ultimate discretion to choose between effective accommodations, and may choose the less expensive accommodation or the accommodation that is more feasible for it to provide.
- b. OCERS will not disclose to other employees that a disabled employee is receiving a Reasonable Accommodation unless a disclosure is necessary to effectuate the accommodation.

- c. For Reasonable Accommodations that extend beyond one year or beyond the date set forth in medical documentation submitted by an employee, OCERS may ask for medical documentation substantiating the need for continued accommodation on a yearly basis.
- d. If a granted accommodation is not effective, OCERS will resume the Interactive Process to attempt to identify other more effective accommodations.

6. Accommodation Request Denial

- a. The law does not require OCERS to provide any and every accommodation requested by an employee. OCERS is required to provide only those accommodations that would allow an employee to perform the Essential Job Functions of his/her position and/or to enjoy equal employment opportunity. Accommodations that would impose an undue hardship on OCERS' operations are not required.
- b. If OCERS denies an employee's requested accommodation, it will continue the Interactive Process to attempt to identify other possible accommodations.

7. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided in the Rehabilitation Act of 1973, the Americans with Disabilities Act ("ADA"), and the Fair Employment and Housing Act ("FEHA"). An employer is prohibited from discriminating or retaliating against an employee for requesting, accepting, or rejecting an accommodation.
- b. An employee may file a complaint with the U.S. Equal Opportunity Commission or the California Department of Fair Employment and Housing, or may bring a private lawsuit against an employer for failure to comply with the Rehabilitation Act, the ADA, or the FEHA.
- c. For questions about the exercise of rights pursuant to the Rehabilitation Act, the ADA, or the FEHA, contacts Administrative Services.

Related Topics

- 1. The Rehabilitation Act
- 2. The Americans with Disabilities Act
- 3. Fair Employment and Housing Act

Family and Medical Leave of Absence Policy

Policy Statement

OCERS provides eligible employees leave under the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). OCERS intends to administer this policy in accordance with all applicable state and federal law, as amended.

Purpose

The purpose of this policy is to provide leave to employees in compliance with FMLA and CFRA, and to inform employees and managers of their responsibilities in requesting or providing such leaves.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to all personnel who are employed by the following entities:

1. OCERS; and
2. Orange County (County employees who work at OCERS)

Provisions

1. Eligibility

- a. An employee is eligible for leave under the FMLA and CFRA if he/she:
 - i. Has been employed by OCERS for at least twelve months; and
 - ii. Has worked at least 1,250 hours during the 12-month period immediately preceding commencement of the leave.

2. Leave Entitlement

- a. FMLA: An employee is entitled to a leave of absence under the FMLA because of:
 - i. The employee's own serious health condition;
 - ii. The care of a child, spouse, or parent with a serious health condition;
 - iii. The birth of a child and to care for the child within the first year of birth; or
 - iv. The care of an adopted or foster child within the first year of placement with the employee.
- b. CFRA: An employee is entitled to a leave of absence under the CFRA for all of the reasons listed above for entitlement to FMLA leave. Unlike the FMLA leave, an employee is not entitled to leave due to pregnancy disability under the CFRA. (see OCERS Human Resources Policy: Pregnancy and Pregnancy Disability Leave). If an employee takes FMLA for pregnancy disability, the employee may still be eligible for an additional 12 weeks of leave under CFRA for other family and medical leave purposes. CFRA also provides an eligible employee with up to 12 weeks of leave to care for a domestic partner with a serious health condition.

3. Notice of Need for Leave

- a. **Employee's Obligations:** In order to obtain FMLA or CFRA leave, an employee must inform OCERS of his or her need for leave verbally or in writing. For all FMLA or CFRA leaves other than Military Exigency Leave (see OCERS Administrative Services Policy: Military Family Leave), an employee must give OCERS 30 calendar days' notice of his/her need for leave if that employee knows of the leave in advance. If an employee does not have advance notice of the need for FMLA or CFRA leave, that employee must provide OCERS with his/her need for leave as soon as practicable. Failure to comply with this provision may result in FMLA or CFRA leave being denied or delayed. However, if the need for leave results from an emergency or is otherwise unforeseeable, the leave will not be denied simply because an employee fails to provide advance notice.
- b. **OCERS Obligations:** Any OCERS manager or supervisor who receives notice that an employee may need time off for a FMLA or CFRA qualifying reason must immediately notify Administrative Services. Administrative Services will provide the employee with information about his/her rights under FMLA or CFRA and will determine whether the employee is eligible for FMLA or CFRA leave.

4. Leave Designation

- a. Upon an employee's request for FMLA or CFRA leave, Administrative Services will inform the employee within five (5) business days whether he/she is entitled to FMLA or CFRA leave. If Administrative Services determines that the employee is not eligible for FMLA or CFRA leave, the employee will be informed of the reasons for ineligibility, including any additional information required from the employee.
- b. OCERS is responsible for designating time off work, paid or unpaid, as FMLA, CFRA, both FMLA/CFRA leave. OCERS will give the employee notice of said designation. OCERS may conditionally designate time off work as FMLA, CFRA or both FMLA/CFRA leave pending receipt of appropriate medical certification and eligibility determination.
- c. If OCERS learns that an employee's absence was for a FMLA or CFRA leave-qualifying purpose after the absence has begun, OCERS may, in its discretion, retroactively designate the entire absence or some portion of the time off work as FMLA, CFRA, or both FMLA/CFRA leave, to the extent that the period qualified as FMLA, CFRA, or both FMLA/CFRA leave, and as long as a late designation did not cause an employee to take leave he/she would not have taken if he/she had known the leave would be counted against his/her FMLA/CFRA entitlement.
- d. An eligible employee who takes a leave for a FMLA or CFRA leave-qualifying reason cannot avoid having the time counted against his/her FMLA or CFRA entitlement by stating he/she does not want it considered as FMLA or CFRA leave.

5. Medical Certification

- a. OCERS may conditionally designate a leave for purposes of personal or family illness while notifying the employee that final FMLA/CFRA leave designation depends on the employee's timely submission of a satisfactory medical certification.
- b. An employee must obtain the treating Health Care Provider's medical certification and submit it to OCERS within 15 calendar days of OCERS's request for the medical certification, unless there are extenuating circumstances that make this impracticable despite the employee's diligent, good faith efforts or OCERS provides additional time.

Untimely submission of medical certification may result in denial of FMLA/CFRA protection for the employee's absence, making the absence subject to OCERS' Attendance Policy.

- c. An employee must provide a complete and sufficient medical certification to OCERS. If the employee does not, OCERS will provide the employee with seven (7) calendar days to cure the deficiency. If an employee fails to provide appropriate medical certification within the time limits, OCERS may deny FMLA/CFRA protection for the employee's absence and may impose penalties pursuant to the Attendance Policy or deny the employee reinstatement to work.
- d. For FMLA/CFRA, OCERS requires that the employee provide the following documentation:
 - i. Medical certification from the treating Health Care Provider that the employee (1) needs a period of leave because of a serious health condition affecting the employee or his/her child, parent, spouse, or domestic partner; (2) needs Intermittent Leave for the serious health condition of the employee or his/her child, parent, spouse, or domestic partner; or (3) needs a reduced work schedule for the employee's own serious health condition.
 - ii. Recertification by the treating Health Care Provider may be required every thirty (30) calendar days in connection with an employee's absence, unless the following apply:
 - 1. If the medical certification indicates that the minimum duration of the condition is more than 30 calendar days, OCERS may request recertification when that minimum duration has occurred;
 - 2. OCERS may request recertification in less than 30 calendar days if the employee requests an extension of leave; there has been a significant change in circumstances, such as the duration or frequency of the absences or the severity of the condition; or OCERS receives information that casts doubt on the employee's stated reason for the absence.
 - iii. The employee may be required, at OCERS's expense, to obtain the opinion of a second and third Health Care Provider supporting the need for FMLA/CFRA leave due to a serious health condition affecting the employee.
- e. The Genetic Information NonDiscrimination Act of 2008 (GINA) prohibits OCERS from requesting or requiring genetic information of an employee or family member of the employee, except as specifically allowed by this law (e.g., to certify the need for leave for family member's serious health condition). To comply with this GINA, OCERS asks that you and your Health Care Provider not provide any genetic information when responding to a request for medical information or a certification. "Genetic Information" as defined by GINA includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

6. Family Leave for Newborn or Newly Adopted Child

- a. FMLA/CFRA leave for the care of a newborn, or a newly placed adopted or foster child, must conclude within one year of the birth or placement. FMLA/CFRA leave for placement of an adopted or foster child may commence prior to the placement if the absence from work is required for the placement to proceed.

7. Length of Leave

- a. An employee may take up to 12 workweeks of FMLA/CFRA leave within a 12-month period. For all FMLA/CFRA leave other than military caregiver leave (See OCERS Military Family Leave Policy), OCERS calculates FMLA/CFRA leave using a 12- month rolling period which is measured backward from the date an employee uses FMLA/CFRA leave. Each time an employee takes FMLA/CFRA leave, the remaining leave entitlement is the balance of the 12 workweeks which the employee has not used during the immediately preceding 12 months.
- b. If an employee needs to extend his or her leave and her initial FMLA/CFRA leave was less than 12 weeks he/she must request an extension for FMLA/CFRA leave. The employee must notify OCERS as soon as he/she has knowledge of the need but not later than two business days before the anticipated return to work date, where the need for an extension is foreseeable. For extension of FMLA/CFRA leave relating to a serious health condition, employees must provide a Health Care Provider's recertification within 15 calendar days of OCERS' request, if practicable.
- c. If an employee has taken the entire 12 weeks FMLA/CFRA leave permitted under the law, and he/she still needs additional leave, he/she can request additional leave under the Authorized Unpaid Leaves of Absence Policy. The employee must notify OCERS as soon as he/she has knowledge of the need but not later than two business days before the anticipated return to work date, where the need for an extension is foreseeable. For extensions relating to a serious health condition, employees must provide a Health Care Provider's recertification within 15 calendar days of OCERS' request, if practicable.
- d. Upon expiration of the time needed for FMLA/CFRA leave set forth in any medical certification document and in the absence of recertification, the leave will automatically terminate and the employee will be expected to return to work, unless OCERS has approved additional non-FMLA/CFRA leave. If an employee fails to return to work within three days after the approved FMLA/CFRA leave or other approved leave expires, the employee may be subject to the penalties imposed by OCERS' Attendance Policy up to and including termination.
- e. OCERS may require an employee on leave to report periodically on the employee's status and intent to return to work.

8. Intermittent Leave or Reduced Work Schedule

- a. Intermittent Leave or a reduced work schedule may be approved with medical certification for an employee's serious health condition or for the employee to care for a child, parent, spouse, or domestic partner (under the CFRA only) with a serious health condition.
- b. For Intermittent Leave or leave on a reduced work schedule, there must be a medical need for leave and it must be that such medical need can be best met through an intermittent or reduced leave schedule. OCERS may request that the treating Health Care

Provider verify that an employee's pattern of absences is consistent with the need for the Intermittent Leave.

- c. When an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken is counted toward the 12 weeks of leave to which an employee is entitled.
- d. An Exempt Employee on FMLA/CFRA leave with medical certification stating that he/she will need to work reduced hours may have his/her salary reduced proportionately for the hours not worked. Employees may substitute accrued annual leave to avoid the loss of pay.
- e. Under CFRA, an employee who wishes to take Intermittent Leave to care for and bond with a child within one year of the birth or placement of the child must take the leave in increments of two weeks or more at a time, with the exception that leaves of less than two weeks can be taken twice during the year.

9. Compensation and Benefits Continuation during FMLA/CFRA Leave

- a. An employee is required to use his/her accrued Annual Leave and where applicable, vacation and sick leave during FMLA/CFRA leave.
- b. OCERS will maintain health care benefits while an employee is on FMLA/CFRA leave, whether it is paid or unpaid, for a maximum of 12 workweeks in a 12-month period. Health care benefits coverage may be extended because the employee is also entitled to additional leave under the Pregnancy Disability Leave Law (See OCERS Pregnancy and Pregnancy Disability Leave Policy), or other OCERS-approved leaves.

10. Continuation of Health Coverage (COBRA)

- a. If an employee exhausts all eligibility for continuation of OCERS-paid health care benefits, the employee may extend those benefits at his/her own expense through COBRA.

11. Coordination with Other Leaves

- a. FMLA and CFRA leave will run concurrently with all other paid and unpaid family and medical-related leaves when determining the maximum duration of the leaves. However, CFRA leave does not run concurrently with an FMLA Pregnancy Disability Leave (See Pregnancy and Pregnancy Disability Leave Policy).
- b. CFRA leave to care for a domestic partner with a serious health condition does not count as FMLA leave.
- c. FMLA and CFRA leaves run concurrently with occupational leaves of absence when an employee has a serious health condition that meets the requirements for an Occupational Medical Leave (See Occupational Medical Leave Policy).
- d. FMLA and CFRA leave runs concurrently with Kin Care under the California Employment Sick Leave Act when it is for an FMLA and CFRA-qualifying reason.

12. Return from Leave and Reinstatement

- a. OCERS encourages employees returning from leave to provide his/her manager with at least 14 calendar days' advance notice of the date on which he/she intends to return to work. OCERS requires reasonable notice, which is typically at least two business days, if there is a change in the date on which the employee will be ready and able to return to

work. If the employee provides less than 14 calendar days' advance notice of the intended date of return to work, OCERS may delay the date on which it reinstates the employee in order to allow two additional business days in which to make arrangements, such as scheduling adjustments for the employee's return to work.

- b. When FMLA or CFRA leave is taken for an employee's own serious health condition and the leave extends for a period of 14 days or more, the employee will be required to submit medical certification from his/her Health Care Provider at or before the date of return to work indicating that the employee is fit to return to work either with or without work restrictions. Delay in providing a certification may result in OCERS delaying the employee's return to work until such time as the certificate is obtained. If the employee fails or refuses to provide a return to work certification, OCERS may deny reinstatement and terminate his/her employment.
- c. If an employee has complied with his/her obligations under this policy, OCERS will reinstate the employee to his/her former position, if the position is available. If the former position is not available, the employee will be reinstated to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An equivalent position will involve the same or substantially the same duties, responsibilities, and authority, and will entail substantially the same skills and efforts. OCERS may not reinstate an employee to his/her former position or an equivalent position if OCERS' business conditions resulted in the elimination of the employee's former position during the leave or the employee would not otherwise have continued to be employed had he/she continued in active employment.
- d. An employee's use of FMLA/CFRA leave will not result in the loss of any employment benefit that the employee earned or was entitled to before commencing FMLA or CFRA leave.
- e. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA/CFRA leave period.
- f. A Key Employee who takes a Family Medical Leave of Absence may be denied reinstatement if this would cause substantial and grievous economic injury to OCERS' operations.

13. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided in the Family and Medical Leave Act of 1993 and applicable California leave laws. An employer is prohibited from interfering with an eligible employee's right to take either an FMLA or CFRA leave or discriminating or retaliating against an employee for taking such a leave or for involvement in any proceeding under or relating to the FMLA or CFRA.
- b. An employee may file a complaint with the U.S. Department of Labor, the U.S. Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing, or may bring a private lawsuit against an employer for failure to comply with the FMLA or CFRA.
- c. For questions about the exercise of FMLA or CFRA rights, contact Administrative Services.

Related Topics

1. OCERS Pregnancy and Pregnancy Disability Leave Policy
2. OCERS Attendance Policy
3. OCERS Military-Related Leaves of Absence Policy
4. OCERS Workplace Injuries and Workers' Compensation
5. MOUs, where applicable

Pregnancy Disability Leave Policy

Policy Statement

OCERS provides eligible employees pregnancy disability leave under the Family Medical Leave Act (FMLA), the Fair Employment and Housing Act (FEHA), and the California Pregnancy Disability Leave Regulations (PDL). OCERS intends to administer this policy in accordance with all applicable state and federal law.

Purpose

The purpose of this policy is to provide pregnancy disability leave to employees in compliance with the FMLA, the FEHA, the PDL, and to inform employees and managers of their responsibilities in requesting or providing such leaves.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by

1. OCERS; and
2. County of Orange (County Employees who work at OCERS)

Provisions

1. Eligibility

- a. FMLA: An employee is eligible for leave under the FMLA if she:
 - i. Has been employed by OCERS for at least twelve months; and
 - ii. Has worked at least 1250 hours during the 12-month period immediately preceding commencement of the leave
- b. PDL: An employee is eligible for pregnancy disability leave upon the commencement of employment.

2. Leave Entitlement

- a. FMLA: An employee who is Disabled by Pregnancy, childbirth or related medical condition may take up to 12 workweeks of leave during a 12-month period.
- b. PDL:
 - i. An employee who is Disabled by Pregnancy, childbirth or related medical condition is entitled to up to four months (17-1/3 weeks) of leave under PDL. Up to twelve (12) workweeks of this time is concurrently counted as leave under FMLA but is not counted as leave under California Family Rights Act (CFRA) (See OCERS Family and Medical Leave Policy). An employee who has taken PDL is entitled to an additional twelve (12) workweeks under CFRA for other family and medical leave purposes such as taking care of the newborn child within the first year of birth.
 - ii. An employee affected by pregnancy or a related medical condition is eligible to transfer to a less strenuous position (if one is available) or to be given a

reasonable accommodation, if such a transfer or accommodation is based on the advice of her Health Care Provider.

3. Notice of Need for Leave

- a. Employee's Obligations:
 - i. An employee must provide OCERS with at least 30 calendar days' advance notice of the date on which a PDL leave, transfer, or reasonable accommodation will begin. If an employee does not have advance notice, that employee must notify OCERS of her need for leave as soon as practicable. Failure to comply with this provision may result in the delay of a leave, an accommodation, or a transfer but under no circumstances shall it result in the delay of such a request if doing so would endanger an employee's health or pregnancy. In addition, if the need for leave, transfer or an accommodation results from an emergency or is otherwise unforeseeable, the leave, transfer or accommodation will not be denied simply because an employee failed to provide advance notice.
- b. OCERS Obligations: Any OCERS manager or supervisor who receives notice that an employee may need time off for a PDL qualifying reason must immediately notify Administrative Services. Administrative Services will provide to the employee information about her rights under PDL and will determine whether the employee is eligible for leave.

4. Leave Designation

- a. Upon an employee's request for PDL leave, transfer, or reasonable accommodation, the Director of Administrative Services will inform the employee within five (5) business days whether she is entitled to the leave, transfer or accommodation. If the Director of Administrative Services determines that the employee is not eligible, the employee will be informed of the reasons for ineligibility, including any additional information required from the employee. The employee may appeal the decision to the Director of Administrative Services within 15 days of notice of the denial. Upon receipt of an appeal, the Director of Administrative Services shall provide the appeal to the Chief Executive Officer or to the Chief Executive Officer's designee for final determination.
- b. OCERS is responsible for designating time off work, paid or unpaid, as FMLA/PDL leave, and for giving the employee notice of whether the time off has been designated as FMLA/PDL leave or not. OCERS may conditionally designate time off work as FMLA/PDL leave pending receipt of appropriate medical certification and eligibility determination.
- c. If OCERS learns that an employee's absence was for a FMLA/PDL leave-qualifying purpose after the absence has begun, OCERS may, in its discretion, retroactively designate the entire absence or some portion of the time off work as FMLA/PDL leave, to the extent that the period qualified as FMLA/PDL leave, and as long as a late designation did not cause an employee to take leave she would not have taken if she had known the leave would be counted against her FMLA/PDL entitlement.
- d. An eligible employee who takes a leave for a FMLA/PDL leave-qualifying reason cannot avoid having the time counted against her FMLA/PDL entitlement by stating she does not want it considered as FMLA/PDL leave.

5. Medical Certification

- a. An employee requesting PDL leave, a transfer, or a reasonable accommodation must provide OCERS with a written medical certification from her Health Care Provider.
- b. The medical certification from the treating Health Care Provider must state that the employee needs a period of leave, a transfer, a reasonable accommodation, Intermittent Leave, or a reduced work schedule due to her pregnancy disability, childbirth or a related medical condition. The medical certification should also set forth the duration of said leave, transfer or reasonable accommodation.
- c. An employee must obtain the treating Health Care Provider's medical certification and submit it to OCERS within 15 calendar days of OCERS's request for the medical certification, unless there are extenuating circumstances that make this impracticable despite the employee's diligent, good faith efforts or if OCERS provides additional time. Untimely submission of a medical certification may result in denial of FMLA/PDL protection for the employee's absence, making the absence subject to OCERS' Attendance Policy.
- d. An employee must provide a complete and sufficient medical certification to OCERS. If complete and sufficient medical certification is not provided, OCERS will grant the employee seven (7) calendar days to cure the deficiency. If an employee fails to provide appropriate medical certification within the time limits, OCERS may deny FMLA/PDL protection for the employee's absence and may impose penalties pursuant to the Attendance Policy or deny the employee reinstatement to work.
- e. Recertification by the treating Health Care Provider may be required every thirty (30) calendar days in connection with an employee's leave, transfer or reasonable accommodation, unless the following applies:
 - i. If the medical certification indicates that the minimum duration of the condition is more than 30 calendar days, OCERS may request recertification when that minimum duration expires;
 - ii. OCERS may request recertification in less than 30 calendar days if the employee requests an extension of leave; there has been a significant change in circumstances, such as the duration or frequency of the absences or the severity of the condition; or OCERS receives information that casts doubt on the employee's stated reason for the absence.
- f. The employee may be required, at OCERS' expense, to obtain the opinion of a second and third Health Care Provider supporting the need for PDL leave due to a pregnancy disability, childbirth or a related medical condition affecting the employee.
- g. The Genetic Information NonDiscrimination Act of 2008 (GINA) prohibits OCERS from requesting or requiring genetic information of an employee or family member of the employee, except as specifically allowed by GINA (e.g., to certify the need for leave for family member's serious health condition). To comply with this law, OCERS requests that you and your Health Care Provider omit any genetic information when responding to a request for medical information or a certification. "Genetic Information" as defined by GINA includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an

individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

6. Extending Leave

- a. If an employee's initial request for PDL leave was less than the four months (17-1/3 weeks) permitted under the law, and she needs to extend her leave, she can request an extension of the PDL leave. The employee must notify OCERS as soon as she has knowledge of the need, but not later than two (2) business days before the anticipated return to work date, where the need for an extension is foreseeable. The employee must provide a Health Care Provider's recertification within 15 calendar days of OCERS' request, if practicable.
- b. If an employee has taken the entire four months (17-1/3 weeks) PDL leave permitted under the law and still needs additional leave, she can request additional leave under the Authorized Unpaid Leaves of Absence Policy. The employee must notify OCERS as soon as she has knowledge of the need, but not later than two (2) business days before the anticipated return to work date, where the need for an extension is foreseeable. The employee must provide a Health Care Provider's recertification within 15 calendar days of OCERS' request, if practicable.
- c. Upon expiration of the time needed for PDL leave as set forth in any medical certification or a recertification, the leave will automatically terminate and the employee will be expected to return to work, unless OCERS has approved additional non-PDL leave. If an employee fails to return to work within three (3) days after the approved PDL leave or other approved leave expires, the employee may be subject to the penalties imposed by OCERS Attendance Policy up to and including termination.
- d. OCERS may require an employee on leave to report periodically on the employee's status and intent to return to work.

7. Intermittent Leave or Reduced Work Schedule

- a. Intermittent Leave or a reduced work schedule may be approved with medical certification for an employee's condition related to pregnancy disability, childbirth, or a related medical condition.
- b. For Intermittent Leave or leave on a reduced work schedule, there must be a medical need for leave and it must be that such medical need can be best met through an intermittent or reduced leave schedule. OCERS may request that the treating Health Care Provider verify that an employee's pattern of absences is consistent with the need for the Intermittent Leave.
- c. When an employee takes leave on an intermittent or reduced leave schedule, only the amount of leave actually taken is counted toward the four months (17-1/3 weeks) of leave to which an employee is entitled.
- d. Exempt employee on PDL leave with medical certification stating that she will need to work reduced hours may have her salary reduced proportionately for the hours not worked. Employees may substitute accrued annual leave benefits to avoid the loss of pay.

8. Compensation and Benefits Continuation during PDL Leave

- a. An employee may elect, at her option, to use her accrued annual leave during PDL leave.

- b. OCERS will maintain health care benefits while an employee is on PDL leave, whether it is paid or unpaid for a maximum of four months (17-1/3 weeks). Benefits coverage may be extended because the employee is also entitled to additional leave under other OCERS-approved leaves.
- c. If an employee exhausts all eligibility for continuation of OCERS-paid health care benefits, the employee may extend those benefits at her own expense through COBRA.

9. Coordination with Other Leaves

- a. FMLA and CFRA leave will run concurrent with all other paid and unpaid family and medical-related leaves when determining the maximum duration of the leaves. However, CFRA leave does not run concurrently with PDL.

10. Return from Leave and Reinstatement

- a. OCERS encourages employees returning from leave to provide her manager with at least fourteen (14) calendar days advance notice of the date on which she intends to return to work. OCERS requires reasonable notice, which is typically two (2) business days, if there is a change in the date on which the employee will be ready and able to return to work. If the employee provides less notice of the intended return to work, OCERS may delay the date on which it reinstates the employee in order to allow two (2) business days in which to make arrangements, such as scheduling adjustments, for the employee's return to work.
- b. If an employee's PDL leave exceeded 14 days, the employee will be required to submit a medical certification from the employee's Health Care Provider at or before the date of return to work, indicating that the employee is fit to return to work either with or without work restrictions. Delay in providing a certification may result in OCERS delaying the employee's return to work until such time as the certificate is obtained; if the employee fails or refuses to provide a return to work certification, OCERS may deny reinstatement and terminate employment.
- c. Upon return from PDL leave, an employee will be reinstated to the same position she held prior to commencing leave or to a comparable position. If, however, employment in that position would have ceased even if she had not taken PDL (e.g., limited term positions), she will not be returned to her same position following PDL. An employee returning from PDL whose employment would have ceased even if she had not taken PDL may be placed in a comparable position with equivalent benefits, pay and other terms and conditions of employment, depending upon the reason why her employment would not have continued had she remained in active employment. Such placement in a comparable position should occur on the agreed upon date the employee was to return from PDL. If no return date had been agreed to, it should occur within two (2) business days of the notice of return. If not possible within two (2) business days, then the employee should be returned to a comparable position as soon as possible. If a comparable position for the returning employee is available within 60 calendar days following her scheduled return date, then reinstatement to the comparable position must occur. During this 60-day period, the employee will be notified of all comparable positions that are available; however, the employee must be qualified to perform the job duties of the comparable position. Employees whose leave extended beyond PDL under other available leaves, such

as CFRA, may be returned to a comparable position in accordance with policies applicable to such other available leaves.

- d. An employee's use of PDL leave will not result in the loss of any employment benefit that the employee earned or was entitled to before commencing her PDL leave.
- e. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the PDL leave period.

11. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided in the Family and Medical Leave Act of 1993 and applicable California leave laws. An employer is prohibited from interfering with an eligible employee's right to take an FMLA, CFRA, or PDL leave or discriminating or retaliating against an employee for taking such a leave or for involvement in any proceeding under or relating to the FMLA, CFRA, or PDL.
- b. An employee may file a complaint with the U.S. Department of Labor, the U.S. Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing, or may bring a private lawsuit against an employer for failure to comply with the FMLA, CFRA, or PDL.

Related Topics

- 1. OCERS Family and Medical Leave Policy
- 2. OCERS Attendance Policy
- 3. OCERS Authorized Unpaid Leaves of Absence
- 4. County Employees should see MOUs, where applicable

Lactation Policy

Policy Statement

OCERS wishes to provide employees who desire to express breast milk while at work with a private and comfortable space to do so.

Purpose

The purpose of this policy is to comply with state and federal law regarding lactation and lactation accommodations in the workplace.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS).

Provisions

1. Lactation Accommodation

- a. Employees who wish to express breast milk while at work will be given the opportunity to do so. All such requests should be made to Administrative Services.
- b. A private area that is shielded from view and intrusion from co-workers and the public will be provided to an employee who wishes to express breast milk. When an employee has a private office, it may be used for this purpose.
- c. California and Federal laws provide employees the right to break time to express breast milk. In accordance with this law, OCERS will provide reasonable break time for an employee to express breast milk. The break time is available each time the employee has a need to express breast milk.
- d. Exempt Employees may express milk during work time each time the employee has a need to do so.
- e. Non-Exempt Employees may express breast milk during work time each time the employee has a need to do so. When a Non-Exempt employee uses her normal rest period to express breast milk, the time will be paid. If a Non-Exempt employee uses time in addition to her normal rest period to express breast milk, that additional time may be unpaid.

2. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided in the Americans with Disabilities Act (ADA) and the Fair Employment and Housing Act ("FEHA"). An employer is prohibited from discriminating or retaliating against an employee for exercising their rights under these acts.
- b. An employee may file a complaint with the U.S. Equal Opportunity Commission or the California Department of Fair Employment and Housing.

Related Topics

OCERS Family and Medical Leave Policy

Leave of Absence with Pay Policy

Policy Statement

OCERS provides eligible employees a leave of absence with pay.

Purpose

The purpose of this policy is to specify the circumstances under which an employee may be granted a leave of absence with pay.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by OCERS.

Provisions

Eligibility

1. The Chief Executive Officer may authorize an employee to be absent with pay from his or her regular work area for reasons other than physical or mental illness for a period of time not to exceed six (6) months if the Chief Executive Officer finds that such absence:
 - a. Contributes to the employee's effectiveness in his or her assigned duties and responsibilities; or
 - b. Contributes to the functions and goals of OCERS; or
 - c. Is necessary for other reasons.
2. An employee may not be absent with pay from his or her regular work area in excess of (a) 120 regular scheduled working days or (b) six (6) months without the approval of the Board of Retirement.

Authorized Unpaid Leaves of Absence Policy

Policy Statement

OCERS provides eligible employees leaves of absence without pay under limited circumstances in addition to Family, Medical, and Pregnancy leave.

Purpose

The purpose of this policy is to describe the process for an employee to request a leave of absence without pay.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by OCERS.

Provisions

1. Departmental leave

- a. Employees may request a departmental leave for a period of time not to exceed 15 calendar days. Departmental leaves shall be without pay.
- b. The grant of a departmental leave shall be at the sole discretion of OCERS; and department head.
- c. An employee who is granted departmental leave is required to use all of his or her Annual Leave hours and unused compensatory time prior to commencing a departmental leave.
- d. An employee who leaves OCERS employment and is re-employed by OCERS within 15 calendar days shall be deemed to have been on departmental leave for such period of time.

2. Official leave

- a. An employee may request an official leave of absence for a period of time not to exceed one (1) year. Such a leave may be authorized only after an employee's completion of departmental leave and after all unused compensatory time and Annual Leave balances have been exhausted. Official leaves shall be without pay.
- b. An official leave may be extended for up to an additional year.
- c. The grant or extension of an official leave shall be at the sole discretion of OCERS and OCERS' CEO.
- d. An employee on official leave shall provide OCERS with at least two (2) weeks' notice of his/her intended return to work date. OCERS shall not be required to return an employee to work absent such notice, but OCERS may waive or reduce the notice period at its sole discretion.

3. Non-Occupational Disability Leave

- a. An employee may request a non-occupational disability leave of absence for a period of time not to exceed six (6) months for a non-occupational disability.

- b. To be eligible for a non-occupational disability leave, an employee must:
 - i. Provide OCERS with a medical statement certifying that the employee is disabled and unable to return to work, and specifying an expected return to work date;
 - ii. Use all accrued annual leave and compensatory time prior to beginning the Leave and,
 - iii. Have been paid by OCERS for at least 6,240 regularly scheduled hours prior to the beginning of the leave unless otherwise required by law.
- c. An employee who desires additional leave after exhaustion of the non-occupational disability leave, may request an official leave of absence.
- d. Unless otherwise required by law, an employee shall not be entitled to more than one (1) non-occupational disability Leave in a 12 month period.

4. Procedure for Requesting a Leave Without Pay

- a. An employee must submit a request for a leave without pay or an extension of an existing leave in writing to his Director of Administrative Services and to his or her supervisor. The request must state the general reason for the leave request or for an extension of an existing leave (e.g., medical, family, educational pursuits, etc).
- b. Upon receipt and review of the request, the Director of Administrative Services will inform the employee in writing whether the leave request is granted, modified, or denied.
- c. If a request for leave is modified or denied, the employee may appeal the decision to the CEO (or the CEO designee) within 15 days of notice of the denial or modification.
- d. An employee who fails to return to work for three (3) consecutive days after the expiration or extension of authorized leave, will be considered to have abandoned his/her job and to have voluntarily resigned, unless a reasonable excuse is offered and accepted by the Chief Executive Officer.

Related Topics

- 1. OCERS Family and Medical Leave Policy
- 2. OCERS Pregnancy Leave Policy
- 3. OCERS Annual Leave Policy
- 4. OCERS Compensatory Time Policy

Military Related Leaves of Absences Policy

Policy Statement

Military Leaves of absence are granted to eligible employees who are absent from employment in order to perform duty on either a voluntary or involuntary basis in the United States Uniformed Services, the California National Guard, or the reserves. OCERS intends to administer this policy in accordance with all applicable state and federal laws as amended.

Purpose

The purpose of this policy is to set forth the rights and responsibilities of military service members for military leave. Exceptions to this policy will occur whenever necessary to comply with applicable laws.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by

1. OCERS; and
2. County of Orange (County Employees who work at OCERS)

Provisions

1. Military Leave

- a. **Eligibility:** Federal and state mandated-military leaves of absence are granted to members of the United States Uniformed Services, the California National Guard, or the reserves. To be eligible, you must submit written verification from the appropriate military authority. Such leaves will be granted in accordance with state and federal law.
- b. **Pay:** An employee who has been employed with OCERS for a year prior to the commencement of a military leave is entitled to receive their regular pay for 30 days following the commencement of a military leave.
- c. **Benefits:** When an employee goes on Military Leave for more than 30 days, any applicable group insurance (existing provisions will apply) continues for 90 days following the commencement of unpaid Military Leave. Beyond the 90 days, the employee may elect to continue the same group health care coverage, including dependent coverage, if applicable, for up to 24 months at his/her own expense.
- d. **Use of Annual Leave:** An employee may elect to use earned Annual Leave at the beginning of unpaid military service or may retain earned and accrued Annual Leave for use upon return from the leave. The employee must provide this request/election in writing to his/her supervisor prior to the start of the military leave.
- e. **Reinstatement:** At the conclusion of military service, an employee will be reinstated upon giving notice of his/her intent to return to work by either (1) reporting to work or (2) submitting a timely oral or written request to OCERS for reinstatement within ninety (90) days after his/her release from active duty or any extended period required by law. The Military Leave will expire upon the employee's failure to request reinstatement or return to work in a timely manner after conclusion of service.

i. Reinstatement Procedure

1. An employee must give advance verbal or written notice of military service in order to be eligible for reemployment rights and benefits upon completion of military service, unless giving notice is precluded by military necessity or circumstances that make it impossible or unreasonable to give such notice. The advance notice should be given as soon as the employee knows of the military service dates and the employee should submit to the supervisor a copy of the military orders, if available, regarding the dates and duration of the leave.
2. An employee returning from military service of less than 31 days' duration must report to work not later than the beginning of the second full regularly scheduled work period on the first calendar day following completion of service unless doing so is impractical.
3. An employee returning from military service of more than 30 days' duration must submit a request for reemployment:
 - a. No later than 14 days after the completion of service of less than 181 days.
 - b. No later than 90 days after completion of service of more than 180 days.
4. An employee who requests reemployment must provide, at OCERS' request, information to confirm the timeliness of the request, the length of military service, and that discharge from the service was not disqualifying.

ii. Position upon Reemployment

1. If the military service was less than 91 days, the individual will be promptly reemployed in the following order of priority:
 - a. In the position he or she would have attained with reasonable certainty if continuously employed without the interruption of military service.
 - b. However, if the individual is not qualified to perform the duties of such position after reasonable training efforts by the Employer, reinstatement will be to the same position the person held on the date of commencement of military service.
 - c. If an individual returning from military service is not qualified to perform any of the positions described above, the individual will be reinstated to any other position that is the nearest approximation to one of those positions which the person is qualified to perform.
2. If the military service was more than 90 days, the individual will be promptly reemployed in the following order of priority:

- a. In the position he or she would have attained with reasonable certainty if continuously employed without the interruption of military service or a position of like Seniority, status, and pay;
 - b. However, if the individual is not qualified to perform the duties of either such position after reasonable training efforts by the Employer, reinstatement will be to the same position the person held on the date of commencement of military service, or a position of like Seniority, status and pay.
 - i. Determinations of status are based on applicable collective bargaining agreements, employer policy, or employer practices and could include opportunities for advancement, general working conditions, job location, shift assignment, rank, responsibility and geographical location.
 - ii. If an individual returning from military service is not qualified to perform any of the positions described above, the individual will be reinstated to any other position that is the nearest approximation to one of those positions which the person is qualified to perform.
3. If, due to a military related disability or aggravation of a disability, an individual is unable to perform the job he or she would have attained if continuously employed, and if reasonable efforts to accommodate the disability fail, the individual will be reinstated to any other position which he or she is qualified or could reasonably be qualified to perform that is equivalent in Seniority, status, and pay. If there is no such position, the individual will be reemployed in a position which is the nearest approximation in terms of Seniority, status, and pay.
- iii. Rights and Benefits upon Reemployment
- 1. Upon reemployment after returning from military service, the individual is entitled to the Seniority, status and rate of pay, and any other rights and benefits determined by Seniority, that he/she would have attained with reasonable certainty had the individual remained continuously employed. The rate of pay must be determined by taking into account any pay increases, differentials, step increases, merit increases, or periodic increases that would have been attained with reasonable certainty had the employee remained continuously employed.
 - 2. Employees serving in the military are treated as if they are on a leave of absence and are entitled to the same rights and benefits not based on Seniority as are provided to employees on non-Military Leaves of absence.
 - 3. Employees are entitled to be reinstated in the Employer's health plan upon reemployment even if they did not elect to continue coverage during the leave of absence. Generally, reinstatement will be without

any waiting periods or preexisting condition limitations, except for service-related illnesses or injuries.

4. During any portion of Military Leave that is unpaid for more than (30) days, the employee ceases to earn or accrue Annual Leave. Earnings or accrual resumes on the employee's date of return from Military Leave. The accrual rate upon return is the rate that would have been attained if the employee had remained continuously employed.
5. An employee returning from a period of military service of 31 to one hundred eighty (180) days may not be discharged without cause for a period of six (6) months after reemployment. An employee returning from a period of service which exceeds 180 days may not be discharged without cause for a period of 12 months after reemployment.
6. Military service will not be considered a break in employment service for purposes of applicable pension plans, and military service will be considered service with the Employer for vesting and pension benefit accrual purposes.

2. California Civil Air Patrol Leave (AB 485)

- a. **Eligibility:** An employee with at least ninety 90 days of employment and who is a volunteer member of the California Wing of the Civil Air Patrol ("CAP"), a civilian auxiliary of the U.S. Air Force, is eligible for Civil Air Patrol Leave.
- b. **Leave Entitlement:** An eligible employee is provided up to 10 days per calendar year, with a three (3)-day limit per emergency.
- c. **Qualifying Reasons:** The employee is covered only when he or she is called to respond to "an emergency operational mission." This likely includes search and rescue missions and disaster relief efforts, but not non-emergency duties.
- d. **Notice:** The law requires the employee to provide as much notice as possible of the intended dates upon which the leave would begin and end.
- e. **Certification:** To be eligible for the leave, the employee must provide documentation of the need for the leave.
- f. **Paid or Unpaid Time Off:** An employee may elect, but is not required to use earned annual leave while on CAP Leave. If the employee wishes to use paid time off, the employee may be required to provide a written request to his/her manager at the time the leave is requested.
- g. **Return from Leave and Reinstatement:** An employee who takes CAP Leave will be restored to the position he or she held when the leave began.

3. Compliance with the Law

The provisions stated in this policy are subject to such other terms and conditions as are provided in the Military and Veterans Code, the Uniformed Services Employment and Reemployment Rights Act (USERRA) and California law (e.g., the California Military and Veterans Code).

- a. Exceptions to this policy will occur whenever necessary to comply with applicable laws.

- b. State and federal law prohibit employers from discharging or otherwise discriminating against an employee because he or she is a member of the state or U.S. military or is ordered to duty or training.

Related Topics

1. OCERS Family and Medical Leave of Absence Policy
2. OCERS Attendance Policy
3. Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
4. Veteran Benefits Improvement Act of 2004
5. California Civil Air Patrol Leave
6. Military and Veterans Code, Sections 395 et seq.

Military Family Leave Policy

Policy Statement

OCERS grants eligible employees leave to care for a covered service member with a serious injury or illness and/or military exigency leave to tend to issues that arise due to a covered military member's active status. OCERS intends to administer this policy in accordance with all applicable state and federal laws, as amended.

Purpose

The purpose of this policy is to set forth the rights and responsibilities of employees seeking military caregiver leave or military exigency leave. Exceptions to this policy will occur whenever necessary to comply with applicable laws.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to all personnel who are employed by the following entities:

1. OCERS; and
2. Orange County (i.e., County employees who work at OCERS)

Provisions

1. Military Caregiver Leave

- a. Employees eligible for leave under the Family and Medical Leave Act ("FMLA" – see OCERS Family and Medical Leave Policy) may take up to 26 workweeks of FMLA leave during a "single 12-month period" to care for a covered service member with a serious injury or illness. The "single 12-month period" begins on the first day the employee takes military caregiver leave and ends 12 months after that date.
- b. In order to be eligible for military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of a covered service member.
 - i. A son or daughter means the covered service member's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.
 - ii. A parent means a covered service member's biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This definition does not include parents "in law."
 - iii. The next of kin of a covered service member is the nearest blood relative, other than the covered service member's spouse, parent, son, or daughter.
- c. A covered service member includes:
 - i. A current member of the Regular Armed Forces, National Guard or Reserves who is undergoing medical treatment, recuperation, therapy, is in outpatient status or on the temporary disability retired list, for a serious injury or illness incurred in the line of active duty; and

- ii. A veteran who has left military service (regular Armed Services, National Guard or Reserves) at any time during the five-year period prior to the first date the employee takes FMLA leave to care for the veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that the veteran incurred in the line of active duty, and that manifested itself before or after the service member became a veteran.
- d. A serious injury or illness is one that is incurred in the line of duty while on active duty, or that existed before the service member's active duty, but which was aggravated by service in the line of duty while on active duty, and that:
 - i. May render the service member medically unfit to perform the duties of his or her office, grade, rank or rating; or
 - ii. Is a physical or mental condition for which the veteran received a U.S. Department of Veterans Affairs Service-Related Disability Rating of 50% or higher; or
 - iii. A physical or mental condition that substantially impairs the veteran's ability to secure or follow gainful employment; or
 - iv. An injury, including a psychological injury, for which the veteran has been enrolled in the VA's program of Comprehensive Assistance for Family Caregivers.
- e. Military caregiver leave applies on a per-covered service member, per-injury basis such that an eligible employee may be entitled to take more than one period of twenty-six (26) workweeks of leave if the leave is to care for different covered service members or to care for the same service member with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any single 12-month period.
- f. Entitlement to military caregiver leave is in addition to FMLA leave for other covered reasons. However, if an employee requires time off during a single 12-month period for leave as a caregiver for an injured service member and also for a different qualifying reason (for example, birth/adoption of a child, or the employee's own serious health condition), the maximum amount of time off for all types of FMLA leave during that 12-month period is 26 weeks. In no event may an employee take more than twenty-six (26) weeks of FMLA leave in a single twelve 12-month period, regardless of the reason(s) for the leave.
- g. If a husband and wife are both employed by OCERS and take military caregiver leave, they are limited to a maximum combined total of 26 weeks for all types of FMLA leave.

2. Military Exigency Leave

- a. FMLA-eligible employees may take up to 12 workweeks of FMLA leave while the employee's spouse, son, daughter or parent (the "covered military member") is on active duty or call to active duty status. Military exigency leave does not extend to family members of service members called to active duty by a State.
- b. "Covered military members" are 1) members of the Reserves and/or National Guard who are called to active duty in connection with a national emergency, or a military

action, operation, or hostilities outside the U.S., and 2) members of the regular Armed Forces who are deployed to an assignment outside the U.S.

- c. Military exigency leave may be taken for one or more of the following qualifying exigencies:
 - i. To address any issues that arise when there is short-notice of seven (7) calendar days or less prior to the date of deployment. Leave taken for this purpose can be used for a period of seven calendar days beginning on the date the covered military member is notified of an impending call or order to active duty.
 - ii. To attend to childcare and school activities pertaining to the covered military member's child.
 - iii. To attend to financial and legal arrangements for the covered military member.
 - iv. To attend counseling that is needed due to the covered military member's active duty or call to active duty.
 - v. To spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment. Eligible employees may take up to 15 days of leave for each instance of rest and recuperation.
 - vi. To attend post-deployment activities during the period of 90 days following the termination of the covered military member's active duty status or to address issues that arise from the death of a covered military member while on active duty status.
 - vii. To provide care for the covered military member's parent who is incapable of self-care by arranging alternative care when a change in the existing care arrangement is needed; caring for the parent on an urgent, immediate need basis; admitting or transferring the parent to a care facility; and attending meetings with staff at a care facility.
 - viii. To address other events that arise out of the covered military member's active duty or call to active duty status provided that OCERS and the employee agree that such leave qualifies as an exigency, and agree to both the timing and duration of such leave.
- d. Military exigency leave is an additional qualifying reason for FMLA leave and may be taken along with other qualifying reasons for FMLA (e.g. birth/adoption of a child, care for a covered family member with a serious health condition, the employee's own serious health condition). However, the maximum time off during any 12-month period for FMLA leave for any reason or combination of reasons (except military caregiver leave) is 12 weeks.

3. Extending Leave

- a. If an employee's initial request for Military Caregiver leave or Military Exigency leave is less than the 26 weeks or 12 weeks, respectively, permitted under the law, and the employee needs to extend his/her leave, he/she can request an extension of the Military Caregiver leave or Military Exigency leave. The employee must notify OCERS as

soon as he/she has knowledge of the need, but not later than two business days before the anticipated return to work date, where the need for an extension is foreseeable.

- b. If an employee has taken the entire 26 weeks or 12 weeks of the Military Caregiver leave or Military exigency leave, respectively, permitted under the law and still needs additional leave, he/she can request additional leave under the Authorized Unpaid Leaves of Absence Policy. The employee must notify OCERS as soon as he/she has knowledge of the need, but not later than two (2) business days before the anticipated return to work date, where the need for an extension is foreseeable.
- c. Upon expiration of the time approved for Military Caregiver leave, Military Exigency or any other authorized unpaid leave, the leave will automatically terminate and the employee will be expected to return to work. If an employee fails to return to work within three (3) days after the approved Military Caregiver leave, Military Exigency leave, or any other approved leave expires, the employee may be subject to the penalties imposed by OCERS Attendance Policy up to and including termination.

4. Compliance with the Law

- a. The provisions stated in this policy are subject to such other terms and conditions as are provided in the Uniformed Services Employment and Reemployment Rights Act (USERRA) and California law (e.g., the California Military and Veterans Code).
 - i. Exceptions to this policy will occur whenever necessary to comply with applicable laws.
 - ii. State and federal law prohibit employers from discharging or otherwise discriminating against an employee because he or she is a member of the state or U.S. military or is ordered to duty or training.

Related Topics

- 1. OCERS Family and Medical Leave of Absence Policy
- 2. OCERS Attendance Policy
- 3. Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA)
- 4. Veteran Benefits Improvement Act of 2004
- 5. California Civil Air Patrol Leave
- 6. CA AB 2500 (2010), Business and Professions Code §§ 114, 114.5

Catastrophic Leave Donation Policy

Policy Statement

OCERS participates in a catastrophic leave program that provides a means for leave balance replacement for eligible employees after 14 day unpaid leave of absence. This program permits limited individual donations of vacation, annual leave, PIP and/or compensatory time to an employee who is required to be on an extended unpaid leave due to a catastrophic medical condition or other serious circumstances.

Purpose

The purpose of this policy is to provide employees with an opportunity to donate vacation, annual leave, PIP and/or compensatory time hours to a co-worker under certain circumstances.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Eligibility

An employee is eligible for catastrophic leave donations when:

- a. An illness or injury is serious and incapacitates the employee or a family member.
- b. The employee has exhausted all leave accruals; and
- c. The employee is or will be absent from work for at least 14 days on an unpaid leave of absence

2. Donated Hours

Employees may donate vacation, annual leave, PIP or Compensatory time to the eligible employee. Donations must be a minimum of two (2) hours, but cannot exceed 24 hours per donating employee. Donations must be made in whole hour increments.

3. Official Leave of Absence

An employee on a leave without pay at the time he or she receives a Catastrophic Leave donation will be treated as if the employee is on an Official Leave of Absence for purposes of probation and merit increase eligibility.

4. OCERS will administer this policy in accordance with the County of Orange Catastrophic Leave Procedures.

Bereavement Leave Policy

Policy Statement

OCERS provides bereavement leave to eligible employees who request it.

Purpose

The bereavement leave policy establishes uniform guidelines for providing paid time off to employees for absences related to the death of immediate family members.

Scope/Coverage

This policy supersedes previously promulgated policies on this topic and applies to employees employed by OCERS. This policy does not apply to Extra Help Employees.

Provisions

An employee who wishes to take time off due to the death of an immediate family member should notify his or her manager.

Upon request, regular full-time employees may request up to five (5) days of time off with pay to grieve the death of an immediate family member. Part-time employees may request up to 20 hours of time off. For the purpose of this policy, an immediate family member includes father, mother, child, brother, sister, husband, wife, father-in-law, mother-in-law, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, Registered Domestic Partner, legal guardian or another family member who lives in the house of the employee.

OCERS Management reserves the right to request proof of death of the immediate family member.

Related Topics

OCERS' Authorized Unpaid Leaves of Absence Policy

Voting, Jury, and Witness Duty Policy

Policy Statement

OCERS permits employees to take time off for voting, jury duty, and witness duty.

Purpose

The purpose of this policy is to afford employees time off to vote, and to perform jury duty or serve as a witness.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by

1. OCERS; and
2. County of Orange (County Employees who work at OCERS)

Provisions

1. Time Off for Voting

- a. Employees who are unable to vote during non-work hours may arrange to take up to two (2) hours off from work to vote in a public election.
- b. Employees must obtain advance approval from their supervisor for time off to vote.

2. Jury Duty

- a. All employees may attend jury duty in accordance with their legal obligations.
- b. Employees should notify their supervisor promptly upon receipt of a summons for jury service. Employees should provide proof of jury service to Administrative Services should service be required.
- c. An employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours, provided the employee does not accept the jury fees for such hours of jury duty, exclusive of mileage.
- d. Fees for jury duty performed during hours other than an employee's regularly scheduled working hours may be retained by the employee.
- e. It is the responsibility of each employee to report to work the next business day following the completion of jury service. Failure to do so can result in discipline up to and including termination.

3. Witness Duty

- a. Employees who are required by law to appear in court or at another legal proceeding will be provided time off for that purpose.
- b. Employees should notify their supervisor immediately upon receipt of notice to appear in a legal proceeding.

- c. An employee who is called to answer a subpoena as a witness in a legal proceeding, during the employee's work hours, except where the employee is a litigant as a result of the employee's own misconduct or connivance, shall be compensated at his/her regular rate of pay for all hours of absence from work due to answering the subpoena provided the employee shows proof of such subpoena and does not accept the witness fees for such hours, exclusive of mileage.
- d. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

4. No Retaliation

No employee shall be retaliated against for taking time off from work for any purpose identified in this policy.

Related Topics

OCERS Authorized Unpaid Leaves of Absence Policy

Extra Help Sick Leave Policy

Policy Statement

Extra Help Employees will be provided with paid time off from work to attend to their own health or the health of their family members.

Purpose

The purpose of this policy is to afford Extra Help Employees with sick leave benefits in accordance with the California Healthy Workplace Healthy Family Act of 2014, or as amended.

Scope/Coverage

This policy supersedes all previously promulgated policies on sick leave for Extra Help Employees and applies to all Extra Help Employees of OCERS.

Provisions

1. Sick Leave Accrual

- a. Extra Help Employees begin to accrue sick leave upon the first day of employment.
- b. Extra Help Employees will accrue one hour of sick leave for every 30 hours worked.
- c. Extra Help Employees shall accrue a maximum of six (6) days (48 hours) of sick leave.
- d. When an Extra Help Employee's use of sick leave hours reduces the total accrued Sick leave hours below the maximum allowed, the employee will resume accruing sick leave hours again.

2. Sick Leave Availability

Extra Help Employees may begin to use accrued sick leave during the pay period after which the Sick Leave hours were accrued.

3. Sick Leave Usage

- a. Sick leave may be taken in 15 minute increments.
- b. Extra Help Employees may use up to three (3) days or 24 hours of sick leave, whichever is greater, within each calendar year.

4. Permissible Uses of Sick Leave

- a. Sick Leave may be used for the following reasons:
 - i. Diagnosis, care, or treatment, including preventive care, of an existing health condition of an employee; or
 - ii. Diagnosis, care, or treatment, including preventive care, of an existing health condition of an employee's family member.

"Family member" is defined as an employee's spouse/partner, child, parent, parent-in-law, grandparent, grandchild, or sibling.
 - iii. Sick leave may also be used by a victim of domestic violence, sexual assault, or stalking.

5. Procedure for Requesting Foreseeable Sick Leave

An employee is required to submit a sick leave request to his or her supervisor for approval at least 30 days in advance of the sick day(s). In situations where 30 days' advance notice is not practical, notification must be made by the employee promptly by phone, voicemail, message, and/or email. It is the employee's responsibility to ensure that OCERS has been notified regarding their absence.

6. Procedure for Requesting Unforeseeable Sick Leave

When a sick leave day is unforeseeable (e.g., illness), employees must report their absence to their supervisor promptly by phone, voicemail message, and/or email. It is the employee's responsibility to ensure that OCERS has been notified regarding their absence.

7. Sick Leave Upon Reinstatement with OCERS

Extra Help Employees who leave OCERS' employ for any reason and are re-hired as an Extra Help Employee within one (1) year of separation from OCERS will be credited with any unused sick leave hours that employee had accrued as of the date of his/her departure. The unused sick leave hours will be available for use beginning the second pay period after which the employee was re-hired.

8. Compliance with Applicable Law

This policy and all of its provisions are subject to such other terms and conditions as are provided under California law.

This chapter contains the following policies related to personnel benefits:

- Introduction to Benefits
- Employee Health Benefits
- Annual Leave (Paid Time Off)
- Holidays
- Additional Employee Benefits
- Defined Contribution Program
- Retirement Benefits
- Retiree Medical Benefit

Introduction to Benefits

This section of the Employee Handbook is designed to acquaint employees with some of the significant features of the benefits offered by OCERS. However, more detailed information is set forth in the official plan documents and insurance policies that govern the plans. Accordingly, if there is any actual apparent conflict between the summaries or descriptions contained in OCERS' policies and the terms, conditions, limitations, or exclusions of the official plan documents, the provisions of the official plan documents will control. Employees who wish to inspect those documents may contact Administrative Services for that purpose.

In addition, while it is OCERS' present intention to continue these benefits, OCERS reserves the right, to modify, curtail, reduce or eliminate any benefit, in whole or in part, either with or without notice. Finally, neither the benefit programs nor their descriptions are intended to create any guarantees regarding employment or continued employment. Unless otherwise noted in these policies, employment relationships are for an indefinite term and are terminable at will, whether at the option of the employee or the employer.

Employee Health Benefits

Statement

OCERS provides eligible employees and their eligible dependents the opportunity to enroll in health benefit plans administered by the County of Orange Benefits Department.

Please note that the information in this section is subject to change. If you have any questions you should consult with an Employee Benefits Representative on the Benefits Resource Line at 1-800-858--7266 or go to the Benefits Center Site at <https://countyoforange.ielect.com>

Purpose

OCERS offers health plans to all regular and probationary employees and their eligible dependents in compliance with the Patient Protection and Affordable Care Act (PPACA), commonly called the Affordable Care Act (ACA).

Scope/Coverage

These benefits supersede all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS
2. County of Orange (County employees who work at OCERS)

Provisions

1. Health insurance is available to OCERS' employees, with eligible dependent coverage. OCERS pays a portion of an employee's health insurance premium and dependent coverage premiums. OCERS will continue to share the cost of such health insurance premiums as provided in the Health Plan Rate Schedule adopted by, and as modified by, the County of Orange, Board of Supervisors.
2. OCERS will pay the full cost of employee and dependent coverage for two full-time OCERS or County employees that are married to each other and enrolled in the same County health plan. Two married full-time employees enrolled in the same health plan must be enrolled as employee married to employee and may work for any agency or department that share the same Orange County Benefit plan number.
3. OCERS shall continue to pay health insurance premiums for an employee who is on an approved Family Leave and Medical Leaves of Absence and Pregnancy Disability Leave as required by applicable law.
4. New eligible employees will be enrolled in the health plan of their selection effective the first day of the month following the first 30 days of employment. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Health Plan, employee only coverage. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Health Plan, employee only coverage.
5. Terminated employees and their eligible dependents will continue to be eligible for health plan benefits they are enrolled in until the last day of the calendar month in which they terminate employment.

6. The County of Orange Benefits Department will provide for an open enrollment period once each fiscal year for employees and employees' dependents to change their enrollment in a County offered health plan.
7. Employee paid health insurance premiums are paid on a pre-tax basis.

Annual Leave (Paid Time Off)

Statement

Annual Leave is a paid time-off benefits program. Hours accrued can be used for any reason, including vacation, illness, doctor's appointments or personal business. Employees are encouraged to take full advantage of available Annual Leave hours on an annual basis.

Scope/Coverage

These Annual Leave provisions apply to individuals who are employed by OCERS. Executive Employees refer to Terms and Conditions of Employment for Executives Policy.

Provisions

1. General Provisions

- a. Employees begin to accrue Annual Leave upon the first day of employment and are credited at the end of each pay period.
- b. Annual Leave may be taken in one (1) hour increments.
- c. Annual Leave hours continue to accrue while an employee is on approved paid leave of absence.

2. Accrual Rates

- a. Annual Leave for full-time employees accrues in each pay period. Employees accrue Annual Leave hours based on their years of full-time, continuous service with OCERS. All such employees will accrue Annual Leave in accordance with the following schedule:

YEARS OF SERVICE	APPROXIMATE ACCRUAL RATE PER PAY PERIOD	YEARLY ANNUAL LEAVE ACCRUAL
Less than 3 years	7 hours and 25 minutes	24.5 days
3 years to less than 10 Years	9 hours and 52 minutes	32 days
10 Years +	11 hours and 24 minutes	37 days

- b. For employees beginning their third (3rd) or tenth (10th) years of service, the applicable rate of accrual will become effective commencing with the pay period following that in which an employee completes his or her third (3rd) or tenth (10th) year of service.
- c. Annual Leave accruals for part-time employees will be prorated based on an employee's part-time status (e.g., half time, 75% time).

3. Maximum Annual Leave Balance

- a. Accrual of Annual Leave hours shall be unlimited for an employee hired by OCERS on or before December 31, 2018.

- b. Accrual of Annual Leave hours shall be limited for employees hired by OCERS after December 31, 2018, as follows:

YEARS OF SERVICE	MAXIMUM ACCRUAL
Less than 3 years	392 hours (49 eight (8) hour days)
3 years to less than 10 Years	512 hours (64 eight (8) hour days)
10 Years +	592 hours (74 eight (8) hour days)

- c. When an employee accrues the maximum number of hours, Annual Leave accrual will cease. Accrual of Annual Leave will commence again when the Annual Leave balance falls below the maximum number of hours permitted to be accrued.
- d. Employees are encouraged to work with their supervisor to plan their use of Annual Leave so that accrual of hours can continue without interruption.
- e. Cessation of Annual Leave accrual could impact retirement benefits; i.e. hours accrued and cashable are used to calculate the final average salary.

4. Permissible Uses of Annual Leave

Annual Leave may be used for any reason, including:

- a. Vacation
- b. Personal business.
- c. Diagnosis, care, or treatment, including preventive care, of an existing health condition of an employee or an employee's family member (e.g., spouse/partner, child, parent, parents-in-law, grandparents, grandchildren, and siblings). An employee's supervisor may request that the employee provide satisfactory evidence of his or her illness, injury, or medical condition.
- d. For victims of domestic violence, sexual assault, or stalking.

5. Procedure for Requesting Foreseeable Annual Leave

- a. An employee requesting one or more weeks of time off should submit a request for time off to his or her supervisor for approval at least two weeks in advance of the desired time-off. Exceptions to this requirement may be granted when doing so would not disrupt OCERS' business, when the time-off is due to illness or injury to the employee or family member, or for emergency personal situations.
- b. An employee requesting less than one week of time off should submit a request for time off to his or her supervisor for approval as early as possible prior to the desired time-off.
- c. No scheduled leave shall be cancelled by OCERS except in cases of emergencies.

6. Procedure for Requesting Unforeseeable Annual Leave

When an absence is unforeseeable (e.g., illness), employees must report their absences to their supervisor as soon as possible by phone, voicemail message, text message, and/or email, but no later than the start of OCERS' regular business hours, unless it is impracticable to do so.

It is the employee's responsibility to ensure that OCERS has been notified regarding his or her absence.

7. Accrual Payout During Employment

During each fiscal year an employee may request to be paid for accrued Annual Leave in either two (2) separate increments of up to 45 hours each or one (1) increment of up to 90 hours. Executive Employees refer to Terms and Conditions of Employment for Executives Policy.

8. Annual Leave Payout Upon Involuntary or Voluntary Termination of Employment

Upon termination of employment (i.e., for any reason other than retirement), employees will be paid for their accrued and unused Annual Leave through the date of termination. Annual Leave cannot be utilized to extend the date of termination, except by approval of the CEO. Annual Leave payments are computed on the basis of the salary rate in effect at the time of termination.

9. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided under California law.
- b. For questions about Annual Leave, contact Administrative Services.

Related Topics

- 1. OCERS Attendance Policy
- 2. OCERS Pregnancy and Pregnancy Disability Leave Policy
- 3. OCERS Occupational Leave Policy
- 4. OCERS Sick Leave Policy for Extra-Help Employees

Holidays

Policy Statement

OCERS observes legal holidays.

Purpose

The purpose of this policy is to educate the employees regarding the legal holidays observed by OCERS and eligibility for holiday pay.

Scope/Coverage

These holiday provisions apply to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Holidays Observed

OCERS observes the following holidays on dates specified by the County of Orange:

- New Year's Day
- Martin Luther King Junior's Birthday
- Lincoln's Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving
- Friday after Thanksgiving
- Christmas

2. Holidays that fall on Sunday or Saturday

When holidays listed in Section 1 above fall on a Saturday or Sunday, OCERS will observe the holiday on the date specified by the County of Orange.

3. Eligibility for Holiday Pay

- a. To receive holiday pay, an employee must be paid for all or a portion of both the regularly scheduled working assignments that immediately precede and follow the observed holiday.

- b. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
- c. An employee who elects paid retirement on a holiday shall be paid for the holiday.
- d. An employee who separates from employment for reasons other than paid retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- e. Extra Help and Temporary employees shall not be eligible for holiday pay.

4. Holiday Pay

- a. Compensation for holidays falling on scheduled days off
 - i. When a holiday falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours compensatory time.
 - ii. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek to a maximum of eight (8) hours of compensatory time.
- b. Holidays which fall during an employee's annual leave period shall not be charged against the employee's annual leave balance.
- c. With OCERS approval, compensatory time earned for working on a holiday or for a holiday falling on a regularly scheduled day off may be taken on the first scheduled working day after the holiday.

Additional Employee Benefits

OCERS provides eligible employees and their eligible dependents the opportunity to enroll in benefit plans administered by the County of Orange Benefits Department.

Significant features of the benefit plans OCERS offers to its employees and their dependents, in addition to the Employee Health Benefits, Employee Assistance Program, Retiree Medical Benefit, Retirement Benefits, and Reimbursement Programs are summarized below. Detailed information is set forth in the official plan documents and insurance policies that govern the plans. The provisions of the official plan documents and/or insurance policies will control over any potential conflict raised by the information stated below. Employees that desire to inspect the official plan documents or insurance policies can contact the Administrative Services Department or the County of Orange Benefits Center.

Scope/Coverage

These benefits apply to individuals who are employed by OCERS.

Provisions

Additional benefit plans offered to OCERS' employees through the County of Orange Benefits Department include short and long term disability insurance, life insurance, accidental death and dismemberment insurance, and an option for a voluntary annual physical examination.

1. Short-term disability insurance coverage is provided at no cost to the employee to provide sixty (60) percent of salary for up to one (1) year for certified non occupational injury or illness. An employee must exhaust all sick leave or 192 hours of annual leave before the insurance begins. The plan will also provide for continuation of OCERS' share of premiums for health, dental, and life insurance benefits while the employee is on Official Leave for non-occupational disability for up to one (1) year from the effective date of disability.
2. Long-term disability insurance coverage at no cost to the employee to provide up to 60 percent of salary. Enrollment is automatic with the proper documentation if you are receiving short term disability. Once on long-term disability the employee becomes responsible for 100% of the employee and employer portion of health insurance premium(s).
3. Basic Life insurance in the amount of \$100,000 for individuals employed by OCERS will be provided to all full time employees at no cost to the employee regardless of age and without proof of insurability.
4. Accidental Death and Dismemberment insurance in the amount of \$100,000 for individuals employed by OCERS will be provided to all full time employees at no cost to the employee regardless of age and without proof of insurability.
5. Employees will be able to purchase additional life insurance coverage without proof of insurability within 30 days of eligibility. Some levels of additional life insurance coverage, or any additional life insurance coverage purchased after 30 days of eligibility, require proof of insurability. Employees will have the option to purchase additional supplemental life and accidental death and dismemberment coverage including dependent coverage. Such insurance will be subject to the limitations of liability contained in those insurance policies.
6. Voluntary annual physical examinations by a County-designated physician are available at no cost to the employee.

7. OCERS will provide dental insurance to all full time OCERS direct employees and their eligible dependents at no cost to the employee.
8. Optional Benefit Plan
 - a. Eligibility – a regular or probationary employee is eligible to receive the optional benefit provided he/she is continuously employed in a regular full-time capacity in a class designated as Executive, Management and/or Professional. Employees hired or promoted after the commencement of a plan will be eligible for the optional benefit on a pro rata basis the first day of the month following the twenty-eighth day in any of the classifications listed above. Employees in eligible classifications who work part-time will be eligible to receive the optional benefit consistent with County Orange policy for part-time employees.
 - b. Each eligible employee shall be entitled to select benefits from those listed below at a cost to OCERS, not to exceed \$3,500 dollars, or \$4,500 dollars for Executives, effective the beginning of each Calendar Year.
 - c. The purpose of the plan is to provide options to individual employees to best meet the needs of themselves and their dependents while: (1) enhancing the employee's expertise and skills on the job, and/or (2) relieving the employee of external influences which might impair his/her performance.
 - i. The options available may include, Cash (taxable); Professional memberships, licenses and certificates which are job related, professional journals and periodicals which are job related;
 - ii. Health/accident;
 1. Health programs (employee and/or dependents) such as physical, mental and/or emotional health related counseling for individual and/or family not covered or partially covered through existing plans;
 2. Employee's share of health insurance premiums (employee and/or dependents). Also includes payment of Accidental Death and Dismemberment coverage for employee and dependents available through the County;
 3. Health care and/or dental (employee and/or dependents) excluded or partially excluded under the County's insurance plans. Examples of items covered under this provision include deductibles, eye care, lenses and frames.
 - iii. The Defined Contribution Plan: a pre-tax contribution to the OCERS Section 457(b) Defined Contribution Plan.
 - d. The County Human Resources Director shall administer the plan in accordance with the stated purpose. Each employee must follow the enrollment instructions prepared by the County Human Resources department. Annual employee designations are irrevocable unless they have a change in family status. For expenses to be eligible, they must be incurred during the plan year.
9. Claims for reimbursement from OCERS shall be made from forms provided by OCERS and submitted to the finance department.

Defined Contribution Program

Statement

The County of Orange Benefits Department ("Benefits Department") offers and administers a defined contribution program through Empower Retirement (Formerly known as Great-West).

The significant features of this plan are summarized below.

Scope/Coverage

This program is available to individuals who are employed by the following entities:

1. OCERS
2. County of Orange (County employees who work at OCERS)

Executive Employees refer to Terms and Conditions of Employment for Executives Policy.

457 Defined Contribution

The 457 Defined Contribution Program ("The Program") is a voluntary retirement savings program that allows an employee to contribute a portion of his/her bi-weekly salary into a 457 account. Contributions to the Program are deducted from the employees paycheck on a pre-tax basis. This reduces taxable income which lowers your current tax liability. Plus, all of your savings grow tax-free until you remove money from your account. You can remove your money from the 457 account either at retirement or separation of employment. The Program offers a wide variety of professionally managed investment options ranging from conservative to aggressive in risk/return potential. Employees manage their account by choosing to invest their account balance among the investment options at their own risk.

For additional information go to the County of Orange Defined Contribution website.

1.62 Defined Contribution Plan

Employees of the County of Orange who are enrolled in the "1.62 @ 65" retirement benefit formula are eligible to enroll in the 1.62 Defined Contribution Plan. If you are eligible to participate in this program, employees are directed to the County of Orange 1.62 Defined Contribution web site for additional information about the plan.

Retirement Benefits

OCERS provides retirement benefits to its eligible employees, including service retirement, deferred retirement, disability retirement and survivor benefits.

An overview of the retirement benefits that may be available to employees upon retirement or disability and an overview of potential survivor benefits upon an eligible employee's death are set forth below. For a complete overview of all OCERS' benefits, employees are encouraged to review the Summary Plan Descriptions posted on OCERS' website.

Scope/Coverage

These benefits apply to individuals employed by OCERS or the County of Orange as a full-time employee or part-time employees scheduled to work 20 hours per week or more. Part-time employees scheduled to work less than 20 hours per week, extra-help, or independent contractors (or personnel of independent contractors) are not entitled to these benefits. More detailed information is set forth in the official plan documents. In the case of an actual or apparent conflict between the summaries or descriptions contained in any OCERS' policy, terms, conditions, limitations, or exclusions of the official plan documents, the provisions of the official plan documents will govern.

Provisions

1. Retirement System, Membership

- a. An employee automatically becomes a member of the OCERS' pension plan on the date he/she commences employment with the County of Orange in an eligible position.
- b. While a member of the pension plan or the County of Orange, the employee and OCERS make mandatory contributions to the pension plan. Employees' contributions are made on a pre-tax basis.
- c. Contributions paid to the OCERS' Pension Plan by an employee cannot be withdrawn or borrowed against while the employee continues to be employed.

2. Service Retirement

An active member of the OCERS' pension plan is eligible for a retirement allowance when he/she meets the minimum age and years of service requirements as set forth in the plan documents. An employee's retirement allowance is based on years of service accrued by plan formula, final average salary, and age at retirement.

3. Deferred Retirement

If an employee separates employment with OCERS the employee may still be eligible for a retirement allowance from OCERS. The employee may leave his/her contributions on deposit with the Retirement System. If the employee leaves his/her money on deposit the account will continue to earn interest. The employee may then become eligible to elect a retirement benefit from OCERS at a later date. This is called a "Deferred Retirement" allowance.

An employee who separates from employment may receive a Deferred Retirement allowance upon meeting certain eligibility criteria. If an employee has earned five (5) or more years of service credit at the time of his/her separation from employment, he/she is eligible to a Deferred Retirement allowance based on the requirement of their plan formula. Plan J (i.e. 2.7 @55)

members are eligible to retire when they would have accrued 10 years of service had they remained working and are at least age 50. Plan U members (i.e 2.5 @67) are eligible to retire at age 52. If an employee has earned less than five (5) years of service credit at the time of his/her separation, the employee can a Deferred Retirement allowance at age 70. An employee may also elect to receive a lump sum payment consisting of the accumulated employee contributions and interest in lieu of a monthly retirement allowance.

4. Disability Retirement Benefits

If an employee becomes permanently incapacitated while employed by OCERS, he/she may be eligible for a Disability Retirement allowance.

a. Nonservice-Connected Disability Retirement:

Eligibility for a Nonservice-Connected Disability Retirement allowance requires the following:

- i. the employee must have five (5) or more years of service credit,
- ii. the Board of Retirement must determine that the employee is permanently incapacitated, either physically or mentally, from performing the usual duties of any permanent assignment in his/her job classification, and
- iii. the incapacity is not due to a job related illness or injury.

b. Service –Connected Disability Retirement:

Eligibility for a Service-Connected Disability Retirement allowance requires the following:

- i. the Board of Retirement must determine that the employee is permanently incapacitated, either physically or mentally, from performing the usual duties of any permanent assignment in his/her job classification, and
- ii. the incapacity arose out of, and in the course of his/her employment, and such employment contributed substantially to his/her permanent incapacity.

5. Survivor’s Benefit

Upon the employee’s death, beneficiaries may be entitled to benefits. Employees of OCERS are asked to designate a beneficiary who will be entitled to receive certain benefits that may be payable upon the employee’s death. The employee may designate anyone he/she chooses as a beneficiary, and may change the beneficiary at any time prior to retirement. To designate or change a beneficiary, employee needs to complete and submit the “Beneficiary Change Form.” This form can be obtained from Member Services, through OCERS member portal, or downloaded from www.ocers.org. It is the employee’s responsibility to notify Member Services of a life event change, such as a marriage, domestic partnership registration, or death including the death of a designated beneficiary.

It is important to note that spouses, ex-spouses, Registered Domestic Partners, ex-Registered Domestic Partners and/or children may have legal rights that supersede the rights of any other beneficiaries designated by an employee.

Related Topics

1. Summary Plan Description, Plans I & J (2.7 @ 55)

2. Summary Plan Description, Plan U (2.5% @ 67)

Retiree Medical Grant

Statement

OCERS provides to eligible employees a retiree medical grant to use towards healthcare insurance premiums after retirement.

Purpose

The purpose of this policy is to provide OCERS' employees with an overview of the Medical Retiree Grant Plan (Plan) that may be available to eligible employees upon their retirement. The County of Orange (County) established the Plan in order to assist career employees in maintaining health insurance coverage following their retirement from OCERS/County service.

Scope/Coverage

This policy supersedes all previously promulgated policies regarding the Medical Grant Plan and applies to individuals who are employed by OCERS and the County as a full-time employee or part-time employee scheduled to work 20 hours per week or more. This policy does not apply to part-time employees scheduled to work less than 20 hours per week, extra-help or independent contractors (or personnel of independent contractors) who are not members of the Retirement System. Please also note that more detailed information is set forth in the official plan documents. Accordingly, if there is any real or apparent conflict between the summaries or descriptions contained in OCERS' policy and the terms, conditions, limitations, or exclusions of the official plan documents, the provisions of the official plan documents will control.

Policy provisions

1. Retiree Medical Grant

- a. When an employee retires, he/she may be eligible to receive a Retiree Medical Grant (Grant) provided by the County to use toward the cost of the County Health Plan and/or Medicare Part B premiums (if applicable). The Grant is neither a vested nor a guaranteed benefit. Changes to the Retiree Medical Grant Plan are made by the County.
- b. The amount of the Grant is based upon age at separation and years of eligible OCERS' or County service hours, up to a maximum of 25 years of service multiplied by a base dollar amount. The base dollar amount is adjusted up or down annually up to a maximum of three (3) percent.
- c. Reductions schedule:
 - i. Retiring retire before age 60, there will be a 7.5% reduction to the Grant for each year before 60 years of age;
 - ii. Retiring after age 60 there will be a 7.5% increase to the Grant for each year worked after age 60, up to age 70.
 - iii. Retiring at age 60 there will be no age adjustment. Safety retirees will not be subject to the 7.5% reduction or increase. Service and non-service connected disability Retirees do not receive the 7.5% age adjustment.

* The effective date may vary depending on your bargaining unit or employer (County, Special District, or Court).

2. Eligibility

To be eligible for the Grant, an employee is required to:

1. Have a minimum of 10 years of continuous eligible OCERS/County service, if the employee has a normal retirement. However, if an employee has been granted a non-service connected disability retirement, he/she is required to have a minimum of five (5) years of continuous service. If an employee has been granted a service connected disability retirement, there is no minimum service requirement;
2. Be at least 50 years of age on the date of separation of service;
3. Receive a monthly retirement allowance from OCERS; and
4. Be enrolled in a County health plan when the employee separates.

Modification

The County, by establishing and maintaining the Plan, does not give any employee, retiree or any other person any legal right against OCERS or the County, nor does it give any employee the right to be retained in the OCERS'/County's service. The Plan does not create any vested right to the benefits provided on the part of any employee, retiree or any other person. The Plan may be amended or terminated at any time, in full or in part, by the County in its sole discretion.

For complete details about the plan, please visit: [www.//ocgov.com/gov/hr/eb/prh](http://ocgov.com/gov/hr/eb/prh)

Chapter 7

Compensation – Policies

This chapter contains the following policies related to personnel compensation, salary basis and ranges, and payroll:

- Payroll Practice Policy
- Salary Basis
- Compensatory Time Off
- Executive Management and Professional Salary Ranges
- Terms and Conditions of Employment for Executives

Payroll Practice Policy

Policy Statement

OCERS follows a structured, documented payroll process.

Purpose

The purpose of this policy is to establish uniform standards that should be applied by all OCERS departments for paying its employees.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Method of Compensation for Employees

- a. OCERS office is open to the public Monday through Thursday, 8:00 a.m. to 5:00 p.m. and Friday 8:00 a.m. to 4:30 p.m. OCERS' employees and the County of Orange's employees who work at OCERS generally work between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday. Occasionally employees may be required to work on weekends or holidays. An employee's work schedule will be determined by his/her supervisor with the approval of the head of the Department.
- b. Employees shall receive compensation at the biweekly or hourly rate within the range or at the flat rate assigned to the class in which they are employed.
- c. The pay rates for each OCERS Direct Employee are set forth in a table of class titles, pay rates and salary ranges as adopted by the Board of Retirement ("Board").
- d. The pay rate for each County of Orange Employee is set forth in a table of class titles, pay rates and salary schedules as adopted by the Board of Supervisors.
- e. Notwithstanding any provision of these policies to the contrary, OCERS may direct that any employee be compensated at any step of the salary range set forth in the class titles, pay rates and salary schedules as adopted by the Board, either at the time of or at any time subsequent to the date of his/her employment by OCERS.

2. Salary Payment Procedure

- a. A pay period shall cover 14 calendar days, shall start on a Friday and end with the second Thursday thereafter, and shall consist of 80 hour work period. Employees shall be paid approximately eight (8) days after the end of a pay period, usually on a Friday. Employees hired after June 29, 2001, are required to authorize automatic deposit of his/her paycheck to a financial institution of the employee's choice.
- b. Compensation for each employee for whom compensation is established, shall be paid out of OCERS budget as may be provided by law upon certification by the Chief

Executive Officer to the Auditor-Controller that such employee has performed the services set forth in said certificate.

- i. When a County Employee separates from OCERS' service and use of the regularly scheduled certification would create an inequitable delay, the Chief Executive Officer may immediately file a special payroll certification of such separation with the Auditor-Controller. The Auditor-Controller may issue payment for the period of time and/or pay due to said employee up to the time of separation.
 - ii. When an OCERS Direct Employee separates from OCERS service, he/she shall receive _____ all amounts due at the time of separation. In the event an OCERS Direct Employee provides less than 72 hours' notice of separation, then all amounts due will be paid within 72 hours of separation.
- c. The hours worked by an employee must be approved by his/her supervisor prior to being submitted to OCERS' Administrative Services. The supervisor approving said employee's hours must have knowledge that the hours reported by the employee are accurate.
- d. Time and attendance are reported based upon the Fair Labor Standards Act (FLSA) classification of the employee.
- i. Non-Exempt Employees (overtime eligible): Non-Exempt employees do not meet the exemption standards of the FLSA. Non-Exempt employees will report all hours worked for each day worked using the appropriate payroll codes as outlined in the payroll system when completing their electronic time cards.
 - ii. Exempt Employees (not eligible for overtime): Exempt Employees meet the exemption standards of the FLSA. Exempt Employees report their exception time, not hours worked, when completing their electronic time cards. Exceptions may include, but are not limited to, Annual Leave, comp time, holiday or any leaves of absence. In instances where an absence occurs that is two (2) hours or less, an exception does not need to be reported.

3. Time Keeping

- a. Electronic time cards are used as a means of accurately recording hours worked and calculating pay. Electronic time cards must be consistent with approved Personnel Action Notices (PAN) forms when applicable. All employees must submit a time cards every two (2) weeks according to the annual payroll schedule. All employees are required to report absences from work such as annual leave time, holidays, or any other leaves of absence. Time cards must be received in a timely fashion.
- b. Time cards shall be prepared by the employee electronically and signed by both the employee and the supervisor.
- c. Accuracy when preparing time cards is critical. Employees are responsible for ensuring the accuracy of their own time cards. Altering, falsifying, or tampering with a time cards may result in disciplinary action, up to and including immediate termination.

- d. OCERS Management reserves the right to verify all employees are in compliance with this policy. When applicable, any MOU will supersede this policy.

4. Cash Out of Paid Time Off

In accordance with policies to cash out paid time off, such requests should be recorded on the time card in the pay period during which the employee would like the cash out to occur.

Salary Basis Policy

Policy Statement

Orange County Employees Retirement System (OCERS) is committed to complying with the salary basis requirements of the Fair Labor Standards Act.

Purpose

The purpose of this policy is to comply with the Fair Labor Standards Act

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by OCERS.

Provisions

1. It is OCERS' policy to comply with the salary basis requirements of the Fair Labor Standards Act. Therefore, OCERS prohibits any improper deductions from the salaries of Exempt Employees.
2. Employees who believe that an improper deduction has been made to his/her salary should immediately report this information to Administrative Services. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, affected employees will be promptly reimbursed for any such improper deduction.

Compensatory Time Off Policy

Policy Statement

OCERS permits its Exempt Employees to earn compensatory time off under certain limited circumstances.

Purpose

While there is no legal obligation to grant compensatory time off to Exempt Employees or to pay Exempt Employees for hours worked in excess of their work period, the purpose of this policy is to compensate OCERS' Exempt Employees who are required to work on their regularly scheduled flex day off, or on recognized holidays due to extraordinary circumstances.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by OCERS.

Provisions

1. Eligibility for Compensatory Time (Comp Time)

- a. Consistent with the County of Orange, OCERS will provide full-time Exempt Employees with two (2) hours of compensatory time on the pay status of March 1st of each fiscal year.
- b. Part-time Exempt Employees on a pay status during the pay period that includes March 1 of each fiscal year will be credited with one (1) hour of comp time at the end of the pay period that encompasses March 1.
- c. An Exempt Employee may earn up to eight (8) hours of comp time when a holiday falls on the employee's regular-scheduled day off.
- d. Notwithstanding the foregoing, if any OCERS' Exempt Employee is required to work an unusually large number of hours as a result of natural disasters and/or officially declared emergencies such as floods, fires, storm conditions, high tides, etc., or due to extraordinary circumstances, the Chief Executive Officer may authorize additional compensation, which may be in the form of comp time, for such employee or group of employees.
- e. An employee working an approved flex schedule may earn up to eight (8) hours of comp time when required to work on his/her scheduled flex day off, as approved by his/her supervisor.

2. Procedures

- a. Comp time earned may be used as compensatory time off or paid to an employee at the discretion of OCERS.
- b. An employee may not maintain a comp time balance of more than 80 hours. All comp time earned in excess of 80 hours will be automatically paid to the employee.
- c. An employee who wishes to use earned comp time must submit an E-PAN form request to his/her supervisor setting forth the date(s) on which the comp time will be used.

- d. An employee will be permitted to use comp time on the date requested unless doing so would unduly disrupt OCERS' operation.

3. Payment of Comp Time

- a. An employee may obtain a payoff of all or a portion of his/her comp time at any time by submitting an E-PAN form to Administrative Services, *and* recording the request on his/her timesheet.
- b. An employee will be paid for all earned but unused comp time hours at the time of separation from employment at the employee's rate of pay at the time of separation.
- c. An employee working an approved flex schedule may earn up to eight (8) hours of comp time when required to work on his or her scheduled flex day off, as approved by his or her supervisor.

Exempt Employee Salary Range Policy

Policy Statement

OCERS is committed to providing fair and equitable salary adjustments of its Exempt Employees.

Purpose

The purpose of this policy is to provide information to the Exempt Employees of OCERS of the potential salary adjustments available to them.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by OCERS.

Provisions

1. Merit Increases

- a. In November of each year, or other time of year as determined by the CEO, each Executive, Management and/or Professional employee as of June 1 of that year shall receive a written performance evaluation.
- b. The Executives will provide feedback on their department's employees' performance and recommendations for the CEO's consideration. The CEO will make the final determination of merit increases based on the Board approved merit and salary adjustments included in the annual budget. Merit increases may be either a lump sum or added to base salary.
- c. At the discretion of the CEO, when an employee is unable to participate in the annual merit review process, an employee's performance and salary may be reviewed upon his or her anniversary date.

2. Range Constraints

- a. No employee's salary shall exceed the maximum of the salary range, except when and employee is designated in the Y-Rate. The CEO has the right to limit the time a Y-rated employee can remain at higher salary range.
- b. No employee's salary shall be less than the minimum rate in the salary's range assigned to the class in which he/she is employed.

3. Equity Adjustments and Incentive Pay

- a. The Chief Executive Officer (CEO) may approve additional individual salary increases
 - i. based on such factors as external market data, internal salary relationships, position responsibilities, individual performance, budgetary considerations and sound management principles,
- b. The CEO may authorize additional one time annual non-base building incentive pay rewards not to exceed \$2,500 per employee per year.

Related Topics

1. Y- Rate
2. OCERS direct employee salary ranges can be found on OCERS Intranet: [OCERS Direct Employee Salary Ranges](#)

Terms and Conditions of Employment for Executives

Policy Statement

OCERS Senior Executive Employees are subject to the terms, conditions and benefits of their employment as set forth herein.

Purpose

The purpose of this policy is to acquaint Executive Employees with some of the significant features of the terms, conditions and benefits of their employment with OCERS. More detailed information about the benefit programs offered by OCERS is set forth in the official plan documents and/or insurance policies that govern the plans. The provisions of the official plan documents and/or insurance policies will control over any potential conflict raised by the information stated below. Executive Employees who desire to inspect the official plan documents or the insurance policies can make an appointment with Administrative Services.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to OCERS Senior Executive Employees, including the Chief Executive Officer, the Chief Investment Officer, the Assistant Chief Executive Officer of Finance and Internal Operations, Assistant Chief Executive of External Operations, and the General Counsel.

Provisions

1. Chief Executive Officer

- a. In accordance with current statutes, the Chief Executive Officer (“CEO”) shall be appointed by and serve at the pleasure of a majority of the Board of Retirement (Board).
- b. The Board shall set the pay and benefits for the CEO.

2. Executive Employees

- a. Executive Employees shall serve at the pleasure of the CEO, (i.e., At Will).
- b. Executive Employees may be released from service by the CEO at any time, without notice, cause or rights of appeal.
- c. Executive Employees shall be required to sign At-Will agreements as a condition of appointment.

3. Insurance

- a. Health insurance is available to OCERS’ Executive Employees, with eligible dependent coverage. OCERS pays 95 percent of an employee’s health insurance premium and, if dependent coverage is selected, OCERS will pay approximately 75 percent of the total health coverage premiums for both the employee and dependents. OCERS will continue to share the cost of such health insurance premiums as provided in the Health Plan Rate Schedule adopted by, and as modified by, the County of Orange, Board of Supervisors.
- b. Basic Life insurance in the amount of one hundred and twenty-five thousand (\$125,000) dollars will be provided at no cost to Executive Employees regardless of age and without

proof of insurability. Executive Employees also have an option to purchase additional coverage, including dependent coverage.

- c. Accidental Death and Dismemberment insurance in the amount of one hundred and twenty-five thousand (\$125,000) dollars will be provided at no cost to the Executive regardless of age and without proof of insurability. Executive employees have an option to purchase additional coverage, including dependent coverage.
- d. OCERS will provide dental insurance to all Executive Employees and their eligible dependents at no cost to them.
- e. OCERS will make available to its Executive Employees a Premium Only Plan that will allow an employee to pay for health insurance premiums as permitted in the Internal Revenue Code. Under the plan, an employee's gross taxable salary will be reduced by the amount of his/her share of the premium costs of health insurance coverage.
- f. Executive Employees are provided short-term disability insurance coverage at no cost to the employee to provide 60 percent of salary for up to one (1) year for certified non occupational injury or illness. An employee must exhaust up to 192 hours of annual leave before the insurance begins. The plan will also provide for continuation of OCERS' share of premiums for health, dental, and life insurance benefits while the employee is on Official Leave for non-occupational disability for up to one (1) year from the effective date of disability.
- g. Executive Employees are also provided long-term disability insurance coverage at no cost to the employee to provide up to 60 percent of salary continuation while the employee is on Official Leave for a non-occupational disability.
- h. Voluntary annual physical examinations are available by a County designated physician at no cost to the Executive Employee.

4. Optional Benefit Plan

Executives have available to them the Optional Benefit Plan. The terms of the Optional Benefit Plan for the Executive Employees are the same as the terms for the Management and Professional employees, except the Executive Employees are provided four thousand five hundred (\$4,500), or such amount as is provided to executive management employees of the County of Orange, per plan year. For further details of the terms of the Optional Benefit Plan, see Human Resources Policy, Optional Benefit Plan.

5. Accrual Payout During Employment

During each calendar year an Executive Employee may request to be paid for accrued Annual Leave of up to 170 hours. Executive Employees can make up to two (2) separate requests per calendar year.

Workplace Health and Safety

This chapter contains the following policies related to workplace Health and Safety:

- Workplace Safety and Violence Prevention
- Employee Assistance Program
- Tobacco and Smoke Free Workplace Policy
- Workplace Injuries and Workers' Compensation

Workplace Safety and Violence Prevention Policy

Policy Statement

OCERS is committed to complying with applicable laws related to health and safety and to providing a healthy and safe workplace for all employees, visitors, and guests. To do this, OCERS must be aware of conditions in all work areas that can produce injuries. Cooperation from all personnel in detecting, reporting, and controlling safety issues in the workplace is expected and required.

Purpose

The purpose of this policy is to comply with state and federal laws regarding health and safety in the workplace and to maintain a safe and healthy work environment at OCERS.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. OCERS' Obligations

- a. To ensure a safe and healthy workplace, OCERS will:
 - i. Work to integrate workplace health and safety into all aspects of the workplace;
 - ii. Promote communication about workplace health and safety;
 - iii. Monitor working conditions to find, eliminate or control safety and health hazards as well as unsafe working conditions and practices; and
 - iv. Take effective action to provide a safe and healthy workplace.

2. Employee Obligations

- a. Each employee is responsible for ensuring their own personal health and safety, and that of their guests while on OCERS' premises both during working hours and after hours.
- b. Behavior by employees or their guests that places the safety and wellbeing of OCERS personnel, members, and visitors at risk of harm will not be tolerated and may result in discipline, up to and including, termination.
- c. All personnel are encouraged to report to Administrative Services all conduct and conditions that may create an unsafe environment at OCERS.

3. Procedures

- a. OCERS does not tolerate violence in the workplace.
- b. Actual or threatened violence by or against employees, members, visitors, or any other persons who are on OCERS' premises or have contact with OCERS' personnel is strictly prohibited.

- c. Employees who engage in threatening or violent behavior may be subject to disciplinary action, up to and including, termination.
- d. Employees must report any and all verbal or physical threats of violence to Administrative Services.
- e. If any personnel become aware of any actual violence, imminent violence, or threat of imminent violence, he/she should immediately contact local law enforcement and subsequently inform Administrative Services.

Employee Assistance Program Policy

Policy Statement

OCERS offers its employees an Employee Assistance Program to assist employees and their family in resolving physical, mental, emotional, and personal problems.

Purpose

The purpose of this policy is to provide information about the Employee Assistance Program and to encourage OCERS' employees to take advantage of the services offered by the program.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. The Employee Assistance Program ("EAP") is available to employees and their family 24-hours/7-days per week for emergency telephone counseling. EAP provides private, confidential assessments and referral counseling; including assistance with alcoholism, drug addiction, and emotional or personal problems. Employees who desire assistance can contact the EAP by going to www.mylifevalues.com
 - Login:
 - Orange County CA
 - Password:
 - eap
2. An employee may request an Unpaid Leave of Absence to enroll in a voluntary drug or alcohol rehabilitation program.
3. It is the responsibility of each employee to seek necessary assistance before alcohol, drug, or other problems adversely affect the employee's performance and/or conduct in the workplace. If an employee's violation of OCERS policy warrants discipline, any subsequent attempts to seek help through EAP will not shield an employee from the imposition of discipline.
4. An employee's decision to seek assistance from EAP will not be used as a basis for disciplinary action and will not be used against the employee in any disciplinary matters.

Related Topics

1. EAP Brochure
2. OCERS Unpaid Leave of Absence Policy
3. OCERS Disciplinary Action and Appeals Procedure
4. OCERS Alcohol and Controlled Substance Policy

Tobacco and Smoke-Free Workplace Policy

Policy Statement

OCERS maintains a tobacco and smoke-free workplace environment. A tobacco and smoke-free environment helps foster a safe and healthy workplace. Tobacco use, smoking and secondhand smoke are known causes of serious lung diseases, heart disease and cancer. OCERS recognizes the hazards caused by tobacco use and exposure to second hand smoke. OCERS' policy is to provide a tobacco and smoke-free environment for all employees and visitors. This policy covers the smoking of any tobacco based products including "e" and/or "vapor" based cigarettes, and the use of oral tobacco including chewing tobacco.

Purpose

The purpose of this policy is to maintain a safe and healthy workplace environment.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers, visitors and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

Smoking and the use of tobacco is strictly prohibited within all company work areas and public spaces including conference rooms, private offices, reception areas, restrooms, stairwells, hallways, and work stations, as well as all other enclosed areas. Employees may smoke outside during breaks in the labeled designated smoking area or 100 feet from any building entrance or exit. No additional breaks beyond those allowed under the Meal and Breaks Policy may be taken for the purpose of using tobacco products.

Complaint Procedure

Persons observing a violation of this policy should bring it to the attention of their supervisor. All complaints received will be investigated as confidentially as possible. All personnel are expected to cooperate fully with any such investigation. Any violations of this policy will be handled through the Disciplinary Actions and Appeals Procedure Policy.

Related Topics

OCERS Meal and Rest Period Policy

Workplace Injuries and Workers' Compensation Policy

Policy Statement

OCERS is committed to providing a safe and healthy workplace. In the event of a work-related injury or illness, OCERS will comply with the provisions of the State Workers' Compensation laws.

Purpose

The purpose of this policy is to comply with the California Workers' Compensation laws and to acquaint OCERS' employees with the procedures for reporting work-related injuries and illnesses, obtaining medical care, integrating disability benefits, and maintaining effective communication between OCERS and the injured or ill employee.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to all personnel who are employed by OCERS.

Provisions

1. General Provisions

- a. Whenever an employee sustains an injury or disability arising out of and in the course of OCERS' employment which required medical care, the employee shall obtain treatment medically necessary as recommend by a medical doctor and according to the provisions of the California Labor Code Section 4600 et. seq.
- b. OCERS carries Workers' Compensation insurance coverage as required by law to protect employees who are injured on the job. This insurance provides medical, surgical, and hospital treatment in addition to payment for loss of earnings that result from work-related injuries. Compensation payments begin from the first day of an employee's hospitalization or after the third day following the injury if the employee is not hospitalized. The cost of coverage is paid completely by OCERS.
- c. When an injury is determined to be job-related, an employee shall be placed on Workers' Compensation Leave. If such a determination cannot readily be made, and all Annual Leave and Compensatory Time (paid time off) has been applied to the absence, the employee shall be placed on an approved leave until a final determination is made.
- d. Prior to qualifying for workers' compensation temporary disability benefits, an injured employee may, at his/her option, use any accrued paid time off.
- e. When an injury is determined to be job-related by OCERS or by the Workers' Compensation Appeals Board, paid time off expended since the fourth day of disability shall be restored to the employee's account(s), except that if the injury required the employee's hospitalization or caused disability of more than 14 days, all paid time off extended since the first day of disability shall be restored to the employee's account(s).
- f. The probation period of any employee who receives workers' compensation benefits shall be extended by the length of time the employee receives such benefits, except that the first 15 consecutive calendar days from the date of the injury shall be

considered OCERS service for merit increase eligibility and completion of the probation period.

- g. While an employee is receiving temporary disability payments, the employee may, at his/her option, use paid time off to supplement such pay so that the employee receives no more than his/her regular salary during the employee's industrial injury leave.
- h. Time during which an employee receives workers' compensation, temporary disability benefits shall be counted toward the computation of OCERS Seniority and determination of annual leave earning rates.
- i. Whenever an employee is compelled by direction of an OCERS-designated physician to be absent from duty due to an on-the-job exposure to a contagious disease, the employee shall receive full compensation for a period not to exceed 80 working hours for a full-time employee or 14 calendar days for a part-time employee. If the absence extends beyond the applicable period, paid time off may be used, at the employee's option.

2. Duration of Workers' Compensation Leave

Workers' Compensation Leave shall continue until the employee:

- a. Is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by the Workers' Compensation Appeals Board; or
- b. Is determined to be physically able to return to work with medical restrictions which OCERS can accept, and such determination, if disputed, is confirmed by the Workers' Compensation Appeals Board; or
- c. Accepts employment outside of OCERS; or
- d. Accepts employment in another OCERS position; or
- e. Has been found to have reached medical maximum improvement and is not physically able to return to work; or
- f. Retires

3. Injury Reporting

- a. If you are injured while working, please report it immediately to your supervisor, regardless of how minor the injury may be. Supervisors must immediately report any such injuries to Administrative Services. For critical injuries or illness, immediately call paramedics by dialing 911.
- b. Failure to immediately report any injury may result in a delay in Workers' Compensation benefits.

4. Treatment Referrals

- a. Upon receipt of a report of a workplace injury, Administrative Services will provide an injured employee the following documents:
 - i. Medical Services Authorization is used by the injured workers' supervisor or manager to authorize one time treatment, the day of injury only. Subsequent treatment must be approved by the claims administrator.

- ii. Workers' Compensation Treatment Facility List - The employer has medical control from the moment the injury occurs and should make the selection on treatment location
- iii. Mitchell Script Advisor Card for required prescriptions.
- iv. Guide to Your Workers' Compensation Medical Care provides information the State requires injured workers to be given regarding legislative changes to medical treatment in work comp.
- v. WellComp Medical Provider Network brochure provides information the State requires injured workers to be given regarding the Medical Provider Network.

5. Documentation Required from Injured Employees

- a. Administrative Services will provide the following forms to an injured employee either in person, if the employee is still on the job or by mail to the employee's home address if he/she is unable to work. An injured employee must complete and timely return both forms to Administrative Services.
 - i. Employee's Report of Occupational Injury or Illness
 - ii. Workers' Compensation Claim Form & Notice of Potential Eligibility
- b. An injured employee must provide Administrative Services notice of all restrictions placed on the employee's ability to work. If an employee has an active Workers' Compensation claim that results in a leave of absence, OCERS' Workers' Compensation claims manager will provide OCERS with relevant documentation that pertains to the management of the employee's Workers' Compensation status and returning an employee to work.

6. Return to Work After a Workplace Injury

- a. An employee is required to return to work when released by the treating physician. An employee on leave due to a workplace injury should provide as much advance notice of the treating physician's release or return-to-work order as reasonably possible. If an employee fails to return to work or notify the supervisor within three (3) workdays following the notice release, or return-to-work date, the employee may be terminated.
- b. If an employee is released to return to work without restrictions, OCERS will return the employee to his or her former position, as soon as reasonable. If the former position has been filled, or other operational changes make it unreasonable to return the employee to his or her former position, OCERS will make a good faith effort to place the employee in a vacant position that is as comparable to the former position as is reasonable under the circumstances. The employee must cooperate and respond timely throughout the interactive process, including the job search process, and if the employee rejects an offer of a comparable position, he or she may be terminated.
- c. If the employee is released to return to work with restrictions, OCERS will place the employee in the former job (if it is available), provided the employee can perform all the essential functions of the job with or without reasonable accommodation. OCERS will engage the employee in the interactive process to determine reasonable accommodation, which may include the job search process if reassignment to a vacant

position is legally required. The employee must cooperate and respond timely throughout the interactive process, including the job search process. If the employee rejects an offer of a vacant position that would reasonably accommodate the employee's limitations, he or she may be terminated. The foregoing actions may occur at the same time that OCERS' Workers' Compensation claims manager is meeting its obligations under Workers' Compensation Laws.

- d. An employee is not allowed to return to work unless released by a physician.

7. Compliance with Applicable Law

- a. This policy and all of its provisions are subject to such other terms and conditions as are provided in the California Workers' Compensation Law. An employer is prohibited from discriminating or retaliating against an employee for filing a report of injury or illness or for taking a leave due to a work-related injury or for involvement in any proceeding under or relating to a claim of work-related injury.
- b. For questions about the exercise of your Workers' Compensation rights, contact Administrative Services.

Related Topics

1. OCERS Family and Medical Leave Policy
2. OCERS Attendance Policy
3. OCERS Authorized Unpaid Leaves of Absence

Chapter 9

County Employees

This chapter contains the following policies:

- Meal and Rest Period Policy
- Overtime Policy
- Make-Up time Policy

Meal and Rest Period Policy

Policy Statement

OCERS is committed to providing meal and rest periods in accordance with federal and state wage laws for individuals employed by the County of Orange who work at OCERS in accordance with federal and state wage and hour laws.

Purpose

This policy is intended to ensure compliance with the Fair Labor Standards Act, the California Labor Code and the Industrial Welfare Commission Wage Orders.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the County of Orange who work at OCERS.

Provisions

1. Meal Period Requirements

- a. Employees who work more than five (5) hours in a workday are entitled to take an uninterrupted Meal Period of not less than 30 minutes. The first Meal Period must start before the completion of the fifth hour of work. A second Meal Period of not less than 30 minutes must be provided for an employee who works more than 10 hours in a workday. The second Meal Period must start before the completion of the tenth hour of work. Time off for the first Meal Period is considered non-work time and therefore is not included to determine if an employee has worked more than 10 hours.
- b. Managers must relieve an employee of all work duties within the timeframe described above.
- c. Managers are responsible for ensuring that employees are provided all required Meal Periods. Supervisors may not coerce, pressure, or encourage employees to skip Meal Periods. Supervisors are also responsible for ensuring employees receive Meal Period Pay when applicable. A supervisor who fails to provide required Meal Periods or pay Meal Period Pay as required by this policy may be subject to disciplinary action up to and including termination.
- d. Employees relieved of all duties for their Meal Period are expected to take the full Meal Period. However, any employee who works through a Meal Period for any reason must ensure he/she is reporting that as time worked on his/her timecard.
- e. Failure to take Meal Periods as required by this policy may subject an employee to disciplinary action.
- f. Meal Periods cannot be combined with Rest Periods. Similarly, Meal Periods cannot be skipped to allow employees to leave before their scheduled departure times.

2. Rest Periods

- a. Employees who work more than three and one half (3.5) hours of total daily work time are authorized and permitted to take uninterrupted Rest Periods of 15 minutes for each four (4) hours worked, or major fraction thereof.
- b. As long as the opportunity to take a Rest Period is authorized and permitted, an employee may voluntarily waive a Rest Period.
- c. If practicable, each Rest Period should be taken in the middle of each work period insofar as practicable.
- d. Rest Periods cannot be combined with Meal Periods. Similarly, Rest Periods cannot be skipped to allow employees to leave before their scheduled departure times.

Overtime Policy

Policy Statement

OCERS is committed to complying with federal and state wage and hour laws with respect to overtime.

Purpose

This policy is intended to ensure compliance with the Fair Labor Standards Act, the California Labor Code and the Industrial Welfare Commission Wage Orders.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals employed by the County of Orange who work at OCERS.

Provisions

1. Notice and Prior Authorization

- a. From time to time, it may be necessary for a Non Exempt Employee to work beyond his/her regularly scheduled workday. OCERS will attempt to provide reasonable advance notice, but that may not always be possible. When it is necessary to work overtime, the employee is expected to cooperate as a condition of employment.
- b. An employee's immediate supervisor must authorize all overtime prior to its occurrence. All overtime must be clearly noted on an employee's timesheet.

2. Compensation

- a. Compensation for all overtime worked will be paid in accordance with applicable federal and state law. In calculating eligibility for overtime compensation, only hours actually worked will be included.
- b. Employees who are not subject to Flex Schedule Agreements will be paid a premium for overtime hours as follows, subject to change as mandated by law:
 - i. One and one-half times their regular rate of pay for all hours worked in excess of eight (8) hours per workday, up to 12 hours;
 - ii. One and one-half times their regular rate of pay for the first eight (8) hours on the seventh consecutive day of work in a workweek; and
 - iii. Double the regular rate of pay for all hours worked in excess of 12 hours in a workday and after eight (8) hours on the seventh consecutive day of work in a workweek.
- c. Employees with Flex Schedule Agreements that establish a 9/80 flex schedule (i.e., four (4) nine (9) hour work days each week with an additional eight (8) hour work day on alternate weeks) will be paid a premium for overtime hours as follows, subject to change as mandated by law:
 - i. One and one-half times their regular rate of pay for all hours worked beyond the established schedule, up to 12 hours a day.

- ii. One and one-half times their regular rate of pay for any work performed (up to eight hours) on any day not included in the schedule established by the agreement.
- iii. Double the regular rate of pay for all hours worked in excess of 12 hours in a day on a regularly scheduled workday and for work in excess of eight hours on days that are not regularly scheduled workdays.

3. Record Keeping

Employees are required to keep an accurate daily record of their attendance and hours worked using their timesheets. Failure to do so may result in discipline, up to and including termination.

Related Topics

OCERS Payroll Practice Policy

Make-Up Time Policy

Policy Statement

OCERS permits County employees to “make-up” work time missed due to personal obligations in compliance with federal and state overtime laws.

Purpose

This policy is intended to ensure compliance with the Fair Labor Standards Act, the California Labor Code and the Industrial Welfare Commission Wage Orders.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals employed by the County of Orange who work at OCERS.

Provisions

Employees may request approval to miss scheduled work due to personal obligation and make up the time missed. Where approval is granted and permitted by law, the make-up time will be paid at the straight-time rate and must be worked in the same pay period, up to four (4) hours per day. Employees may not make up time missed if it would result in overtime work, i.e., the make-up time must not cause the employee to exceed 11 hours in any workday or 40 hours in the workweek. The department head or executive over the division has authority/discretion to grant the time off and to allow time missed to be made up.

Chapter 11

Miscellaneous Policies

- Reimbursement Programs
- Religious Accommodation Policy
- Contract Workers Policy

Reimbursement Programs Policy

Policy Statement

OCERS recognizes that under certain circumstances, employees should be reimbursed for costs incurred during the course of their employment.

Purpose

The purpose of this policy is to set forth reimbursement programs and the procedures to follow when seeking reimbursement.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS)

Provisions

1. Mileage Reimbursement

- a. Subject to the current Vehicle Rules and Regulations established by the Board of Supervisors, an employee who is authorized to use a private automobile in the performance of duties shall be paid the Internal Revenue Service Standard Mileage Rate for the Business use of a car for each mile driven during each monthly period.
- b. An employee who is required by OCERS to furnish a privately owned vehicle for the performance of his or her duties shall receive a minimum of \$10 dollars in any month in which the actual mileage reimbursement would otherwise be less than \$10 dollars. The minimum shall not apply in any month:
 - i. In which the employee has not actually worked eighty (80) hours;
 - ii. Unless the employee claims the ten 10 dollar minimum and OCERS certifies that the employee was required to use a privately owned vehicle on OCERS business.

2. Personal Property Reimbursement

OCERS will consider request for personal property reimbursement on a case-by-case basis.

3. Membership Fees

Upon request, OCERS shall reimburse employees holding professional designations or certificates. Examples include State and County Bar fees, CFA, CPA, etc.

Religious Accommodation Policy

Policy Statement

OCERS respects the religious beliefs and practices of all employees and will make, on request, an accommodation for such observances when a reasonable accommodation is available that does not create an undue hardship on the conduct of OCERS' business.

Purpose

The purpose of this policy is to ensure that OCERS is respectful of the religious beliefs and practices of all employees in compliance with state and federal laws relating to religious accommodations in the workplace.

Scope/Coverage

This policy supersedes all previously promulgated policies on this topic and applies to Contract Workers and individuals who are employed by the following entities:

1. OCERS; and
2. County of Orange (County employees who work at OCERS); and
3. Third party vendors

Provisions

1. OCERS will reasonably accommodate employees so that they may follow their religious beliefs, observances and practices unless doing so results in undue hardship to OCERS. In determining whether a requested accommodation would impose an undue hardship, OCERS will consider such factors as business necessity, financial cost or expense, operational considerations, safety issues, legal requirements (including collective bargaining agreements), and whether it infringes on the rights of other employees or requires other employees to bear more than their fair share of potentially hazardous or burdensome work.
2. An employee whose religious beliefs or practices conflict with his or her job, work schedule, or with OCERS' policy or practice on dress and appearance, or with other aspects of employment, and who seeks a religious accommodation should submit a written request for the accommodation to his or her immediate supervisor. The written request should include the type of religious conflict that exists and the employee's requested accommodation. An accommodation may include using paid leave or leave without pay, allowing an exception to the dress and appearance code that does not affect safety or other requirements, or other conditions of employment.
3. Supervisors should seek guidance from Human Resources before responding to a request for religious accommodation.
4. It is not possible to anticipate every request for religious accommodation that OCERS might receive. All requests will be examined on a case by case basis.

Contract Workers Policy

Policy Statement

All Contract Workers who perform service for the OCERS are required to comply with all personal conduct and performance policies and standards contained in the OCERS Personnel Policies and Regulations.

Purpose

The purpose of this policy is to establish the personal conduct and performance standards for all Contract Workers.

Scope/Coverage

This policy applies to all Contract Workers at OCERS.

Provisions

1. Applicability of Personal Conduct Policies

- a. All Contract Workers must adhere to the following personal conduct policies:
 - i. Code of Conduct Policy
 - ii. Discrimination & Harassment Policy
 - iii. Sex Harassment
 - iv. Workplace Relationships Policy
 - v. Work Place Safety & Violence Prevention Policy=

Failure to adhere to any of the above-referenced policies may result in the termination of a Contract Worker's contract, subject to the terms of those contracts, with or without warning.

2. Applicability of Performance-Related Policies

- a. All Contract Workers must adhere to the following performance-related policies:
- b. Confidentiality of Records
- c. Conflict of Interest
- d. Drug and Alcohol
- e. Electronic Resources
- f. Professional Business Attire
- g. Social Media

Failure to adhere to any of the above-referenced policies may result in the termination of a Contract Worker's contract, subject to the terms of those contracts, with or without warning.

Glossary

Active Duty: Duty under a call or order to active duty under Title 10 of the United States Code or any other provision of law during a war or during a national emergency declared by the President or Congress.

Administrative Services: Manages, plans, directs, and coordinates supportive services of OCERS such as, facilities maintenance and contracts, human resources, mail distribution, and office upkeep.

Director of Administrative Services: The person delegated the authority and responsibility by the Chief Executive Officer to make decisions concerning Administrative Services matters on behalf of OCERS.

Affected by Pregnancy: When because of pregnancy, childbirth, or a related medical condition, it is medically advisable for an employee to transfer or otherwise to be reasonably accommodated by her employer.

Alcohol: Ethanol alcohol in any consumable form (e.g., beer, wine, liquor).

At-Will: Employment that has no specified term and may be terminated at any time at the will of either the employee or OCERS

Annual Leave: Annual Leave is a paid time-off benefits program. Hours accrued can be used for any reason, including vacation, illness, doctor's appointments or personal business.

Being Under the Influence: When an individual is impaired by alcohol or a drug, or the combination of alcohol or drugs, regardless of the level detected.

Board: The Board of Retirement of the Orange County Employees Retirement System

Child: A biological, adopted or foster child, stepchild, a legal ward of the employee or a child of an employee standing in loco parentis (i.e., having day-to-day responsibilities to care for and financially support a child; a biological or legal relationship is not necessary). A child is either under 18 years of age or incapable of self-care because of a mental or physical disability.

Close Relative: An individual related by blood, adoption or marriage, e.g., spouse, parent, child, sibling, grandparent, grandchild, uncle, aunt, first cousin, nephew, niece, mother/father in-law, son/daughter in-law, sister/brother in-law, stepparent, stepchild, stepbrother/sister or half brother/sister.

Condition related to pregnancy, childbirth, or a related medical condition: A physical or mental condition intrinsic to pregnancy or childbirth that includes, but is not limited to, lactation. Generally, lactation without medical complications is not a disabling "related medical condition" requiring pregnancy disability leave, although it may require transfer to a less strenuous or hazardous position or other reasonable accommodation.

Conflict of Interest: A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity at OCERS. A conflict of interest may occur any time one's personal interests or personal relationships might impair, or might reasonably appear to impair, one's ability to make an objective and fair decision based solely on what is best for OCERS and its members

Continuous Service: Employment in a regular position with OCERS and or with the County of Orange, which has not been interrupted by resignation, discharge, or retirement. Official Leaves of Absence shall not be credited toward Continuous Service.

Contract Worker: Independent contractors; workers who are employed by, or have an independent contractor arrangement with, third-party vendors, staffing agencies, or independent contractors; and

non-executive staff whose employment relationships with OCERS are subject to a contract for employment.

County of Orange Employee: A person employed by the County and covered by terms of the Memorandum of Understanding, except where the natural construction of the Memorandum of Understanding indicates otherwise.

Disabled by Pregnancy: An employee is disabled by pregnancy when, in the opinion of her health care provider, she is unable, because of pregnancy, to perform any one or more of the essential functions of her job or to perform any of these functions without undue risk to herself, to her pregnancy's successful completion, or to other persons. An employee also may be considered to be "disabled by pregnancy" if, in the opinion of her health care provider, she is suffering from severe "morning sickness" or needs to take time off for: prenatal or postnatal care; bed rest; gestational diabetes; pregnancy-induced hypertension; preeclampsia; post-partum depression; childbirth; loss or end of pregnancy; or, recovery from childbirth.

Discrimination: Unlawful differential treatment of an individual based on a protected characteristic.

Donee: A current employee for whom the employing agency has approved an application to receive leave from the eligible leave accounts of one or more leave donors.

Donor: An employee whose voluntary written request for transfer of eligible leave to the leave account of a leave recipient is approved by the requesting agency

Electronic Resources: All OCERS electronic media and computing systems or devices, including desk top computers, laptops and other portable devices, voice mail, email, printers, copiers, scanners, fax machines, cell phones, and internet access.

Emergency Military Duty: A call to active military duty by federal or state governmental order for purposes of war, national emergency, domestic emergency or military operations.

Essential Job Functions: The fundamental job duties of the employment position the employee with a disability holds or desires. A job function may be considered essential for any of several reasons, including, but not limited to, the following:

- a. The reason the position exists is to perform that function.
- b. The limited number of employees available among whom the performance of that job function can be distributed.
- c. The function may be highly specialized

Executive Employee: A person employed in the positions of the following: Chief Executive Officer, the Chief Investment Officer, the Assistant Chief Executive Officer, Finance and Internal Operations, Assistant Chief Executive Officer, External Operations and the General Counsel.

Exempt Employees: A person employed directly by OCERS.

Extra Help Employee: A person employed in an extra help position. An extra help employee serves at the pleasure of OCERS in an extra help position may be removed from an extra help position at any time with or without notice or cause and without a hearing.

Extra Help Position: A position which is intended to be occupied on less than year-round basis including, but not limited to the following: to cover seasonal peak workloads of limited duration; necessary vacation relief, paid Sick Leave and other situations involving a fluctuation staff.

Family Member: The following are considered members of the employee's family:

- a. Spouse and parents thereof;
- b. Children, including adopted children;
- c. Parents, including step-parents;
- d. Brothers and sisters; and,
- e. Grandparents or legal guardian.

Full-Time Employee: An employee employed in one (1) or more regular or limited-term positions whose normally assigned work hours equal those of a full workweek or work period as described hereinafter.

The Genetic Information Nondiscrimination Act of 2008 (GINA): Prohibits OCERS from requesting or requiring genetic information of an employee or family member of the employee, except as specifically allowed by this law (e.g., to certify the need for leave for family member's serious health condition).

Harassment: A form of discrimination that involves unwelcomed conduct based on an individual's protected characteristic.

Healthcare Provider: A medical doctor, osteopath, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, clinical social worker, midwife, Christian Science practitioner, and any other person determined by the Secretary of Labor to be capable of providing health care services.

Interactive Process: A timely good faith communication between OCERS and an employee or, when necessary because of the disability or other circumstances, his/her representative, to explore whether the employee needs reasonable accommodation for the employee's disability to perform the essential functions of her/her job, and if so, how the employee can be reasonably accommodated.

Intermittent leave: Leave from work granted under the Family and Medical Leave act (FMLA) that is staggered instead of continuous but is permissible, e.g. the recurrence of a dangerous condition.

Key Employee: A salaried FMLA-eligible employee who is among the highest paid 10 percent of all the employees employed by OCERS.

Limited-Term Employee: An employee employed in a limited-term position except where a regular position is converted to a limited-term position, the incumbent shall retain his or her former status. As an exception to this definition, a limited-term employee may also be used to fill a regular position when the incumbent employee is on Official Leave of Absence.

Meal Period: An uninterrupted period of time of at least 30 minutes in which an employee is relieved of all work duties. This period is unpaid time.

Memorandum of Understanding (MOU): Sets forth the terms of agreement reached between the County of Orange and an exclusively recognized employee organization.

Military Duty: Includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and any period of absence for the purpose of an examination to determine the fitness of the employee to perform any such duty.

Military Training Duty: Annual active duty training for military reserves.

Non-Exempt Employees: Non-exempt employees do not meet the exemption standards of the FLSA. Non-exempt employees will report all hours worked for each day worked using the appropriate payroll codes as outlined in the payroll system when completing their electronic time sheets.

OCERS: Abbreviation for Orange County Employees Retirement System.

OCERS Direct Employee: A person employed by OCERS who is in an Executive, Management or Professional job classification.

Other Serious Circumstance: A serious circumstance other than medical that will be disclosed to other employees.

Parent: A biological, adoptive, step or foster parent, a legal guardian, or any other individual who stood in loco parentis (i.e., having day-to-day responsibilities to care for and financially support a child; a biological or legal relationship is not necessary) to the employee when the employee was a child.

Period of Incapacity: Any period of time in which an employee is unable to work, attend school or perform other regular daily activities due to the employee's serious health condition, treatment, or recovery from a serious health condition.

Personnel Records: Documents maintained to record necessary information regarding an employee's employment standing and position with OCERS, such as employment application and/or resume, offer letter, payroll authorization forms, records reflecting a job transfer or promotion or other change in job title and/or payroll rate, name change or corrections to date of birth, annual performance evaluations, notices of commendation or discipline, and leave request forms.

Prohibited Drug: Any drug which is not legally obtainable: any "illicit" drug or "controlled substance" the possession or use of which could result in arrest or other legal sanction according to state or federal statute;

- a. Any drug which is legally obtainable but has not been legally obtained;
- b. Prescribed drugs not being used for prescribed purposes or at prescribed dosages; and/or
- c. Any non-prescription substances that are used contrary to manufacturer's recommendations.

Protected Characteristics: Race, color, religion, sex (including pregnancy, breastfeeding and medical conditions related to breast feeding), gender identify, gender expression, national origin, age, physical or mental disability, veteran status, sexual orientation, genetic information, ancestry, marital status, medical condition, or religious creed.

Qualified Individual: An employee who has the requisite skill, experience, education, and other job related requirements of the employment position such individual hold or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reduction: Movement of a regular or probationary employee from one (1) class to another class where the maximum step of the new salary range is at least one (1) full step or 2.75 percent (for ML & PL range classes) lower than the minimum step of the old salary range.

Reasonable Accommodation: Modifications or adjustments to an employee's position that are effective in enabling an employee to perform the essential functions of the job the employee holds or desires, or effective in enabling an employee with a disability to enjoy equivalent benefits and privileges of employment as are enjoyed by similarly situated employees without disabilities. The elimination of an Essential Job Function or the creation of a new position is not a reasonable accommodation and is not required by law.

Registered Domestic Partner: A person that is registered as a domestic partner with the Secretary of State of California or is registered as a domestic partner in any other state in which domestic partnerships or civil unions are recognized.

Rest Period: An uninterrupted 15-minute period of time in which an employee is relieved of all work duties. This period is paid time.

Seniority: Total continuous full-time equivalent service as a regular employee with OCERS and/or the County of Orange

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves:

- a. Inpatient care in a hospital, hospice, or residential medical care facility or overnight stay in a hospital, hospice or residential medical care facility. This includes inpatient care for any period of incapacity or treatment in connection with such incapacity.
- b. Continuing treatment by a health care provider, including (1) a period of incapacity of more than three consecutive calendar days; (2) a period of incapacity that involves at least two treatments by a health care provider within 30 days after the first day of incapacity (unless extenuating circumstances prevent the second treatment); or (3) at least one treatment by a health care provider within 7 days after the first day of incapacity that results in a regimen of continuing treatment under that provider's care.

Sexual Harassment: The making of unwanted and offensive sexual advances or of sexually offensive remarks or acts, especially by one in a superior or supervisory position or when acquiescence to such behavior is a condition of continued employment, promotion, or satisfactory evaluation. Examples of sexual harassment include, but are not limited to: (a) unwelcome requests for sexual favors; (b) lewd or derogatory comments or jokes; (c) comments regarding sexual behavior or the body of another employee; (d) sexual innuendo and other vocal activity such as catcalls or whistles; (e) obscene letters, notes, emails, invitations, photographs, cartoons, articles, or other written or pictorial materials of a sexual nature; (f) repeated requests for dates after being informed that interest is unwelcome; (g) retaliating against an employee for refusing a sexual advance or reporting an incident of possible sexual harassment to OCERS or any government agency; (h) offering or providing favors or employment benefits such as promotions, favorable evaluations, favorable assigned duties or shifts, etc., in exchange for sexual favors; (i) any unwanted physical touching or assaults, or blocking or impeding movements; and (j) retaliation for having reported sexual harassment.

Social Media: Forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content. Social media includes but are not limited to blogs, podcasts, discussion forums, on-line collaborative information and publishing (i.e., Wikis), RSS feeds, video sharing, and social networks like LinkedIn, Twitter and Facebook.

Spouse: A husband or wife as defined or recognized under the laws of the State of California for purposes of marriage, or the laws of the state in which the spouse received a marriage license, including same-sex marriage.

Telecommuting: The practice of working at a location outside of OCERS, typically one's home. Telecommuting can be done on a regular basis (e.g., once per week), or an occasional basis.

Unapproved Absences: Absences that have not been approved by OCERS in advance and are not covered under OCERS' Family and Medical Leave, Pregnancy Leave, or Workers' Compensation Leave policies.

Under the Influence: The state of being intoxicated or impaired by alcohol or a drug, or the combination of alcohol and drugs.

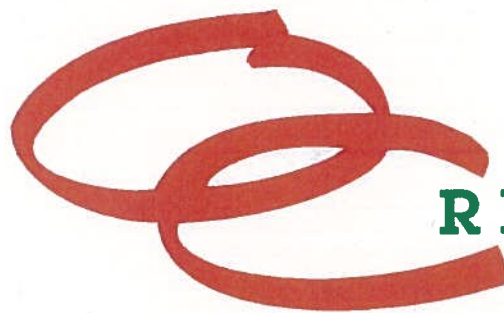
Undue Hardship: An action requiring significant difficulty or expense incurred by OCERS.

United States Uniformed Services: The Armed Forces (Army, Navy, Marine Corps, Air Force or Coast Guard), the Army National Guard and Air National Guard, the Commissioned Corps of the Public Health Service, and any other category of persons designated by the President in a time of war or national emergency (e.g., Disaster Medical Assistance Team).

Workplace Relationship: As used in this policy, “workplace relationship” refers to personal relationships of a romantic or sexual nature.

Y-RATE: A pay rate outside of the assigned salary range of a class.

PERSONNEL POLICIES AND REGULATIONS



**RETIREMENT
SYSTEM**

Adopted by the Orange County Employees Retirement System on
November 18, 2002

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ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM PERSONNEL POLICIES AND REGULATIONS

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INTRODUCTION

These Personnel Policies and Regulations (PP&R) have been adopted pursuant to 31468, 31522.5, 31557.3, and 31678.3 of the California Government Code. The adoption of specific personnel policies and regulations confirm the authority of the Board of Retirement for the Orange County Employees Retirement System (OCERS) over matters affecting OCERS' employees including but not limited to the authority to select, promote, discipline, assign the work of, set policies, and provide compensation to OCERS' employees. The PP&R replaces the Orange County Board of Supervisors' Personnel and Salary Resolution with regards to designated management of the OCERS workforce. Revisions hereto may be made in accordance with OCERS Personnel Plan.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM PERSONNEL POLICIES AND REGULATIONS

DEFINITIONS

The following terms as used in these Policies will, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

AT WILL EMPLOYEE shall mean an employee who has entered into an At Will agreement or has been appointed to an At Will position including but not limited to Chief Executive Officer, Chief Investment Officer, Chief Operations Officer, Chief Financial Officer, General Counsel and executive management employees.

AT WILL POSITION shall mean a position so designated by the Board of Retirement or by statute.

BOARD shall mean the Board of Retirement of the Orange County Employees Retirement System.

CATASTROPHIC MEDICAL CONDITION shall mean a medical condition that requires the employee to be absent from work for at least 30 days on unpaid leave.

CHIEF EXECUTIVE OFFICER or CEO shall mean the Chief Executive Officer of the Orange County Employees Retirement System (OCERS).

CONFIDENTIAL EMPLOYEE includes all managers and other employees designated by the Chief Executive Officer as being privy to management decisions affecting employee relations.

CONSULT shall mean verbal or written communications for the purpose of presenting and obtaining views and advising of intended actions.

CONTINUOUS SERVICE shall mean employment in a regular position with OCERS and/or with the County of Orange, which has not been interrupted by resignation, discharge or retirement. Official Leaves of Absence shall not be credited toward continuous service.

COUNTY shall mean the County of Orange and special districts governed by the Board of Supervisors.

EMERGENCY means an unforeseen circumstance requiring immediate action, a sudden unexpected happening, an unforeseen occurrence or condition, a pressing necessity.

EMPLOYEE shall mean any person who is employed by OCERS who is in an Executive, Management or Professional job classification.

EMPLOYEE RELATIONS shall mean the employer-employee relationship between OCERS and its employees and their Exclusively Recognized Employee Organizations.

EXECUTIVE EMPLOYEE shall mean a person employed in a class listed in Appendix A of these Policies or as designated by the Chief Executive Officer.

EXTRA HELP EMPLOYEE shall mean a person employed in an extra help position. An extra help employee serves at the pleasure of OCERS in an extra help position and may be removed from an extra help position at any time with or without notice or cause and without a hearing.

EXTRA HELP POSITION shall mean a position which is intended to be occupied on less than a year-round basis including, but not limited to, the following: to cover seasonal peak workloads; emergency extra workloads of limited duration; necessary vacation relief, paid Sick Leave and other situations involving a fluctuating staff.

FACT FINDING shall mean the investigation of an impasse by an impartial third party for the purpose of describing the issues in dispute, stating the positions of the parties, making findings of fact on issues in dispute and making advisory recommendations for settlement of the dispute.

FULL-TIME EMPLOYEE shall mean an employee employed in one (1) or more regular or limited term positions whose normally assigned work hours equal those of a full workweek or work period as described hereinafter.

HUMAN RESOURCES MANAGER shall mean the person delegated the authority and responsibility by the Chief Executive Officer to make decisions concerning Human Resources matters on behalf of OCERS or his or her designee.

LIMITED-TERM EMPLOYEE shall mean an employee employed in a limited term position except where a regular position is converted to a limited-term position, the incumbent shall retain his or her former status. As an exception to this definition, a limited-term employee may also be used to fill a regular position when the incumbent employee is on Official Leave of Absence.

LIMITED-TERM POSITION shall mean a position that OCERS has determined has no anticipated long-range funding or has uncertain future funding.

MANAGEMENT EMPLOYEE shall mean a person employed in a class listed in Appendix A as designated by the CEO or Board.

MEDIATION means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of OCERS and an Exclusively Recognized Employee Organization through interpretation, suggestion and advice.

NEGOTIATION shall mean the process by which representatives of an Exclusively Recognized Employee Organization and the representatives of OCERS meet a reasonable number of times and confer in good faith in an effort to agree upon joint recommendations for presentation to the Chief Executive Officer for eventual adoption by the Board of Retirement regarding wages, hours and other terms and conditions of employment. When appropriate, proposals and counter-proposals may be used to resolve differences in an effort to avoid an impasse. The negotiation process does not obligate either party to accept a proposal or make a compromise.

PART-TIME EMPLOYEE shall mean an employee employed in one (1) or more regular or limited term positions whose normally assigned work hours do not equal those required of a full-time employee.

PRACTICABLE means economically or operationally feasible; reasonably able to accomplish.

PROBATIONARY EMPLOYEE shall mean a person who is serving a new or promotional probation period and is employed in a regular or limited-term position.

PROFESSIONAL EMPLOYEE shall mean a person employed in a class listed in Appendix A of these policies or as designated by the Chief Executive Officer and an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction and/or experience.

PROMOTION shall mean the movement of a regular, limited-term, or probationary employee from one (1) class to another class where the maximum rate on the new salary range is at least one (1) full step or 2.75 percent (for ML & PL range classes) higher than the maximum step of the old salary range, or movement from one band to a higher band.

REASSIGNMENT shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class on the same salary range or to a class where the minimum rate on the new salary range is less than one (1) full step or 2.75 percent (for ML & PL range classes) higher or lower than the minimum step of the old salary range.

RECRUITING RATE shall be the minimum rate of the salary range allocated to a class unless otherwise authorized by the Chief Executive Officer.

REDUCTION shall mean the movement of a regular, limited-term or probationary employee from one (1) class to another class where the minimum step of the new salary range is at least one (1) full step or 2.75 percent (for ML & PL range classes) lower than the minimum step of the old salary range.

REGULAR EMPLOYEE shall mean a person who is not on probation and is employed in a regular or limited-term position.

REGULAR POSITION shall mean a position established on a permanent year-round basis requiring work on a regular schedule unless otherwise authorized by the Board.

SENIORITY shall mean total continuous full-time equivalent service as a regular employee with OCERS and/or the County of Orange.

SUPERVISORY MANAGEMENT EMPLOYEE shall mean any employee, having authority to exercise independent judgment in the interest of OCERS; to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or having the responsibility to direct them; to adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Y-RATE shall mean a pay rate outside of the assigned salary range of a class.

PART 1 GENERAL PERSONNEL PROVISIONS
(APPLICABLE TO ALL OCERS EMPLOYEES)

ARTICLE I - GENERAL PERSONNEL PROVISIONS

Section 1. Regulation of Employees

- A. The Chief Executive Officer shall be responsible for preparing and submitting a formal personnel plan for the classification, compensation, recruitment, promotion, discipline and removal of persons employed by OCERS.
- B. All employees, except for those specifically governed by statute shall hold their positions subject to policies established by the Board of Retirement.
- C. OCERS employees shall devote all of their time and efforts during their work hours to the performance of their assigned duties. Employees who wish to engage in any employment in addition to their OCERS employment may do so as long as the activity is not prohibited, nor interfere with the efficient performance of OCERS duties nor create an appearance of impropriety.
- D. Employees shall not engage in outside employment and/or related activities (paid or unpaid) which:
 - 1. Are inconsistent, incompatible or in conflict with the duties of OCERS.
 - 2. Might imply OCERS endorsement of the work performed.
- E. Employees shall refrain from engaging in any activities that constitute a conflict of interest due to the nature, conditions, or some other aspect of the activity. It shall be the responsibility of the Chief Executive Officer to ensure that employees refrain from engaging in any activities that constitute a conflict of interest. The following are examples of activities that may involve a conflict of interest:
 - 1. The use of OCERS time, facilities or equipment for private gain or advantage, or private gain or advantage of another.
 - 2. The use of prestige or influence of OCERS employment for private gain or advantage, or the private gain or advantage of another.
 - 3. The use of confidential information acquired by virtue of OCERS employment for the employee's private gain or advantage, or private gain or advantage of another.
 - 4. The acceptance of money or other consideration by an employee from any person except the OCERS for the performance of an act which the employee would be required or

expected to render in the regular course or hours of his or her OCERS employment, or as a part of his or her duties as an employee.

5. The performance of an act in other than his or her capacity as an OCERS employee, knowing that such act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the employee or OCERS.
6. The representation of, or assisting in the representation of private interests for profit in court when OCERS is a party.
7. The solicitation of future employment with a business doing business with OCERS over which the employee has some control or influence in his or her official capacity at the time of transaction.
8. All employees are expected to observe all applicable state, local and OCERS by-laws and regulations regarding governmental contracts, conflicts of interest and disclosure of interests.

F. Policy on Employment of Relatives

1. Purpose:

To provide guidelines for employment of close relatives as situations involving relatives working at OCERS may result in morale problems, inappropriate supervision, conflict of interest, or public criticism. The intent is to avoid the opportunity for an employee of OCERS to use personal influence to aid or hinder another in the employment setting or situation because of a personal relationship.

2. Policy:

- a. General: No person may be appointed, promoted, reduced, transferred or reassigned to a position in which that person is in the direct line of supervision of a close relative; nor shall close relatives have the same immediate supervisor. "Supervision" includes the assignment of work, evaluation of performance and setting or influencing the pay or granting of benefits to the other.
- b. Definition: A close relative shall be defined as an individual related by blood, adoption or marriage, e.g., spouse, parent, child, sibling, grandparent, grandchild, uncle, aunt, first cousin, nephew, niece, mother/father in-law, son/daughter in-law, sister/brother in-law, stepparent, stepchild, stepbrother/sister or half brother/sister.
- c. Disclosure: All applicants for employment, promotion, reduction, transfer or reassignment to a position in OCERS shall be required to disclose the name(s) and position title(s) of any close relative currently employed in OCERS prior to appointment, promotion, reduction, transfer or reassignment. An employee who becomes a "close relative" by marriage subsequent to appointment shall disclose the new relationship(s) to his/her supervisor.

- d. Exemptions: The Chief Executive Officer may grant exemptions required for the effective and efficient operation of the OCERS. The Chief Executive Officer shall develop appropriate procedures to ensure the objective review of requests for exemption.

3. Procedure For Exemption From Policy:

- a. The hiring supervisor shall request authority for an exemption from the Chief Executive Officer prior to appointing, promoting, reducing, transferring or reassigning a close relative of an employee if such action will result in a violation of policy above.
- b. The Chief Executive Officer will approve or disapprove the supervisor's recommendation.
- c. If an exemption is granted for a close relative of the Chief Executive Officer, the Board shall be promptly notified.

G. Drug and Alcohol Policy

1. Purpose:

It is the purpose of this policy to articulate the position of OCERS Retirement Board with respect to the use of drugs or alcohol by OCERS employees while on OCERS time, in vehicles, on OCERS property or in OCERS facilities.

2. Policy:

In recognition of the duties entrusted to the employees of OCERS and with knowledge that drugs and alcohol do hinder a person's ability to perform duties safely and effectively, OCERS adopts the following policy:

It is the policy of OCERS to maintain a safe, healthful, lawful and productive work place. The Chief Executive Officer and Board of Retirement are committed to discouraging alcohol and drug abuse and to achieving a work force free from the influence of drugs and alcohol.

It is the intent of this policy to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any OCERS employee or member of the public. OCERS is concerned with those situations where the use of alcohol and drugs interferes with any employee's safety and job performance, adversely affects the job performance or safety of other employees, affects the safety of the public or the public's trust.

OCERS participates in the County's voluntary Employee Assistance Program (EAP) to assist all employees who wish to seek help for alcohol and drug problems. OCERS also makes available a variety of insurance coverage that provides treatment for drug and alcohol abuse. Employees may contact their supervisors, insurance provider, or the EAP for additional information.

The use, possession, or sale of illegal drugs is unlawful, dangerous and prohibited. The use of alcohol in the workplace, or prior to coming to the workplace, so that the employee's performance is impaired, is dangerous to the employee, to other employees and the general public and is prohibited. The abuse of all drugs, including alcohol, by employees is unacceptable since it can adversely affect health and safety, security, and productivity as well as public confidence and trust.

Violation of this policy may be grounds for disciplinary action up to and including discharge from OCERS service.

Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the EAP or their insurance provider. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems. Once a violation of this policy occurs, subsequent use of the EAP or other programs, on a voluntary basis, will not necessarily lessen disciplinary action.

H. Nondiscrimination

The provisions of these Policies and Regulations shall be applied to employees without discrimination by reasons of marital status, race, religion, disability, sexual orientation, color, gender, age, national origin, or ancestry.

I. Policy Prohibiting Harassment and Other Forms of Discrimination

Harassment based on a person's legally protected status under federal, state and local law will not be tolerated. In keeping with our commitment to have a workplace free of discrimination we expect all OCERS employees to conduct themselves in a professional and courteous manner at all times. Behavior that results in unlawful harassment must be strictly avoided.

Unlawful harassment in the workplace based upon race, religion, color, national origin, ancestry, citizenship, mental or physical disability, medical condition, marital status, sex, age, sexual orientation or other protected group status includes, but is not limited to:

Verbal harassment based upon epithets, derogatory comments or slurs;

Physical harassment based upon assaulting, impeding or blocking movement, or any physical interference with normal work or movement directed at an individual;

Visual forms of harassment based upon derogatory posters, cartoons or drawings;

or

Sexual harassment such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, such as name calling, suggestive comments, or lewd talk and jokes, if:

1. submission to such conduct is made, directly or indirectly, a term or condition of working for OCERS,

2. submission to, or rejection of, such conduct is the basis for employment decisions, or
3. such conduct unreasonably interferes with the individual's work performance or has the purpose or effect of creating an intimidating, hostile or offensive work environment.

Employees who believe they have been subjected to such treatment must report their concerns immediately to their supervisor, manager or the OCERS Human Resources Division. Such report may be done in person, by phone or on forms prescribed by OCERS and available to employees upon request. All claims will be investigated promptly.

J. Catastrophic Leave Donation Procedure

OCERS shall administer a Catastrophic Leave procedure designed to permit limited individual donations of vacation and/or compensatory time to an employee who is required to be on an extended unpaid leave due to a catastrophic medical condition. Such policies and procedures shall establish a two-hour minimum and an eight-hour maximum donation for each donating employee. Such policies and procedures shall also require that an employee on a leave without pay at the time he or she receives a Catastrophic Leave donation will be treated as if on an Official Leave of Absence for purposes of probation and merit increase eligibility. In addition, the policies and procedures shall provide for payment to the recipient employee's estate of any unused donated time if the recipient employee dies during the Catastrophic Leave. Changes to the Catastrophic Leave procedure may be implemented subject to the meet and confer process if applicable.

Section 2. Position Classification Plan

- A. The Position Classification Plan of OCERS shall consist of the class titles and the class specifications adopted by the Board. There shall be a class specification for each class, unless exempted by the Board, which includes the title of the class and indicates the type of work performed and the minimum qualifications for employment.
- B. The OCERS Human Resources Manager shall administer the Position Classification Plan for all positions. The Human Resources Manager shall make recommendations to the Chief Executive Officer as to the establishment of classes. The Human Resources Manager shall establish procedures to administer the Position Classification Plan.
- C. The Human Resources Manager is authorized to conduct studies of the duties and responsibilities of the various positions in order to maintain the Position Classification Plan.
- D. Executive Management shall notify the Human Resources Manager of a permanent change in the assigned duties of a position if the class to which the position is currently allocated may no longer be appropriate. Such notification shall include the reason for the change in duties necessitating the classification change.

Section 3. Number and Classification of Activated Positions

- A. The number of activated regular positions shall be as designated by the Board. The Chief Executive Officer shall not appoint regular or probationary employees in excess of the positions activated. The Chief Executive Officer may fill a regular position with a replacement up to twenty-eight (28) calendar days in advance of the separation of a terminating employee.
- B. The Human Resources Manager is authorized to reclassify positions when, a) such reclassifications are consistent with classification concepts, classification specifications and salaries adopted by the Board or Chief Executive Officer, and b) when the Chief Executive Officer agrees with the classification change.
- C. The Human Resources Manager may authorize that a regular position may be used as one (1) or more part-time regular positions provided that the total regularly scheduled hours of the part-time positions do not exceed the number of hours per week authorized for the activated regular positions.
- D. The Chief Executive Officer may appoint limited-term or extra help employees subject to the appropriate classification of the positions. Ordinarily a full-time extra help position will not be authorized for a period exceeding six (6) months. In unusual circumstances, a full-time extra help position may be authorized for a period longer than six (6) months, provided such period shall not exceed one (1) year when practicable.
- E. When a regular or limited-term position is vacant due to Leave of Absence, the position may be filled for the length of the immediately preceding Leave, Official Leave, Disability Leave or Parenthood Leave and any extensions of such leaves.
- F. When an employee who is separating from OCERS service by way of paid retirement elects to take time off for vacation, the position to be vacated may be filled for the length of vacation time off prior to the employee's paid retirement, or 28 days prior to the start of the retiring employee's vacation.
- G. When a regular or limited-term employee is on a leave of absence with pay and the cost of the employee's salary and benefits is fully reimbursed to OCERS, the employee's position may be filled by OCERS for the length of the paid leave.

Section 4. Selection Procedures

Consistent with Section 1.A. of this Article, the Human Resources Manager shall determine the method of evaluating the qualifications of applicants and employees.

Section 5. Performance Evaluations

The Chief Executive Officer may establish a performance evaluation program for employees.

Section 6. Authority for Disciplinary Action

Discipline of employees may be imposed by the Chief Executive Officer or his/her delegated representative.

Section 7. Leave of Absence With Pay

- A. The Chief Executive Officer may authorize an employee to be absent with pay from his or her regular work area for reasons other than physical or mental illness for a period of time not to exceed one hundred twenty (120) regularly scheduled working hours if the Chief Executive Officer finds that such absence:
1. contributes to the employee's effectiveness in his or her assigned duties and responsibilities; or
 2. contributes to the functions and goals of OCERS.
- B. An employee may be absent with pay from his or her regular work area in excess of one hundred twenty (120) regularly scheduled working hours upon the approval of the Board of Retirement.

Section 8. Military Leave of Absence

A request for Military Leave of Absence shall be made upon forms prescribed by OCERS and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence, and the probable date of return. Military Leave is governed by provisions of the Military and Veterans Code of the State of California, Section 395, et seq. An employee receiving pay for a portion of such Leave shall not be deemed to be occupying a position during such paid Leave period. When a regular position is vacant due to a Military Leave of Absence, the position may be filled for the length of that Leave.

Section 9. Time Off for Voting

- A. If an employee does not have sufficient time outside of working hours to vote at a State-wide election, the employee may, without loss of pay, take off enough working time which when added to the voting time available outside of working hours will enable the employee to vote.
- B. No more than two (2) hours of the time taken off for voting shall be without loss of pay. The time off for voting shall be only at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.
- C. If the employee on the third working day prior to the day of election, knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give his or her supervisor at least two (2) working days' notice that time off for voting is desired, in accordance with the provisions of this Section.

ARTICLE II - PAY PRACTICES

Section 1. Method of Compensation for Employees

- A. Employees shall receive compensation at the biweekly or hourly rate within the range or at the flat rate assigned to the class in which they are employed.
- B. The pay rate(s) for each class is (are) set forth in a table of class titles, pay rates and salary schedules as adopted by the Board.
- C. Notwithstanding any provision in these Policies to the contrary, OCERS may direct that any employee be compensated at any step of the salary range set forth in the class titles, pay rates and salary schedules as adopted by the Board, either at the time of or at any time subsequent to the date of his or her employment by OCERS.

Section 2. Salary Payment Procedure

- A. A pay period shall cover fourteen (14) calendar days and shall start on a Friday and end with the second Thursday thereafter. Employees shall be paid approximately eight (8) days after the end of a pay period, usually on a Friday. Employees hired after June 29, 2001 are required to authorize automatic deposit of his/her paycheck to a financial institution of the employee's choice.
- B. Compensation for each employee for whom compensation is established shall be paid out of OCERS budget as may be provided by law upon certification by the Chief Executive Officer to the Auditor-Controller that such employee has performed the services set forth in said certificate. When an employee separates from OCERS service and use of the regularly scheduled certification would create an inequitable delay, the Chief Executive Officer may immediately file a special payroll certification of such separation with the Auditor-Controller. The Auditor-Controller may draft the warrant for the period of time and/or pay due said employee up to the time of separation.

ARTICLE III – EDUCATIONAL AND PROFESSIONAL REIMBURSEMENT

Section 1. Objective

The Educational and Professional reimbursement program is designed to encourage employees to continue their professional development by enrolling in classroom courses that will:

- A. educate them in new concepts and methods in their occupational fields and prepare them to meet the changing demands of their jobs;
- B. help prepare them for advancement to positions of greater responsibility in OCERS service.

Section 2. Eligibility of Courses

The following criteria shall be used in determining the eligibility of courses for tuition reimbursement:

- A. Courses must be related to the work of the employee's position or occupation.
- B. Courses must have reasonable potential for resulting in savings, or improved or more efficient service.
- C. Courses must be taken on employee time.
- D. Courses must be taken at accredited institutions. Correspondence courses from reputable institutions will be considered only when equivalent courses are not available at local accredited schools, or when the employee's circumstances prevent attendance at courses offered locally.

Section 3. Reimbursement Eligibility

The following are eligible for reimbursement:

- 2. Courses related to obtaining a degree (AA, BA, BS, Masters, Ph.D.)
- 3. Accredited certificate programs
- 3. Vocational skills programs
- 4. Courses related to obtaining or maintaining a business-related certification, license, or accreditation
- 5. Courses related to preparing to take tests to obtain business-related certifications, licenses, or accreditation
- 6. Professional conferences, conventions, and seminars that are related to business objectives

7. Fees related to obtaining and/or renewing a license, including special driver's licenses
 8. Fees related to certification or accreditations
 9. Fees related to taking professional examinations
 10. Professional association membership fees
- A. In general, any courses taken through the program must be taken on employee time. However, at the discretion of the CEO, a course may be taken on OCERS time when it specifically meets a business need, and is not available during the employee's non-working hours.
 - B. Courses are not eligible for reimbursement if they:
 1. Are taken to bring unsatisfactory performance up to an acceptable level;
 2. Are taken to acquire skills or knowledge which the employee was deemed to have when appointed;
 3. Duplicate available in-service training;
 4. Duplicate training that the employee has already had.

Section 4. Nature of Reimbursement

- A. Reimbursement may be made for all required fees, registration, and other costs related directly to the approved educational professional expense. This may include, but is not limited to books, class materials, lab fees, testing fees, parking, processing fees, etc.
- B. Expenses for travel, meals, and lodging are not reimbursable; however, the CEO may authorize payment for these items when it meets their business needs and is budgeted in their travel expense budget.
- C. For degree programs, reimbursement shall be made to the employee upon completion of the course with a minimum final grade of C or its equivalent in an undergraduate course, or B or its equivalent in a graduate level course.
- D. Reimbursement for non-graded courses shall be made upon completion of an approved course and proof of payment.
- E. Public Service Institute (PSI) courses are not eligible for reimbursement.
- F. If an employee is receiving reimbursement from another source that covers a portion of the cost, OCERS will only pay the remaining amount, after other reimbursements are exhausted.
- G. The maximum reimbursement that may be received by eligible employees in one fiscal year shall be \$2000.

Section 5. Request Procedure

- A. The employee shall apply for approval of reimbursement through normal supervisory channels on forms provided by OCERS Human Resources.
- B. The CEO shall either approve the application or deny it based on the criteria set forth in this policy.
- C. Upon completion of an approved course, or payment of fees for approved memberships, licenses, certifications, or accreditations, the employee shall furnish proof of payment, and proof of grade (where applicable) to the CEO as soon as possible.
- D. Upon approval by the CEO, reimbursement will be provided to the employee.

ARTICLE IV - PAYOFF PROVISIONS

Section 1. Sick Leave Payoff

If applicable, the amount of the payment for unused sick leave, shall be calculated on the same basis as employee's retirement is calculated pursuant to Section 31462.1 of the Government Code, or on the basis of the employee's salary at the time of paid OCERS retirement or death, whichever is greater.

Section 2. Vacation Payoff

The amount of the lump sum payment for accrued vacation shall be calculated on the same basis as employee's retirement is calculated pursuant to Section 31462.1 of the Government Code, or on the basis of the employee's salary at the time of separation, whichever is greater.

PART 2 EXECUTIVE, MANAGEMENT, PROFESSIONAL AND OTHER UNREPRESENTED EMPLOYEES OF OCERS

ARTICLE V - WORK PERIOD AND PAY PRACTICES

Section 1. Work Period

- A. The official work period for OCERS employees shall start on a Friday and end on the second Thursday thereafter. Employees are not governed by the customary eighty (80) hour work period and may be expected to work more than eighty (80) hours in a given work period or allowed to work less than eighty (80) hours pursuant to the specific dictates of the assignment. The Chief Executive Officer shall regulate said work periods based on the needs of OCERS with due regard to maintaining reasonable and equitable work periods for all employees.
- B. If any OCERS Executive, Management or Professional employee is required to work an unusually large number of hours as a result of natural disasters and/or officially declared emergencies such as floods, fires, storm conditions, high tides, etc., or due to extraordinary circumstances, the Chief Executive Officer may authorize additional compensation for such an employee or group of employees whom the Chief Executive Officer determines should receive additional compensation. The rate of such compensation shall be equal to one eightieth (1/80) of the employee's regular biweekly pay rate for the hours in excess of eighty (80) hours in a pay period.
- C. Employees shall receive compensation at a biweekly rate within the range assigned to the class in which they are employed for each full pay period worked as determined. Compensation for pay periods in which full-time employees did not work the full schedule determined pursuant to Article VI, Section 1.A. and for extra help employees and part-time employees shall be based on an hourly rate equal to one-eightieth (1/80) of the biweekly rate, and shall not exceed eighty (80) hours in a pay period, except as provided in Section 1.B., above.

Section 2. Pay for New Employees

- A. A new employee shall be paid at the recruiting rate of the salary range in effect for the particular class or position in which the new employee is hired except as provided in Sections 2.B. and C., below.
- B. The Chief Executive Officer may authorize that a particular position be filled at any rate within the range. When the Chief Executive Officer authorizes the filling of the position at a rate that is higher than the recruiting rate of the salary range, the salary of incumbents of positions in that class or related classes, may be advanced by the Chief Executive Officer in order to retain equitable relationships.
- C. The Chief Executive Officer may authorize the appointment of employees at any rate on the salary range. Such appointments shall be made only when the Chief Executive Officer makes a determination that there is a direct benefit to OCERS from such appointments and makes a

determination that the applicant's previous training and experience enables him or her to make a greater contribution than a less experienced employee.

Section 3. Salary on Promotion

- A. Except as modified by B. and C., below, a regular, limited-term or probationary employee who is promoted to a position in a class with a higher pay range shall receive the higher of the following rates:
1. the recruiting rate for the higher class; or
 2. for employees promoting to a class allocated to a management range, a five and one half (5 ½) percent increase over the salary received prior to promotion; or
 3. for employees promoting to a class allocated to a range which contains fixed steps such higher amount which is closest to a two (2) step increase on the range over the salary received prior to promotion, not to exceed the top step of the new salary range. A new merit increase eligibility date shall be established for such employees, which shall be the first day of the pay period following completion of the first twenty-six (26) weeks of service in the new class.
- B. Any employee who is promoted to a class from which the employee was previously reduced without a salary decrease shall be placed at a salary rate no higher than the rate that the employee would have achieved if the employee had remained in the class to which he or she is promoted and had demonstrated at least standard performance. The employee's merit increase eligibility date shall be reestablished, if applicable, in order to credit the employee with any time formerly served in the higher class.
- C. Any other provision of these Personnel Policies and Regulations notwithstanding, a regular, limited-term or probationary employee who is promoted to a class allocated to a management range may receive a salary increase as determined by the Chief Executive Officer.

Section 4. Salary on Reassignment

- A. When a regular, limited-term or probationary employee is reassigned from one (1) class to another class with the same recruiting rate, the employee's salary and merit increase eligibility date, if applicable, shall not change. An employee shall have the same probation status that would have been achieved if the employee had been in the new class throughout the period of such service in the old class.
- B. When a regular, limited-term or probationary employee is reassigned from one (1) class to another class with the same salary range but a higher recruiting rate, the employee's salary shall be advanced the percentage difference between recruiting rates and the employee shall retain his or her former merit increase eligibility date, if applicable. Such an employee shall have the same probation status, which would have been achieved if the employee had been in the new class throughout the period of such service in the old class.

- C. When a regular or limited-term regular employee is reassigned from one (1) class to another class with the same salary range but a lower recruiting rate, the employee's salary and merit increase eligibility date, if applicable, shall not change. Such an employee shall have the same probation status that would have been achieved if the employee had been in the new class throughout the period of such service in the old class.
- D. When a probationary or limited-term probationary employee is reassigned from one (1) class to another class with the same salary range but a lower recruiting rate, the employee shall have the rate status, probation status and merit increase eligibility date, if applicable, that the employee would have achieved if the employee had been in the new class throughout the period of his or her service in the old class.
- E. When a regular, limited-term or probationary employee is involved in a series of reassignments among classes with different recruiting rates, the employee's salary and merit increase eligibility date, if applicable, shall be determined by the Human Resources Manager.
- F. When a regular, limited-term or probationary employee is reassigned from a class on one (1) salary range to a class on another salary range, the employee shall be placed at the closest rate that does not involve a salary reduction, but not to exceed the maximum rate in the range. Such an employee shall have the same probation status and merit increase eligibility date, if applicable, which would have been achieved if the employee had been in the new class throughout the period of such service in the old class.

Section 5. Salary on Reduction

A. Disciplinary Reductions

When a regular, limited-term, or probationary employee is reduced for disciplinary reasons, the employee's salary shall be reduced as follows:

1. For employees reducing to a class allocated to a management or professional range, a five and one-half (5 1/2) percent reduction will determine the placement within the pay range of the lower class. However, if the five and one half (5 1/2) percent reduction is higher than the top of the lower class pay range, the employee's salary shall not exceed the top of the range.

B. Non-disciplinary Reductions

1. Except as provided in Section 5.C., below, when a regular, or limited-term employee is reduced for physical disability or other non-disciplinary reasons, the employee shall receive the highest salary in the lower salary range that does not exceed the employee's rate of pay immediately prior to reduction. When a probationary or promotional probationary employee is reduced for physical disability or other non-disciplinary reasons, the employee shall have the salary status and, if applicable, the merit increase eligibility date he or she would have achieved if the employee had remained in the lower class throughout the period of his or her service in the higher class.

2. When a regular, limited-term or probationary employee is reduced because the position the employee occupied is reclassified, the applicable salary shall be determined as follows:
 - a. If the salary of the employee is the same or less than the maximum rate in the new pay range, the salary of the employee shall not change.
 - b. If the salary of the employee is greater than the maximum rate in the new pay range, the salary of the employee shall be designated as a Y-Rate and shall not change during continuous regular service until the maximum rate in the new pay range exceeds the salary of the employee or until the period of calendar time indicated in the schedule below has elapsed, whichever is sooner. If, at the end of the calendar period indicated below, the salary of the employee still exceeds the maximum rate in the new pay range, the salary or rate of the employee shall be reduced to the maximum rate in the pay range for the new class. The duration of the Y-Rate shall begin on the effective date of the reclassification of the position and continue for one year.
- C. When an employee on a Y Rate takes a voluntary reduction, his or her Y-Rate shall be reduced by the amount of the difference between the maximum salary on the salary range of the class from which the employee is being reduced and the maximum salary on the salary range of the new class.

Section 6. Salary on Reclassification

The salary of a regular, limited-term or probationary employee whose position is reclassified shall be determined as follows:

- A. If the position is reclassified to a class with the same salary range, the salary of the employee and merit increase eligibility date, if applicable, shall be set as in Article VI, Section 4., above, Salary on Reassignment.
- B. If the position is reclassified to a class with a higher salary range, the salary of the employee shall be governed by Article VI, Section 3., above, Salary on Promotion, or at the discretion of the Human Resources Manager, the salary of the employee shall not be changed.
- C. If the position is reclassified to a class with a lower salary range, the salary of the employee shall be governed by Article VI, Section 5., above, Salary on Reduction.

Section 7. Salary on Re-employment

- A. A person who is re-employed in the same occupational series in which the person held regular status and was separated in good standing, may upon approval of the Human Resources Manager be appointed at a step or rate higher than the recruiting rate, but no higher than the step or place on the range the person occupied at the time of separation unless appointment is at an advanced rate as authorized by the Chief Executive Officer or his/her designee.
- B. A former County or OCERS employee on paid County retirement may be re-employed for not more than one hundred twenty (120) working days or nine hundred sixty (960) hours,

whichever is greater, in any one (1) fiscal year in a position requiring special skills and knowledge and may be appointed to the position at any rate on the salary range.

Section 8. Change in Salary Allocation

If a class is reassigned to a higher pay range, the Chief Executive Officer shall determine the amount of increase, if any, each employee in the class shall receive, not to exceed a fifteen (15) percent increase.

Section 9. Additional Compensation

Notwithstanding anything in these Policies and Regulations to the contrary, when in the judgment of the Chief Executive Officer it becomes necessary or desirable to utilize the services of OCERS employees in capacities other than those for which they are regularly employed, the Chief Executive Officer may authorize an additional rate of compensation for such employees.

Section 10. Election Work

In addition to any other position or positions that are held, an employee may also voluntarily work in a capacity authorized for the Registrar of Voters in the course of an election provided that such election work does not unduly interfere with the employee's regular assignment. Election work shall be compensated at the rate authorized for such work.

ARTICLE VI - GENERAL PERSONNEL PROVISIONS

Section 1. Probation

A. New Probation

1. Full-Time Employee

A new or re-employed employee employed in a regular or limited-term position shall be placed on new probation for fifty-two (52) weeks from the date of appointment ending with the first day of the pay period following completion of said period.

2. Part-Time Employee

A new or re-employed employee employed in a part-time regular or limited-term position shall be placed on new probation for two thousand eighty (2080) paid hours exclusive of overtime ending with the first day of the pay period following completion of said period.

B. Promotional Probation

1. A full or part-time employee who is promoted, except on a temporary promotion, shall be placed on promotional probation, except as provided in B.2., below. A full-time employee shall serve a probation period of fifty-two (52) weeks ending with the first day of the pay period following completion of said period. A part-time employee shall serve a promotional probation period of two thousand eighty (2080) paid hours exclusive of overtime ending with the first day of the pay period following completion of said period.
2. When a regular or regular limited-term employee is promoted, reduced or reassigned as a result of the employee's position being reclassified and the class from which the employee is promoted, reduced or reassigned is subsequently deleted or abolished, the incumbent employee shall not serve a promotional probation period.
3. Except as provided in B.2. above, when a regular, limited-term or probationary employee, employed in a class other than Professional, Management or Executive is reassigned or reduced, such employee shall be placed on promotional probation for a period equal to the new probation periods set forth in Sections 1.A.1 and 1.A.2, above.
4. When an employee who has been on a temporary promotion or a regular employee who was promoted to a limited-term position at the discretion of the employee's Chief Executive Officer is reduced to a class the employee formerly occupied, the employee shall serve the remainder of any uncompleted probationary period in that class.

C. Failure of Probation

1. New Probation

An employee on new probation may be released from service at any time without notice, cause or right of appeal or hearing.

2. Promotional Probation

- a. An employee on promotional probation may be failed at any time without notice, cause or right of appeal or hearing except as provided in C.3., below.
 - b. When an employee fails his or her promotional probation, the employee shall have the right to return to his or her former class provided the employee was not in the previous class for the purpose of training for a promotion to the higher class. When an employee is returned to his or her former class under the provisions of this Section, the employee shall serve the remainder of any uncompleted probationary period in the former class. A regular employee who accepts promotion to a limited-term position other than at the direction of the employee's Chief Executive Officer shall not have the right to return to his or her former class.
 - c. If the employee's former class has been deleted or abolished, the employee shall have the right to return to a class in his or her former occupational series closest to, but no higher than, the salary range of the class which the employee occupied immediately prior to promotion and shall serve the remainder of any probationary period not completed in the former class.
3. An employee who alleges that his or her probationary release was based on unlawful discrimination, may submit a grievance at Step 3 of the grievance procedure within ten (10) days after receipt of notice of failure of new probation.

D. General Provisions

1. When an employee's record consists of a combination of full-time and part-time service in regular or regular limited-term positions, except as provided in Section 4.C., below, part-time service shall be applied proportionately by using total hours worked to appropriate full-time requirements. For purposes of this Section, two thousand eighty (2080) hours shall equal fifty-two (52) weeks.
2. When a Chief Executive Officer or his or her representative passes an employee on probation, that determination shall be based upon a written performance evaluation and shall be discussed with the employee. A probation period may not be extended, except as provided in Section E.1 of this Article, below, and an employee who is permitted by the OCERS to work beyond the end of a probation period shall be deemed to have passed such probation period.

E. Extension of Probation Periods

1. The granting of an Official or Military Leave of Absence shall cause the employee's probation period to be extended by the length of the Official Leave or by the length of the Military Leave in excess of fifteen (15) calendar days. If the employee is on probation, the extended period resulting from the Official or Military Leave of Absence shall end with the first day of the pay period after said extended date. An employee who is suspended shall have his or her probation extended by the length of the suspension,

with the extended probation period ending with the first day of the pay period after said extended date.

2. The probation period of an employee may be extended at the sole discretion of the Chief Executive Officer for a period not to exceed one hundred eighty (180) calendar days provided such action is implemented before the normal probation period is completed. Denial of a request to extend a probation period shall not be subject to appeal or hearing.
3. The Human Resources Manager shall extend the probationary period of employees with an employment authorization document that has an expiration date, which would occur after the end of the probation period. Such probation periods shall be extended to coincide with the expiration date of the employment authorization document. In the event an employee's probationary period is extended by the provisions of this Section, and such an employee serves a probationary period which is longer than the normal probation period, such an employee may fail probation during the extended period only for failure to obtain a new, valid employment authorization document by the expiration date of the expiring employment authorization document.

Section 2. Performance Evaluation

- A. OCERS shall maintain a system of employee performance ratings designed to give a fair evaluation of the quantity and quality of work performed by an employee. Such ratings shall be prepared and recorded in the employee's personnel file for all regular and limited-term full and part-time employees at least once each year; and in addition, for employees on probationary status, at least once near the middle of the probation period.
- B. OCERS shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.
- C. When a performance evaluation is recorded in the personnel file of an employee, a copy of such evaluation, together with any related attachments shall be given to the employee.

Section 3. Contents of Personnel File

- A. Adverse statements prepared by OCERS shall not be included in an employee's official personnel file unless a copy is provided to the employee.
- B. An employee shall have the right to inspect and review the contents of his or her official personnel file at reasonable intervals.
- C. In addition, an employee shall have the right to inspect and review the contents of his or her official personnel file in any case where the employee has a grievance related to performance, to a performance evaluation, or is contesting his or her suspension or discharge from OCERS service.
- D. Letters of reference and reports concerning criminal investigations concerning the employee shall be excluded from the provisions of B. and C., above.

- E. An employee shall have the right to respond in writing or personal interview to any information contained in his or her official personnel file, such reply to become a permanent part of such employee's official personnel file.
- F. Any contents of an employee's official personnel file may be destroyed pursuant to an agreement between the Human Resources Manager and the employee concerned or by an order of an appeals board, OCERS or impartial hearing officer unless the particular item is otherwise required by law to be kept.

Section 4. Status of Limited-Term Employees

- A. All limited-term employees shall be subject to the same hiring standards and shall earn all benefits.
- B. A regular employee who transfers, promotes or reduces to a limited-term position on a voluntary basis and not at the direction of the Chief Executive Officer shall become a limited-term employee.
- C. Limited-term employees hired under programs that involve special employment standards shall serve a new probation period upon transfer to permanent funded positions. Upon transfer to permanent positions such employees shall maintain their original hire date for purposes of vacation and sick leave accrual, retirement and layoff. The requirement that such employees serve a new probation period may be waived by OCERS. Limited-term employees not hired under programs that involve special employment standards shall, upon transfer to permanent funded positions, maintain their original hire date for purposes of vacation and sick leave accrual, retirement, layoff and new employee probation.
- D. When funding ceases for a limited-term position or when the position is no longer necessary, the limited-term position shall be abolished and the incumbent shall be removed from the payroll except as provided in E., below.
- E. Regular employees who transfer, promote or reduce to limited-term positions at the direction of the Chief Executive Officer shall retain their status as a regular employee and retain their layoff benefits in their former layoff unit. The Chief Executive Officer shall make such an order in writing prior to the date of transfer or promotion.

Section 5. Temporary Promotion

- A. A regular, probationary or limited-term employee who is assigned on a temporary basis to a higher level vacant regular or limited-term position shall be promoted on a temporary basis to that class when such employee has been assigned to the higher class for one hundred twenty (120) consecutive regularly scheduled hours of work and the employee has been performing all of the significant duties and responsibilities of the higher class unless the employee requests to be reassigned to his or her former class. In such a case the employee shall be reassigned within five (5) working days.

- B. OCERS may, at its option, waive the one hundred twenty (120) hour requirement when it is necessary to utilize a regular, probationary or limited-term employee in a higher level vacant regular or limited-term position for a period that is expected to be at least one hundred twenty (120) regularly scheduled hours but not to exceed eighteen (18) months.
- C. An employee on temporary promotion shall not be placed on promotional probation. Upon return from temporary promotion, an employee shall serve the remainder of any uncompleted probationary period in the employee's former class and shall have the salary status he or she would have achieved if the employee had remained in the lower class throughout the period of his or her service in the higher class.
- D. At the end of the employee's assignment to the higher class, the employee shall have the right to return to his or her former class and OCERS. A temporary promotion must not exceed a period of eighteen (18) months unless otherwise agreed by the parties.

Section 6. Re-employment of Employees on Disability-Retirement

- A. OCERS will counsel and advise employees retired for physical disability about reemployment opportunities for which they may qualify.
- B. Employees retired for physical disability who, within two (2) years from date of retirement, or date their disability retirement is discontinued, request and qualify for positions with OCERS shall be considered for re-hire.

Section 7. Re-employment of Regular Employee

A regular employee who leaves OCERS employment and is re-employed within fifteen (15) calendar days shall be deemed to have been on Leave for such period of time.

Section 8. Time Off for Selection Procedures

A regular, limited-term or probationary employee shall be entitled to necessary time off with pay to participate in tests of fitness, examinations and interviews required by the Human Resources Manager during working hours for the purpose of determining eligibility for movement to another class within OCERS. Reasonable time off with pay may be granted to employees to participate in selection procedures for positions with the County of Orange.

ARTICLE VII - LEAVE PROVISIONS

Section 1. Sick Leave

A. Accumulation of Sick Leave

1. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
2. During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regularly scheduled workweek or period to a maximum of eighty (80) hours in a pay period (approximately seventy-two [72] hours per year).
3. After an employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period to a maximum of eighty (80) hours in a pay period (approximately ninety-six [96] hours per year).
4. Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates OCERS service.
5. Extra help employees shall not earn sick leave.

B. Permitted Uses of Sick Leave

Sick leave may be applied to:

1. An absence necessitated by employee's personal illness, injury, or disability due to pregnancy or childbirth.
2. Medical and dental office appointments when absence during working hours for this purpose is authorized by OCERS.
3. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by OCERS that the presence of the employee on duty would endanger the health of others.
4. Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family, provided that such absence shall be limited to a maximum of three (3) working days for each occurrence. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, child, grandparent or legal guardian.

5. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
 - a. The illness or injury of the employee was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.
 - b. The employee must notify his or her supervisor within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave, whichever is sooner, to request that his or her illness on vacation be charged to sick leave.
 - c. OCERS shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
6. Absence from duty because of personal business not to exceed thirty (30) working hours during the fiscal year.
7. An absence due to an air pollution alert that prevents the employee from traveling to his or her work location.

C. Prohibited Uses of Sick Leave

Sick leave shall not be applied to:

1. Absence caused by illness or injury to a member of the employee's family except as provided in B.4. or B.6., above.
2. Absences which occur on an OCERS holiday.

D. General Provisions

1. In any use of sick leave, an employee's account shall be charged to the nearest quarter hour.
2. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when the OCERS has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
3. a. Upon paid OCERS/County retirement or death, an employee hired before July 15, 1977 or his or her estate shall be paid for a portion of the employee's unused sick leave in an amount computed as provided below:

Years of Service	Percent of Unused Sick Leave Paid For
Less than 5 years	None
5 but less than 10	25%
10 but less than 15	50%
15 but less than 20	75%
20 or more	100%

Years of service as used herein shall be the equivalent of full-time continuous service in a regular position. Employees who elect to take deferred retirement shall not be eligible for any benefits provided by this paragraph.

- b. Not more than once in each fiscal year, an employee hired prior to July 15, 1977, who as of date of request, is eligible for paid retirement and who has accumulated unused sick leave in excess of two hundred eighty (280) hours shall, upon request, receive a payoff for up to one third (1/3) of all his or her accumulated sick leave, provided that the remaining balance is not reduced below two hundred eighty (280) hours. The percentage of sick leave paid shall be computed based on years of continuous service in accordance with Section 1.D.3.a., above. The employee's sick leave balance will be reduced by the total number of hours elected and approved for payoff by the employee prior to the application of the eligible percentage described in Section 1.D.3.a.
4. When a person is re-employed in a regular or limited-term position, the Human Resources Manager may, upon the request of the OCERS, apply the period of previous County/OCERS continuous service for the purpose of determining sick leave earning rates.

Section 2. Bereavement Leave

Upon request, regular, limited-term or probationary employees shall receive necessary time off with pay, not to exceed five (5) days in any one (1) instance, to arrange for or attend a funeral of a member of their immediate family. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, sister, wife, husband, child, child-in-law, grandparent, grandchild or legal guardian.

Section 3. Authorized Leave Without Pay

A. Departmental Leave

A regular, limited-term or probationary employee may request a Leave Without Pay for a period of time not to exceed fifteen (15) calendar days. The granting of such Leave shall be at the discretion of OCERS except in cases where Official Leave has been authorized pursuant to B.4., 5. and Section 10.A., below. The Chief Executive Officer may require that all accumulated compensatory time be used prior to granting of Leave. The use of earned vacation prior to the obtaining of Leave shall be at the option of the employee. If the Leave qualifies as Family Leave pursuant to applicable law, the Chief Executive Officer may require that all sick leave, compensatory and vacation time be used prior to granting a Leave except that the use of sick leave shall be subject to the provisions of Article VIII, Section 1.B. and C., above.

B. Official Leave

1. Upon request, a regular, limited-term or probationary employee may be granted an Official Leave of Absence Without Pay. Such leave, if granted, shall not exceed one (1) year except as provided in 2. and 3., below. Such leave may be authorized only after an employee's completion of a Departmental Leave and after all compensatory and vacation accruals have been applied toward payment of the absence.
2. An Official Leave of Absence may be extended for up to an additional year at the discretion of OCERS except that requests for Official Leave, which qualify as Family Leave pursuant to applicable law, shall be granted to the extent required by such law. If OCERS denies the extension of such Leave, the provisions of 5. and 6., below, shall not apply.
3. Upon request, an employee who has requested and identified a valid need for Family Leave pursuant to Section 11 and applicable law, shall be granted Official Leave to the extent required by such law. Such leave shall be authorized only after an employee's completion of a Departmental Leave and after all accumulated compensatory time and vacation accruals have been applied toward payment of the absence. In addition, where appropriate under the provisions of Article VIII, Section 1.B., above, the employee may be required to apply all sick leave accruals toward payment of the absence before an Official Leave will be authorized.
4. An employee shall give notice two (2) weeks prior to the date he or she wants to return to work except that an employee returning from Family Leave shall give the lesser of two (2) weeks notice or the maximum allowable under applicable law. If an employee does not give the two (2) weeks notice prior to the date he or she wants to return to work, OCERS shall not be required to return the employee to work until the employee gives such notice; however, OCERS may waive the notice or reduce the notice period at its discretion.
5. OCERS shall indicate on the request its recommendations as to whether the request should be granted, modified or denied and shall promptly transmit the request to the Human Resources Manager. If the Human Resources Manager approves the request, he or she shall deliver a copy to the Auditor-Controller and the employee.

6. If OCERS modifies or does not approve a request for Official Leave, the employee may, within fifteen (15) calendar days of said action, file a request for review by the OCERS Human Resources Manager. Upon such request, the Human Resources Manager shall forward a copy of the request for Official Leave to the Chief Executive Officer for final determination. The employee shall notify the Chief Executive Officer whether he or she will submit his or her position in a written statement or wishes to appear before the Chief Executive Officer. An OCERS management representative may present its position in the same manner as the employee presents his or her position. The CEO, at his or her discretion, may designate one (1) or more designees to meet with the employee and decide such appeals. The decision on such appeals shall be final.
7. An Official Leave shall not be credited toward continuous service.

C. General Provisions

1. A request for a Leave of Absence shall be made in writing by the employee and shall state specifically the reason for the request, the date when it is desired to begin the Leave of Absence, and the probable date of return.
2. A request for Leave of Absence Without Pay shall normally be initiated by the employee, but may be initiated by the employee's supervisor only where the employee is unable to initiate such action, except in cases where the provisions of Section 10.A. apply.
3. An employee who has been absent without pay due to a Leave granted pursuant to Sections 3, 4, 9 and/or 11 of this Article shall be considered to have automatically resigned his or her employment with the OCERS under the provisions of Section 8., below, unless he or she returns to work at the end of the Leave or receives approval for an extension of his or her Leave.

Section 4. Official Leave for Non-occupational Disability

- A. A regular, limited-term or probationary employee shall be granted upon request an Official Leave of Absence Without Pay for up to six (6) months for a non-occupational disability including disabilities related to pregnancy and childbirth provided that the employee meets the following conditions:
 1. A medical statement covering prognosis and expected date of return and period of disability shall be submitted with the Leave request.
 2. Such Leave shall begin after all accrued sick leave, compensatory and vacation time have been applied toward the absence. For pregnancy-related disability, as provided for in the California Family Rights Act, use of vacation and compensatory time shall be at the employee's option.
 3. Unless otherwise required by law, the employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours or more.

- B. If additional Leave is desired, the employee may request additional Leave in accordance with Official Leave, Section 3.B., above.
- C. An employee shall not be entitled to more than one (1) such Leave pursuant to this Section per twelve (12) month period. The 12 month period shall be counted from the beginning of the leave.

Section 5. Absences Caused by Illness, Injury or Pregnancy

An employee who is absent from work for a period of more than fourteen (14) consecutive calendar days due to illness, injury or pregnancy shall not be permitted to resume work until and unless the employee obtains a medical clearance from a physician designated by OCERS.

Section 6. Jury Duty Leave

A regular, limited-term or probationary employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's regular rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours provided the employee deposits the employee's fees for such hours of jury duty, exclusive of mileage, with the County Treasurer. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. An employee may request a change in regularly scheduled working hours to a Monday through Friday day shift for the duration of such jury duty. Such requests shall be granted if practicable.

Section 7. Witness Leave

A regular, limited-term or probationary employee who is called to answer a subpoena as a witness for OCERS appearances, during the employee's work hours, except where the employee is a litigant, shall be compensated at his or her regular rate of pay for all hours of absence from work due to answering the subpoena provided the employee shows proof of such subpoena and deposits witness fees received for such hours, exclusive of mileage, with the County Treasurer. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

Section 8. Absence Without Authorization

- A. Absence without authorization, whether voluntary or involuntary, for three (3) consecutive working days shall be considered an automatic resignation from employment as of the last date on which the employee worked or the last date the employee was to return to work from an authorized absence.
- B. If an employee does not have prior authorization to be absent from work, such employee may request specific authorization from the Chief Executive Officer prior to the expiration of the time limit specified in A., above.
- C. When an employee has been absent without authorization and OCERS plans to invoke the provisions of 8.A., above, at least ten (10) calendar days prior to accepting and entering an automatic resignation, OCERS shall send written notice to the employee's last known address

by certified mail with return receipt requested, and shall deposit such notice in the United States mail with postage fully prepaid. Notice is complete upon mailing. Such written notice shall contain:

1. a statement of OCERS intention to invoke the provisions of this section, implement the employee's automatic resignation, and its effective date;
 2. a statement of the reasons for considering the employee to have automatically resigned;
 3. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
 4. a statement of the employee's right to representation;
 5. a copy of the automatic resignation provisions which apply to the employee;
 6. a statement that if the employee fails to respond to the written notice before the effective date of the automatic resignation, the employee has waived any right to appeal the automatic resignation.
- D. An automatic resignation shall not be accepted and entered if the employee:
- 1) responds to the notice before the effective date, 2) provides an explanation satisfactory as to the cause of the unauthorized absence and the reasons for failing to obtain an authorized leave, and submits any pertinent documentation to substantiate such reasons, and 3) is found to be ready, able and willing to resume the full duties of his or her position.
- E. An employee who is permitted to continue his or her employment pursuant to C. and/or D., above, shall not be paid for the period of his or her unauthorized absence and shall be treated as if on a Leave of Absence for purposes of continuity of employment and other appropriate benefits, unless the determination is made that it is appropriate to use sick leave, compensatory time, vacation or other paid leave to cover the absence.
- F. Notwithstanding any other provision of this Section, OCERS may rescind an automatic resignation.
- G. Automatic resignations shall not be considered a discharge under the provisions of Article XI, DISCIPLINARY ACTION.

Section 9. Parenthood Leave

- A. A regular, limited-term or probationary employee shall be granted upon request a Parenthood Leave without pay of up to six (6) months in connection with the birth or placement for legal adoption of a child provided the employee meets the following conditions:
1. The requested Leave is commenced within six (6) months before or after the date of birth or placement for legal adoption of the child.

2. Sufficient documentation of such birth or placement for legal adoption is submitted with the request for Leave.
 3. Such employee has completed new probation.
 4. All accrued vacation and compensatory time has been applied toward the absence following the period of pregnancy disability.
- B. Unless otherwise required by law, employees shall not be eligible for more than one (1) such Leave within any twelve (12) month period.
 - C. Sick leave must be applied toward any portion of the absence which qualifies under Section 1.B.1. of this Article provided the employee has furnished OCERS with a certificate signed by a licensed physician stating the nature of the medical condition and period of disability.
 - D. Pregnant employees may also apply for a Non-occupational Disability Leave for the term of disability as provided in Section 4. of this Article.
 - E. Parenthood Leave shall not be credited toward continuous service.
 - F. For employees on Parenthood Leave, probation periods and performance evaluation dates shall be treated as if the employee were on Official Leave.

Section 10. Workers' Compensation Leave

- A. When an injury is determined to be job-related in accordance with Article XIII, a regular, limited-term or probationary employee shall be placed on Workers' Compensation Leave. If such determination cannot readily be made, and all sick leave has been applied to the absence, the employee shall be placed on Official Leave until a final determination is made.
- B. Workers' Compensation Leave shall continue until the employee:
 1. is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
 2. is determined to be physically able to return to work with medical restrictions which the OCERS can accept, and such determination, if disputed, is confirmed by Workers' Compensation Appeals Board; or
 3. accepts employment outside OCERS/County; or
 4. accepts employment in another OCERS/County position; or
 5. has been found to be permanent and stationary and is not rehabilitated as provided by law; or
 6. is retired pursuant to Government Code provisions.

An employee whose Workers' Compensation Leave ends pursuant to this provision and who does not return to work or obtain OCERS approval for an authorized leave of absence shall be considered to be absent without authorization.

- C. If practicable, an employee on Workers' Compensation Leave will give notice two (2) weeks prior to the date he or she wants to return to work. If an employee does not give two (2) weeks' notice prior to the date he or she wants to return to work, the OCERS shall not be required to return the employee to work until such notice is given; however, the OCERS may waive the notice or reduce the notice period at its discretion.

Section 11. Family Leave

A. General Provisions

- 1. Family Leave shall be granted to the extent required by law for the following situations:
 - a. An employee's serious health condition (see Section 4, above).
 - b. The birth of a child or placement of a child for adoption or foster care (also see Section 9, above).
 - c. Employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or a child of an employee standing in "loco parentis" who is either under eighteen (18) years old or adult dependent child incapable of self-care because of mental or physical disability.
- 2. Employees must request and identify their need for Family Leave. Requests for Family Leave may also fall under the provisions of Sections 3, 4, and 9, above.
- 3. OCERS shall determine if a request for Family Leave is valid within the parameters of applicable law.
- 4. When a request for Family Leave is approved, OCERS shall determine if sick leave, compensatory, and/or vacation time is to be applied and shall determine the order in which such time is applied. The use of sick leave shall be restricted to those circumstances which qualify under the provisions of Article VII, Section 1.A.

B. Notification Requirements

- 1. If the Family Leave is foreseeable, the employee must provide OCERS with thirty (30) calendar days notice of his or her intent to take Family Leave.
- 2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.

3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to OCERS operations.

C. Verification

1. OCERS may require certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of condition (if leave is for own serious health condition) or that care is needed (if leave is for child, spouse or parent).
2. OCERS may require a medical statement covering diagnosis, prognosis, and expected date of return.
3. Failure to provide satisfactory verification of the necessity for Family Leave is grounds for denial of the Family Leave.

ARTICLE VIII – VACATION

Section 1. Accumulation of Vacation

- A. For the purpose of this Section, each biweekly pay period for which a full-time employee receives his or her full biweekly salary shall be considered the equivalent of eighty (80) regularly scheduled paid hours.
- B. A new employee in a full-time regular or limited-term position shall earn eighty (80) hours of vacation when the employee has accumulated two thousand eighty (2080) regularly scheduled paid hours. The employee shall earn a second eighty (80) hours of vacation when he or she has accumulated four thousand one hundred sixty (4160) regularly scheduled paid hours and a third eighty (80) hours of vacation when he or she has accumulated six thousand two hundred forty (6240) regularly scheduled paid hours. The employee shall in addition earn .0193 hours of vacation for each hour of pay during the regularly scheduled workweek. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates OCERS service.
- C. After an employee in a regular or limited-term position has been paid for six thousand two hundred forty (6240) regularly scheduled hours, the employee shall earn .077 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately one hundred sixty [160] hours per year) but not to exceed credit for more than eighty (80) regularly scheduled hours in any pay period. Such credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates OCERS service.
- D. Commencing with the pay period following that in which the employee completed ten (10) years of continuous full-time OCERS/County service, an employee in a regular or limited-term position shall earn .0962 hours vacation for each hour of pay during his or her regularly scheduled workweek (approximately two hundred [200] hours per year), under the same terms and conditions as for the prior rate of accrual.
- E. A new employee in a part-time regular or limited-term position shall earn pro rata vacation in fifty-two (52) week segments. At the conclusion of fifty-two (52) weeks of employment, the ratio of regularly scheduled hours paid to two thousand eighty (2080) hours shall be determined. That same ratio shall be applied to eighty (80) hours to establish the amount of vacation to be credited to the employee's account as of the conclusion of the pay period in which the fifty-two (52) week period ended. The employee shall in addition earn .0193 hours of vacation for each hour of pay during his or her regularly scheduled workweek. Such additional credit shall be applied to the vacation accumulation account only upon completion of each pay period, with no credit to be applied during the progress of any pay period or for any portion of a pay period during which the employee terminates OCERS/County service.
- F. The maximum allowable vacation credit at any one (1) time for a full-time employee with less than ten (10) years of full-time continuous service shall be three hundred sixty (360) hours or a prorated amount equal to eight (8) weeks of vacation for part-time employees. The

maximum allowable vacation credit at any one (1) time for a full-time employee with ten (10) or more years of fulltime continuous service shall be four hundred eighty (480) hours and a prorated amount equal to ten (10) weeks of vacation for part-time employees.

Section 2. General Provisions

- A. Not more than eighty (80) hours of paid time may be credited toward accumulation of vacation credit in any pay period.
- B. An Official Leave of Absence shall cause the aforementioned ten (10) years (Article VIII, Section 1.D.) of full-time OCERS/County service to be postponed a number of calendar days equal to the Official Leave.
- C. When an employee's OCERS/County service consists of part-time regular service or a combination of full-time regular and part-time regular service, both periods of service shall apply towards the required ten (10) years (Article VIII, Section 1.D.) of OCERS/County service, with the part-time service being applied proportionately to the appropriate full-time interval.
- D. Additional vacation earned during the period of vacation may be taken consecutively.
- E. In any use of vacation, an employee's account shall be charged to the nearest quarter hour.
- F. Vacations shall be scheduled for employees by their divisions; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
- G. No scheduled vacation will be canceled except in cases of emergency.
- H. Illness while on paid vacation will be charged to sick leave rather than vacation only under the conditions specified in Article VII, Section 1.B.5.
- I. No employee shall be permitted to work for compensation for OCERS/County in any capacity during the time of his or her paid vacation except as a Election Board Officer or Election Night Help.
- J. An employee separating from OCERS service for reasons other than paid retirement shall be paid for all accrued vacation and compensation in a lump sum payment. An employee who is separating from OCERS service by way of paid retirement may elect either to take time off for his or her vacation or to be paid for his or her vacation in a lump sum payment.
- K. During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty (40) hours each or one (1) increment of up to eighty (80) hours.
- L. When a person is re-employed in a regular or limited-term position, the Human Resources Manager may, upon the request of OCERS, apply the period of previous OCERS/County continuous service for the purpose of determining vacation earning rates.

ARTICLE IX – ANNUAL LEAVE

The Annual Leave provisions shall apply to regular and limited term employees hired on or after July 15, 1977, and shall become effective when the Board adopts this article. Employees hired prior to July 15, 1977 shall be covered by the Sick Leave and Vacation provisions of the Personnel Policies and Regulations. Upon implementation of the Annual Leave Plan, annual leave will consist of combined sick leave, vacation balances and accruals for employees covered by the Annual Leave Plan.

Section 1. Accumulation of Annual Leave

1. During the first three (3) years of employment, a regular or limited term employee shall earn approximately seven (7) hours and twenty-five (25) minutes of annual leave during each eighty (80) hour pay period (approximately one hundred ninety-two [192] hours per year), or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.
2. After an employee has been paid for six thousand two hundred forty (6240) regularly scheduled hours, approximately three (3) years, the employee shall earn approximately nine (9) hours and fifty-two (52) minutes of annual leave during each eighty (80) hour pay period (approximately two hundred fifty-six [256] hours per year), or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.
3. Commencing with the pay period following that in which an employee completes ten (10) years of continuous full-time OCERS/County service, an employee in a regular or limited-term position shall earn eleven (11) hours and twenty-four (24) minutes of annual leave during each eighty (80) hour pay period (approximately two hundred ninety-six [296] hours per year), or a prorated amount for any pay period in which the employee is paid for less than eighty (80) hours.
4. Annual Leave earned shall be added to the employee's annual leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period during which the employee terminates OCERS/County service.
5. The amount of annual leave an employee may accrue shall be unlimited.
6. Extra help employees shall not earn annual leave.

Section 2. Use of Annual Leave for Illness or Injury

1. Annual Leave may be applied to:
 - a. An absence necessitated by employee's personal illness, injury or disability due to pregnancy or childbirth.
 - b. Medical and dental office appointments when absence during working hours for this purpose is authorized by the department.

- c. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by the OCERS/County that the presence of the employee on duty would endanger the health of others.
 - d. Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family, provided that such absence shall be limited to a maximum of three (3) working days for each occurrence. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, sister, wife, husband, child, stepchild, grandparent or legal guardian.
 - e. Absence from duty because of personal business not to exceed thirty (30) working hours during the fiscal year.
 - f. An absence due to an air pollution alert, which prevents the employee from traveling to his or her work location.
2. An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury or medical condition, or medical or dental office calls when the department has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.
 3. Annual Leave shall not be applied to absences that occur on a County holiday.

Section 3. General Provisions

1. Not more than eighty (80) hours of paid time may be credited toward accumulation of annual leave in any pay period.
2. An Official Leave of Absence shall cause the aforementioned years of full-time OCERS/County service to be postponed a number of calendar days equal to the Official Leave.
3. When an employee's OCERS/County service consists of part-time regular service or a combination of full-time regular and part-time regular service, both periods of service shall apply toward the required ten (10) years of OCERS/County service, with the part-time service being applied proportionately to the appropriate full-time interval.
4. Additional annual leave earned during the period of annual leave may be taken consecutively.
5. In any use of annual leave, an employee's account shall be charged to the nearest quarter hour.

6. Vacations (annual leave) shall be scheduled for employees by the department; however, consideration shall be given to effectuating the wishes of those employees requesting specific vacation periods.
7. The Annual Leave Plan shall not impact compensation, compensation earnable or final compensation as defined by the 1937 Retirement Act, above or below that to which employees would have been entitled prior to this agreement. If a court should decide that benefits under this plan, or analogous benefits, increase compensation, compensation earnable or final compensation above that to which employees would have been entitled prior to this agreement, the parties agree to meet and confer regarding employee/employer responsibility for funding said increase. Increased costs shall not be automatically assumed by OCERS/County.
8. No scheduled annual leave will be cancelled by the department except in cases of emergency.
9. OCERS will monitor and review the effectiveness of the Annual Leave Plan to ensure that plan goals and objectives to contain costs and maintain high performance are met, and to modify the plan if it is not achieving the desired objectives.

Section 4. Payoff of Unused Annual Leave

1. During each fiscal year, an employee may request to be paid for accrued annual leave in either two (2) separate increments of up to forty (40) hours each or one (1) increment of up to eighty (80) hours.
2. An employee separating from OCERS/County service shall be paid in a lump sum payment for the unused annual leave balance as provided below.

<u>Years of Service</u>	<u>Maximum Payoff</u>
Less than 3 years	160 hours maximum paid at 100%
3 but less than 10	240 hours maximum paid at 100%
10 or more years	A maximum of 1600 hours of the accrued annual leave balance has cash value. 480 hours are paid at 100%; remaining balance obtains cash value of 2% for each year of service, to a maximum of 50% i.e., 10 years of service equals 20% cash value for remaining balance; 25 or more years of service equals 50% of the remaining balance after deducted from 1600 hours maximum.

3. Years of service as used herein shall be the equivalent of full-time continuous service hours in a regular position. Partial years of service shall be prorated.

An employee who is separating from OCERS/County service by way of paid OCERS/County retirement may elect either to take annual leave as time off, or be paid for his or her annual leave in a lump sum payment. The amount of annual leave that can be taken as time off shall be limited to the amount of hours the employee is eligible to receive at 100%. The remaining balance to the maximum of 1600 hours (less maximum number of hours paid at 100%) shall be paid in accordance with the annual leave payoff provisions in B. and C. of this article.

ARTICLE X – HOLIDAYS

Section 1. Holidays Observed

- A. Except as modified in Section 1.B. below, OCERS employees shall observe the following holidays:

2002	2003	2004
New Year's Day – January 1 Martin Luther King Junior's Birthday – January 21 Lincoln's Birthday – February 12 Washington's Birthday – February 18 Memorial Day – May 27 Independence Day – July 4 Labor Day – September 2 Columbus Day – October 14 Veteran's Day – November 11 Thanksgiving Day – November 28 Day After Thanksgiving – November 29 Christmas Day – December 25	New Year's Day – January 1 Martin Luther King Junior's Birthday – January 20 Lincoln's Birthday – February 12 Washington's Birthday – February 17 Memorial Day – May 26 Independence Day – July 4 Labor Day – September 1 Columbus Day – October 13 Veteran's Day – November 11 Thanksgiving Day – November 27 Day After Thanksgiving – November 28 Christmas Day – December 25	New Year's Day – January 1 Martin Luther King Junior's Birthday – January 19 Lincoln's Birthday – February 12 Washington's Birthday – February 16 Memorial Day – May 31 <i>Information for remaining holidays not available</i>

- B. When a holiday, as specified in 1.A. above, falls on a Sunday, the next day shall be observed as the holiday.
- C. When a holiday as specified in 1.A. above, falls on a Saturday, the Friday immediately preceding the holiday shall be observed as the holiday.

Section 2. Eligibility for Holiday Pay

- A. An employee must be paid for all or a portion of both the regularly scheduled working assignment immediately prior to a holiday and the regularly scheduled working assignment immediately after that holiday in order to receive holiday pay. With OCERS approval, compensatory time earned for working on a holiday or for a holiday falling on a regularly scheduled day off may be taken on the first scheduled working day after the holiday.

- B. A new employee whose first working day is the day after a holiday shall not be paid for that holiday.
- C. An employee who elects paid retirement on a holiday shall be paid for the holiday.
- D. An employee who is terminating employment for reasons other than paid retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- E. Only regular, limited-term and probationary employees shall be eligible for holiday pay.

Section 3. Holiday Pay

a) Compensation for Holidays Falling on Scheduled Days Off

1. When a holiday falls on a full-time employee's regularly scheduled day off, the employee shall receive eight (8) hours of compensatory time.
 2. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek to a maximum of eight (8) hours of compensatory time.
- B. Holidays which fall during an employee's vacation period shall not be charged against the employee's vacation balance.
 - C. Full-time employees who are on a pay status during the pay period which includes March 1 each fiscal year during the term of this Resolution, shall be credited with two (2) hours of compensatory time at the end of the pay period which includes that date. Part-time employees whose regularly assigned work schedule is at least twenty (20) hours per week shall, in like manner, earn and be credited with one (1) hour of compensatory time.
 - D. Compensatory time earned under the provisions of this Section may be granted as compensatory time off or paid for at the discretion of OCERS. Employees shall be paid for all compensatory time in excess of eighty (80) hours.

ARTICLE XI - REIMBURSEMENT PROGRAMS

Section 1. Mileage Reimbursement

- A. Subject to the current Vehicle Rules and Regulations established by the Board of Supervisors, an employee who is authorized to use a private automobile in the performance of duties shall be paid the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car for each mile driven during each monthly period.
- B. An employee who is required by OCERS to furnish a privately owned vehicle for the performance of his or her duties shall receive a minimum of ten (10) dollars in any month in which the actual mileage reimbursement would otherwise be less than ten (10) dollars. The minimum shall not apply in any month:
 1. in which the employee has not actually worked eighty (80) hours;
 2. unless the employee claims the ten (10) dollar minimum and OCERS certifies that the employee was required to use a privately owned vehicle on OCERS business.

Section 2. Personal Property Reimbursement

Employees shall, in proper cases, be reimbursed for the repair or replacement of personal property damaged in the line of duty without fault of the employee. The amount of reimbursement for articles of clothing shall be the depreciated value based on the age and condition of the article. Reimbursement for a watch shall be limited to the functional value of the watch.

Section 3. Attorney Bar Fees

Upon request, OCERS shall reimburse employees holding regular positions as General Counsel and Attorney for their Active State and County Bar fees.

Section 4. Optional Benefit Plan

- A. Each eligible employee shall be entitled to select benefits from those listed below at a cost to OCERS, not to exceed two thousand five hundred (2,500) dollars (Management/Professional) and three thousand five hundred (3,500) dollars (Executive) effective the beginning of each Calendar Year.
- B. The purpose of the plan is to provide options to individual employees to best meet the needs of themselves and dependents while: 1) enhancing the employee's expertise and skills on the job, and/or 2) relieving the employee of external influences which might impair his/her performance.

The options available shall include the following types of benefits such as:

1. cash (taxable);

2. professional conferences which are job related (employee only) including fees and other expenses while attending;
 3. professional memberships, licenses and certificates which are job related (employee only);
 4. professional journals and periodicals (employee only) which are job related;
 5. Health/accident;
 - a. health programs (employee and/or dependents) such as physical, mental and/or emotional health related counseling for individual and/or family not covered or partially covered through existing plans;
 - b. employee's share of health insurance premiums (employee and/or dependents). Also includes payment of Accidental Death and Dismemberment coverage for employee and dependents available through the County;
 - c. health care and/or dental (employee and/or dependents) excluded or partially excluded under the County's insurance plans. Examples of items covered under this provision include deductibles, eye care, lenses and frames.
- C. The County Human Resources Manager shall administer the plan in accordance with the stated purpose. Each employee to be eligible must file an intent to participate statement and follow instructions prepared by the County Human Resources Manager. If an employee does not file an Intent to Participate form prior to the commencement of the plan, the employee may only receive cash for any period prior to the first of the month following the date the employee files an Intent to Participate form. Employee designations are irrevocable unless they have a change in family status. For expenses to be eligible, they must be incurred after the filing of an Intent to Participate form and during a plan period in which an employee is eligible. Claims may be filed at anytime during the plan period and all claims must be filed no later than one month following the close of the plan period. The Human Resources Manager shall notify the Auditor-Controller in writing of payments to be made to employees. Such notification shall constitute authorization for the Auditor-Controller to make payments.
- D. Eligibility - a regular, limited term or probationary employee is eligible to receive the optional benefit provided he or she is continuously employed in a regular full-time capacity in a class designated as Executive, Management and/or Professional. Employees hired or promoted after the commencement of a plan will be eligible for the optional benefit on a pro rata basis the first day of the month following the twenty-eighth day in any of the classifications listed above. Employees in eligible classifications who work part-time will be eligible to receive the optional benefit consistent with County of Orange policy for part-time employees.
- E. Any portion of the optional benefit not incurred within the plan period shall remain OCERS or County funds.
- F. Claims shall be made on forms provided by the County on which claimant declares the category of service received as defined in the plan, the dates the expenses were incurred by

the claimant or eligible dependents, by whom service was provided and the amount being claimed. The Auditor-Controller shall pay claims submitted with a declaration under penalty of perjury signed by the claimant and approved by the Human Resources Manager. The Human Resources Manager will approve for payment only those claims which are accompanied by documentation that an eligible expense has been incurred during the plan period.

ARTICLE XII -DISCIPLINARY ACTION

Section 1. Discipline and Discharge Standards

- A. Disciplinary actions will usually follow a progressive discipline procedure. Progressive discipline will normally include one or more warnings (oral and/or written) and/or a suspension before a discharge is imposed. Deviations from this procedure may occur whenever the OCERS determines that circumstances warrant that one or more steps in the progressive discipline procedure be skipped. Accordingly, circumstances may warrant an immediate suspension or discharge.
- B. With the exception of layoffs for organizational necessity, discipline, up to and including termination, shall be for cause. For purposes of this policy, for cause means a fair and honest cause or reason, regulated by good faith on the part of the party exercising the power.

Section 2. Reprimand and Substandard Performance Evaluation

- A. No regular, limited-term or probationary employee shall receive a written reprimand or a substandard performance evaluation except for cause.
- B. A substandard performance evaluation (e.g., a score of less than three hundred [300] points or a performance rating group of less than two [2]) given to a regular, limited term or probationary employee must be reviewed and approved by the Chief Executive Officer or his or her designee before it is given to the employee. A written reprimand or substandard performance evaluation given to a regular, limited-term or probationary employee may be appealed through the grievance/appeal procedure. Such appeal shall be initiated at Step 1 of the grievance/appeal procedure.

Section 3. Emergency Suspension of Five Days or Less

- A. In suspending a regular, limited-term or probationary employee for five (5) days or less, when it is necessary to remove the employee from the work site immediately because of a potential emergency situation, including, but not limited to, situations that may endanger life or property the employee shall:
 - 1. whenever practicable, be given an opportunity to respond to the proposed suspension to a designated OCERS representative with the authority to make an effective recommendation on the proposed suspension prior to the suspension becoming effective;
 - 2. be informed of the employee's right to representation in the response;
 - 3. be informed of the employee's right to appeal should the proposed suspension become final.
- B. In such emergency suspensions, the procedural requirements of Section 5., below, shall be complied with within ten (10) days following the effective date of the disciplinary action.

Section 4. Pre-Disciplinary Hearing for Suspension, Reduction or Discharge

- A. In suspending an employee in a non-emergency situation or in reducing a regular, limited-term or probationary employee for reasons of unsatisfactory performance, or in discharging a regular or limited-term regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action.
Such written notice shall contain:
1. a description of the proposed action and its effective date(s);
 2. a statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
 3. copies of material on which the proposed action is based;
 4. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
 5. a statement of the employee's right to representation;
 6. a statement of the employee's right to appeal should such proposed action become final.
- B. Prior to the effective date of such suspension, reduction or discharge, an employee will be given an opportunity to respond, either orally or in writing, at the employee's option, to a designated OCERS representative with the authority to make an effective recommendation on the proposed disciplinary action.
- C. An employee shall be given reasonable time off without loss of pay to attend a hearing pursuant to this Article.
- D. An employee may represent himself or herself or may be represented by the recognized employee organization in a hearing pursuant to this Article.
- E. An employee shall receive written notice either sustaining, modifying, or canceling the proposed disciplinary action on or prior to the effective date of such action except that such written notice may be given after suspensions pursuant to Section 4., above.
- F. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 6. and 7. of this Article.
- G. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 8. of this Article.

Section 5. Suspension

- A. No regular, limited-term or probationary employee shall be suspended except for cause.

- B. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
- C. In accordance with the provisions of Article XII, an appeal of suspension shall be initiated at Step 3 of the grievance/appeal procedure.

Section 6. Reduction

- A. No regular employee or limited-term regular employee shall be reduced to a position in a lower class for reasons of unsatisfactory performance except for cause.
- B. A written notice of such reduction stating specifically the cause of the reduction shall be given to the employee.
- C. In accordance with the provisions of Article XII, an appeal of reduction for reasons of unsatisfactory performance shall be initiated at Step 3 of the grievance/appeal procedure.

Section 7. Discharge and Right of Appeal

- A. No regular or limited-term regular employee shall be discharged except for cause.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. In accordance with the provisions of Article XII, a discharge of a management or professional employee may be appealed directly to Step 4 of the Grievance/Appeal Procedure.

Section 8. Polygraph Examination

No employee shall be compelled to submit to a polygraph examination. No disciplinary action whatsoever shall be taken against an employee refusing to submit to a polygraph examination; nor shall any comment be anywhere recorded indicating that an employee offered to take, took or refused to take a polygraph examination unless otherwise agreed to in writing by the parties; nor shall any testimony or evidence of any kind regarding an employee's offer to take or refusal to take or the results of a polygraph examination be admissible in any proceeding pursuant to these Policies, unless otherwise agreed to in writing by the parties.

ARTICLE XIII - GRIEVANCE PROCEDURE AND APPEALS

Section 1. Scope of Grievances

- A. A grievance may be filed if a management interpretation or application of the provisions of Article V through Article XVIII of these Policies adversely affects an employee's wages, hours or conditions of employment.
- B. Specifically excluded from the scope of grievances/appeals are:
 - 1. subjects involving the amendment or change of the Board of Retirement, administrative orders or policies, legislative mandates, or selection/appointment decisions and procedures which do not incorporate the provisions of these policies and regulations;
 - 2. matters which have other means of appeal including, but not limited to, matters which may be appealed through the Workers' Compensation Appeals Board;
 - 3. position classification;
 - 4. standard or better performance evaluations;
 - 5. failure of new or promotional probation.

Section 2. Basic Grievance Procedures

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered regarding his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If an OCERS representative does not render a decision to the employee within the time limits, the employee may within seven (7) calendar days thereafter appeal to the next step in the procedure.
- C. If a management representative determines that he or she does not have the authority to resolve the grievance/appeal, he or she may refer it to the next step in the procedure. By mutual agreement of OCERS and the employee any step of the procedure may be waived.
- D. The Chief Executive Officer may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide basis in an emergency situation. A recognized employee organization may appeal this decision.
- E. Upon written consent of the parties, i.e., the representatives of OCERS and the employee or his or her representative, the time limits at any step in the procedure may be extended.
- F. Every reasonable effort shall be made by the employee and OCERS to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure.

- G. No claim shall be granted for retroactive adjustment of any grievance prior to sixty (60) calendar days from the date of filing the written grievance.
- H. To encourage frank discussion and compromise in attempting to resolve grievances and other labor disputes, the files of the respective parties concerning such matters shall be confidential, except that this shall not restrict any access that either party might otherwise have to the other's files.

Section 3. Submission of Grievances

- A. Any employee or group of employees shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right.
- B. If any two (2) or more employees have essentially the same grievance, they may, and if requested must, collectively present and pursue their grievance if they report to the same immediate supervisor.
- C. If the grievant is a group of more than three (3) employees, the group shall appoint one (1) or two (2) employees to speak for the collective group.

Section 4. Employee Representation

- A. An employee may represent him/herself or may be represented in the formal grievance/appeal procedure.

Section 5. Time Off for Processing Grievances/Appeals

- A. Reasonable time off without loss of pay shall be given to:
 - 1. An employee who has a grievance/appeal, in order to attend a meeting with his or her supervisor or other person with authority under the grievance/appeal procedure to resolve the matter, or to meet with his or her grievance/appeal representative.
 - 2. An employee grievance/appeal representative, in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority under the grievance/appeal procedure to resolve the grievance/appeal, or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees, or through examination of appropriate records or locations relating to the grievance/appeal.
- B. The following restrictions shall apply in all cases to activity authorized in Section 5.A., above:
 - 1. Before performing grievance/appeal work, the grievant/appellant or grievance/appeal representative shall obtain permission of his or her supervisor and shall report back to the supervisor when the grievance/appeal work is completed.
 - 2. Neither the grievant/appellant nor the employee grievance/appeal representative shall interrupt or leave his or her job to perform grievance/appeal work if his or her supervisor

determines that such interruption or absence will unduly interfere with the work of the unit in which the grievant/appellant or employee representative is employed. However, an effort will be made to grant such time off as soon as possible.

3. When an employee grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the employee representative shall be permitted to do so provided that the employee representative checks in and checks out with the supervisor of the unit and such investigation does not unduly interfere with the work of the unit.

Section 6. Informal Discussion

If an employee has a work-related problem, the employee is encouraged to request a meeting with his or her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively towards settlement.

Section 7. Grievance/Appeal Steps

The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.

Step 1: Immediate Supervisor

An employee may formally submit a grievance to the immediate supervisor within fourteen (14) calendar days from the occurrence that gives rise to the problem. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution. Within seven (7) calendar days after receipt of the written grievance, the immediate supervisor and/or such other representative(s) as may be designated by OCERS shall meet with the grievant. Within seven (7) calendar days thereafter, a written decision shall be given to the grievant.

Step 2: Executive Level i.e. Chief Officers

If the grievance is not settled under Step 1, it may be presented to the respective Chief and/or such other representative(s) as may be designated by OCERS. The grievance shall be submitted within seven (7) calendar days after the receipt of the written decision from Step 1. Within seven (7) calendar days after the receipt of the written grievance, the respective Chief or his or her representative(s) shall meet with the grievant. Within seven (7) calendar days thereafter, a written decision shall be given to the grievant.

Step 3: Chief Executive Officer

- A. An appeal from discharge may be presented by an OCERS Management and/or Professional employee to the Chief Executive Officer within ten (10) calendar days from the date the action becomes final.

- B. If an appeal from a suspension or reduction is not settled at step 2, an employee may file an appeal to the Chief Executive Officer within seven (7) calendar days after receipt of the written decision from Step 2.
- C. As soon as practicable thereafter, the Chief Executive Officer shall meet with the appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the appellant. The Chief Executive Officer shall have the unlimited right to uphold, modify or reject the disciplinary action.
- D. The decision of the Chief Executive Officer shall be provided in writing to the grievant within ten (10) calendar days .

Step 4: Board of Retirement

- A. An appeal from any discharge may be presented to the Board of Retirement within ten (10) calendar days from the date the action becomes final.
- B. The decision of the Board of Retirement shall be final and binding with no further rights to appeal.

ARTICLE XIV – SAFETY

Section 1. General Provisions

- A. No employee shall be required to work under conditions dangerous to the employee's health or safety.
- B. OCERS shall make every reasonable effort to provide and maintain a safe place of employment. Employees shall be alert to unsafe practices, equipment and conditions and report any such unsafe practices, equipment or conditions to their immediate supervisors. Employees shall follow safe practices and obey reasonable safety policies during the hours of their employment.
- C. Any employee who either does not receive an answer to a safety-related question from his or her supervisor within three (3) days or receives an answer which the employee deems unsatisfactory may directly contact the County Safety Officer.
- D. Any employee who is directed to perform a task which the employee in good faith feels is unsafe may request an immediate investigation from the Safety Officer. During the period that the Safety Officer is conducting an investigation, the employee will be assigned to other work at no loss of earnings. If the Safety Officer concludes the task complained of is safe, the employee shall perform the work as instructed.
- E. OCERS shall furnish all equipment which is necessary for employees to perform their job in a safe manner.
- F. Wherever practicable, OCERS shall provide the necessary first aid kits in each location.
- G. Wherever practicable, the County shall provide first aid training for one (1) employee at each new work location.

Section 2. Abatement of Violations

In any instance in which the OCERS is cited for a violation of CAL/OSHA, the OCERS or the County shall abate the cited hazard to health or safety within the abatement period required.

ARTICLE XV – INSURANCE

Section 1. Health Plans

- A. Except as modified by Section 1.B., C. and D., below, OCERS will offer health plans to all regular, limited term and probationary employees and their dependents. OCERS will share the costs of such health plans as provided in the Health Plan Rate Schedule adopted by, and as may be modified by, the County Board of Supervisors.
- B. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) in a full workweek.
- C. The OCERS will pay the full cost of employee and dependent coverage for two full-time employees married to each other. Two married full-time employees enrolled in the same health plan must be enrolled as employee married to employee.
- D. For employees who are on approved Family Leave pursuant to Article VII, Section 11 and applicable law, the OCERS shall continue to pay health insurance premiums as provided in A., B. and C., above, to the extent required by applicable law.
- E. New eligible employees will be enrolled in the health plan of their selection effective the first day of the month following the first thirty (30) days of employment. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Health Plan, employee only. New employees will not be eligible for enrollment in Indemnity Plan A.
- F. Terminated employees will continue to be eligible for health plan benefits until the last day of the calendar month in which they terminate employment.
- G. The County shall provide for an open enrollment period once each fiscal year for employees, employees' dependents, and retirees to change their enrollment in a County health plan. Enrollment in Indemnity Plan A is restricted to employees who were enrolled in Indemnity Plan A on December 31, 1987 and have not subsequently changed their enrollment to another health plan.

Section 2. Other Insurance Coverage and Physical Examination

- 1. County/OCERS' share of premiums for health, dental and life insurance benefits while the employee is on Official Leave for non-occupational disability for up to one (1) year from the effective date of disability.
- 2. Long-term disability insurance coverage at no cost to the employee to provide up to sixty (60) percent of salary.
- 3. Life insurance and accidental death and dismemberment insurance will be provided based upon coverage as listed in the following table regardless of age:

DML (Professional) - 55,000
EML (Professional) - 60,000
FML (Management) - 65,000
MLE (Executive) - 125,000

4. Voluntary annual physical examinations by a County-designated physician at no cost to the employee.
- B. The County will provide dental insurance for the employee and dependents to all full time regular, limited term and probationary management employees.

Part-time regular, limited-term and probationary employees will have the option of purchasing dental insurance for the employee and dependents by paying one-half the monthly rate paid by the County for full-time employees, provided the employee's normal workweek consists of at least twenty (20) hours.

Section 3. Premium Only Plan

The County will administer a Premium Only Plan that will allow an employee to pay for health insurance premiums as permitted in the Internal Revenue Code. Under the plan, an employee's gross taxable salary will be reduced by the amount of his or her share of the premium costs of County-provided health insurance coverage.

Section 4. Retiree Medical Benefit

A. Retiree Medical Insurance Grant

1. Effective August 1, 1993, the County implemented a Retiree Medical Insurance Grant plan for employees who have retired from County/OCERS service and who meet the eligibility requirements set forth in Section 5.B., below.
2. Upon paid retirement, an eligible retiree who has enrolled in a County-offered health plan or Medicare Part A or Part B shall receive a Retiree Medical Insurance Grant.
3. An employee who separates from County/OCERS service prior to meeting the eligibility requirements for the Retiree Medical Insurance Grant shall receive a lump sum cash payment equal to one (1) percent of salary for each year of qualifying service in accordance with D., below.
4. The Retiree Medical Insurance Grant may be applied only towards the cost of retiree and dependent coverage in a County-offered health insurance plan and/or Medicare premiums as provided in A.4.a. and A.4.b. below.
 - a. Upon implementation, the Retiree Medical Insurance Grant shall be an amount based on ten (10) dollars per month for each full year of service to a maximum of two hundred fifty (250) dollars per month. In each fiscal year, the amount of such Grant shall be adjusted by the average percentage increase in County health plan premiums no later than the effective dates of such increases, not to exceed five (5)

percent per year. In no case shall the Retiree Medical Insurance Grant exceed the actual cost of the health insurance and/or Medicare premiums.

- b. All employees who become eligible for a Retiree Medical Insurance Grant shall be provided a one (1) time opportunity of at least thirty (30) days to enroll in a County-offered health plan or Medicare. Should a retiree fail to enroll during the aforementioned period or should he or she terminate coverage or fail to make necessary payments, the retiree and dependents shall forfeit any right to a Retiree Medical Insurance Grant.

B. Eligibility Requirements for Retiree Medical Insurance Grant

1. Retiree must be actively retired from OCERS/County of Orange and receiving a monthly retirement allowance from the Orange County Employees Retirement System.
2. Retiree must have retired with at least ten (10) years of OCERS/County service except as provided in B.2.a., b., c., and d. below:
 - a. A retiree who receives a service-connected disability retirement from the County shall be eligible for a Retiree Medical Insurance Grant equal to either ten (10) years of service or actual years of OCERS/County service, whichever is greater.
 - b. A retiree with a minimum of five (5) years of OCERS/County service who receives a non-service connected disability retirement shall be eligible for a Retiree Medical Insurance Grant based on actual years of OCERS/County service. An employee with less than five (5) years of OCERS/County service who receives a non-service connected disability retirement shall not be eligible for a Retiree Medical Insurance Grant.
 - c. A separated employee who has less than ten (10) years of OCERS/County service or is under normal retirement age and requested a service or nonservice connected disability retirement shall not be eligible to receive either the Retiree Medical Insurance Grant or the cash distribution until a determination of disability status is made by the Board of Retirement.
 - d. A separated employee who receives a lump sum cash benefit pursuant to this Section shall be ineligible for the Retiree Medical Insurance Grant if, at a later date, the Board of Retirement grants a disability retirement.
3. All eligible retirees and enrolled dependents who are age sixty-five (65) or older must be enrolled in Medicare Part B in order to be eligible for the Retiree Medical Insurance Grant. All eligible retirees and dependents who are entitled to Medicare Part A coverage without a premium must be enrolled in Medicare Part A to be eligible to receive the Retiree Medical Insurance Grant.
4. Deferred Retirement

- a. An employee who, upon separation from OCERS/County service, is eligible for paid retirement and elects deferred retirement must defer participation in the Retiree Medical Insurance Grant until such time as he or she becomes an active retiree.
 - b. An employee who is not eligible for paid retirement at the time he or she separates from OCERS/County service and elects deferred retirement status shall not become eligible for participation in the Retiree Medical Insurance Grant.
5. For purposes of this Section, a full year of service shall be based upon those regular hours the employee worked for the OCERS/County as a regular, limited-term and/or probationary employee. Two thousand eighty (2080) regular hours, exclusive of overtime, shall equal one (1) full year of service.

A. Employee Contribution

Effective July 23, 1993, all regular, limited-term and probationary employees shall contribute one (1) percent of their base salary, exclusive of overtime and premium pay, through payroll deduction to the County to be applied to the cost of medical insurance premiums.

B. Cash Benefit

1. An employee who separates from OCERS/County and does not qualify for a Retiree Medical Insurance Grant shall receive a cash amount equal to one (1) percent of average base hourly rate for all qualifying hours on or after the first day of the pay period in which the Retiree Medical Benefit is implemented. The average base hourly rate shall be calculated on base salary over the six thousand two hundred forty (6240) regularly paid hours immediately preceding separation from OCERS.
2. An employee with less than six thousand two hundred forty (6240) regularly paid hours shall receive a cash amount equal to one (1) percent of average base hourly rate for all qualifying hours on or after the first day of the pay period in which the Retiree Medical Benefit is implemented. The average base hourly rate shall be calculated on base salary over all regularly paid hours immediately preceding separation from OCERS.
3. Eligibility for receipt of the Retiree Medical Insurance Grant shall permanently revoke any claim to a cash benefit even if the retiree subsequently terminates participation in a County-offered health plan and/or Retiree Medical Insurance Grant. Eligibility for receipt of the lump sum cash payment provided in this Section shall permanently revoke any claim to the Retiree Medical Insurance Grant.

C. Survivor Benefits

1. A surviving spouse who qualifies for a monthly retirement allowance shall be eligible for fifty (50) percent of the Retiree Medical Insurance Grant authorized for the retiree.
2. A surviving eligible retiree who qualifies for a monthly retirement allowance who was married to a retiree who was also eligible for a Retiree Medical Insurance Grant shall receive the survivor benefit described in E.1., above, or his or her own Retiree Medical

Insurance Grant, whichever is greater. Such retiree shall not be eligible for both Retiree Medical Insurance Grants.

ARTICLE XVI - DEFERRED COMPENSATION

An employee in a regular or limited-term position may, at his or her request, participate in a County-offered Deferred Compensation Plan.

ARTICLE XVII – RETIREMENT

- A. For employees hired on or before September 20, 1979.
1. Such employees are provided a one-fiftieth (1/50) retirement benefit formula per Section 31676.12 of the Government Code for general members and Section 31664 for safety members.
 2. The retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
 3. Members' normal contribution rates shall continue to be established as provided by Section 31621.5 of the Government Code for general members and 31639.5 for safety members.
 4. OCERS will adopt employee contribution rates equal to OCERS contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
 5. OCERS will pay toward the employee's total retirement contribution, as determined by A.3. and 4., above, the statutory maximum allowable under the provisions of Government Code Section 31581.1 up to one-half (1/2) for safety members, but not to exceed three (3) percent for general members.
- B. For employees hired on or after September 21, 1979.
1. General members will be provided a one-sixtieth (1/60) retirement benefit allowance as provided in Section 31676.1 of the Government Code.
 2. Safety members will be provided a one-fiftieth (1/50) benefit formula per Section 31664.0 of the Government Code.
 3. The retirement allowance of general and safety members will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31664.1.
 4. Members' normal contribution rates shall be as provided by Government Code Section 31621 for general members and 31639.25 for safety members.
 5. OCERS will adopt employee contribution rates equal to OCERS contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the actuary.
 6. OCERS will pay toward an employee's total retirement contribution as determined by Section 1.B.4. and 5., above, the statutory maximum allowable by Government Code Section 31581.1 up to one-half (1/2) for safety members, but not to exceed three (3) percent for general members.

- C. Members' normal cost-of-living contributions will be adjusted subsequent to and in accordance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.

ARTICLE XVIII - COMPENSATION FOR EMPLOYEES IN THE EXECUTIVE, MANAGEMENT AND PROFESSIONAL SALARY RANGES

Section 1. Equity Adjustments and Incentive Pay

- A. The Chief Executive Officer may, based on consideration of such factors as external market data, internal salary relationships, position responsibilities, individual performance, budgetary considerations and sound management principles, approve additional individual salary increases.
- B. The Chief Executive Officer may authorize one time annual non-base building incentive pay rewards not to exceed \$2,500 per employee per year.

Section 2. Merit Increases

- A. In November of each year, or other time of year as determined by the Chief Executive Officer, each Executive, Management and/or Professional employee as of June 1 of that year shall receive a written performance evaluation.
- B. The Chief of each division will provide feedback and recommendations for the CEO's consideration. The CEO will make the final determination of salary awards.

Section 3. Range Constraints

- A. No employee's salary shall exceed the maximum of the salary range, except pursuant to Y-Rate provisions of Article V or as otherwise provided by Section 2.B. above.
- B. No employee's salary shall be less the minimum rate in the salary's range assigned to the class in which he or she is employed.

ARTICLE XIX - DEPENDENT CARE ASSISTANCE PROGRAM

The County will administer a Dependent Care Assistance Program that will allow employees to take advantage of a salary reduction program to pay for dependent care as permitted in the Internal Revenue Code.

PART 3 EXECUTIVE

ARTICLE XX - TERMS AND CONDITIONS OF EMPLOYMENT FOR EXECUTIVE

Section 1. General Provisions

- A. In accordance with current and existing statutes, the Chief Executive Officer shall be appointed by and serve at the pleasure of a majority of the Board.
- B. The Board shall set the pay and benefits for the Chief Executive Officer.

Section 2. Executive Employees

- A. Executive employees shall serve at the pleasure of the Chief Executive Officer (i.e. At Will). Prior to such an appointment, the CEO shall obtain written acknowledgment from the prospective appointee acknowledging his or her understanding of such At Will status. Executive employees who have voluntarily entered into At Will agreements shall continue to serve At Will.
- B. Upon removal, Executive employees may be released from service at any time, without notice, cause or rights of appeal by the Chief Executive Officer.
- C. Notwithstanding the provisions of this section, OCERS shall have the right to dismiss Executive employees for reasonable cause.
- D. Executive employees appointed after July 1, 1998 shall be required to sign At-Will agreements as a condition of appointment.

Section 3. Life Insurance

Executive employees shall receive life and accidental death and dismemberment insurance in the amount of \$125,000 regardless of age, with the option to purchase additional coverage including dependent coverage.

Section 4. Optional Benefit Plan

All provisions that apply to Management and Professional employees shall also apply to Executive, except that the amount of the Optional Benefit Plan will be three thousand five hundred (3,500) dollars per plan year for all Executive employees or such amount as is provided to executive management employees of the County of Orange.

Section 5. Transportation Allowance

Employees in the classification of Chief Executive Officer and Chief Investment Officer shall receive a transportation allowance in the amount of \$600 per month.

Section 6. Salary Adjustments

Except as otherwise provided by law, the Chief Executive Officer is authorized to increase or decrease the salaries of Executive, Manager and Professional staff based on consideration of such factors as position responsibilities, performance, external market data and internal salary relationships. Salaries shall not be greater than the maximum or less than the minimum of the assigned salary range as applicable.

APPENDIX A

Executive

Chief Executive Officer (CEO)
Chief Investment Officer (CIO)
Chief Operations Officer (COO)
Chief Financial Officer (CFO)
Chief Legal Counsel (CLO)(General Counsel)

Management

Manager – Administration/Human Resources
Manager – Member Services

Professional

Retirement Investment Analyst
Senior Internal Auditor
Administration/Human Resources Analyst
Public Relations Analyst
Senior Accountant Auditor II

Personnel Policies And Regulations

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A-4

Memorandum

DATE: December 11, 2018
TO: Members of the Governance Committee
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: OVERPAID AND UNDERPAID PLAN CONTRIBUTIONS POLICY – Second Reading

Recommendation

Take appropriate action.

Background/Discussion

The attached is an updated version of the *Overpaid and Underpaid Plan Contributions Policy* ("Policy"). The Committee had a first reading of the Policy on October 11, 2018 and gave staff direction for potential revisions. I have attached a redline version of the policy for the Committees review.

Submitted by:



Suzann Jenike
Assistant CEO, External Operations

OCERS Board Policy
Overpaid and Underpaid
Plan Contributions Policy

Purpose and Background

1. The purpose of the Orange County Employees Retirement System (“OCERS,” “System,” or “Plan”) *Overpaid and Underpaid Plan Contributions Policy* (“policy”) is to provide a framework for resolving erroneous collection of plan contributions from OCERS members and employers. The OCERS Board of Retirement (“Board”) is charged with the responsibility of administering the System in a manner that assures appropriate and prompt delivery of benefits and related services to members and their beneficiaries and of managing the assets of the System in a prudent manner.

Policy Objectives

2. The Board determines, in consultation with its actuary and in accordance with the law, the amount of required member and employer contributions to the Plan. Subject to all applicable laws and consistent with this policy and the procedures established by the Board, it is OCERS’ policy to make every reasonable effort to recover from a member or employer the amount of any underpaid contributions to the Plan, and remit or credit to a member or employer the amount of any overpaid contributions to the Plan, to the extent applicable in accordance with applicable Internal Revenue Service guidance.

Policy Guidelines

3. As soon as practicable after discovery of overpaid or underpaid contributions and after written notification to the affected member and employer, OCERS will (i) correct the contribution amount for active members and employers prospectively; and (ii) pay or credit to, or collect from, the member and credit to or collect from the employer, the amounts to which the member, employer or the Plan is entitled in accordance with this policy and applicable law.
4. This policy is designed for use when calculation and other errors affect an individual member’s plan contributions. In the event of a system-wide error that affects multiple members’ contributions, the Board may implement a system-wide correction process that it determines is appropriate under the circumstances.
5. In the event of any inconsistency between applicable law (including IRS rules) and these policies and procedures, the law shall govern.

Procedures for Underpaid Contributions

Employers

6. When an employer has underpaid plan contributions, the employer will be required to:
 - a. Pay to the Plan the underpaid contributions associated with member compensation earned in prior fiscal years as soon as reasonably practicable, and
 - b. Pay to the Plan the underpaid contributions associated with member compensation earned in the current fiscal year no later than the end of the current fiscal year.

OCERS Board Policy

Overpaid and Underpaid Plan Contributions Policy

Interest on the underpaid contributions shall be charged to and paid by the employer at the System's actuarially assumed rate of return.

Members

7. **Active Members.** When an active member has underpaid contributions to the Plan, OCERS will (i) make a prospective correction to (increase in) the member's contribution rate to the Plan; and (ii) take all reasonable steps to recover the full amount of all underpaid contributions, going back to the inception of the error, and charge interest to the member using the rate of interest credited by OCERS to member contributions, compounded annually during the period in which the contributions were underpaid and during any repayment period (*i.e.*, applied to the outstanding amount due until fully repaid).

The amount of the member's underpaid contributions for active members will be collected in accordance with section 9 below.

If the active member retires or becomes a deferred member of the Plan prior to repayment in full of the underpaid contributions, the remaining amount owing to the Plan will be collected in accordance with section 8 below.

8. **Retired and Deferred Members.** When a retired or deferred member has underpaid contributions to the Plan, OCERS will collect the full amount of all underpaid contributions, going back to the inception of the error, and charge interest to the member using the rate of interest credited by OCERS to member contributions, compounded annually during the period in which the contributions were underpaid.

The amount of the member's underpaid contributions for retired and deferred members will be collected in accordance with section 9 below.

9. The Board adopts the following procedures to recover underpaid contributions by members to the Plan:
 - a. **For Active Members.** Upon discovery of the underpaid contributions, OCERS will notify the member of the prospective adjustment to (increase in) the member's contribution rate to the Plan (to reflect the correct amount of member contributions to the Plan) and provide the member with the following two options:
 - *Option 1* – Equal pre-tax installment payments deducted from the member's biweekly salary over the same length of time that the underpaid contributions occurred, with interest as set forth in section 7 above applied during the underpayment period and during the repayment period; or
 - *Option 2* – Lump sum payment to the Plan for the full amount underpaid, with interest as set forth in section 7 above applied during the underpayment period.
 - b. **For Retired and Deferred Members.** Inform the member of the underpayment and provide the member with the following two options:.

OCERS Board Policy

Overpaid and Underpaid Plan Contributions Policy

- *Option 1* – Equal installments deducted from the member’s monthly pension amount over a period established in the discretion of the Director of Member Services not to exceed five years; or
 - *Option 2* – Lump sum payment to the Plan for the full amount underpaid, with interest as set forth in section 8 above applied during the underpayment period.
- c. In cases of extreme hardship, the member may request, and the CEO may grant, a longer period of repayment of the underpaid contributions
- d. OCERS may pursue all legal remedies to collect such underpaid member contributions to the Plan, including making a claim against the member’s estate or trust. In addition, if the member dies before the full amount of principal and interest is paid, OCERS may recover the remaining principal and interest from any lump sum amount OCERS is obligated to pay to the member’s estate or named beneficiaries of the member; provided, however, OCERS shall not seek to recover any such remaining amounts from any continuation payments made to a surviving spouse or an optional beneficiary of the member, unless an erroneous payment is made to the surviving spouse or optional beneficiary.
10. Compromising Claims.
- a. When the total amount of the Plan’s claim against the member, not including interest, is \$1,000 or less, the CEO, on the advice of legal counsel, shall have the authority to compromise the claim.
- b. Only the Board may compromise claims in which the total amount of such underpaid contributions, not including interest, is greater than \$1,000.
- c. The amount of the Plan’s claim for underpaid contributions is the difference between the amounts actually paid by the member for the recovery period and the amounts that should have been paid, together with “appropriate interest” from the dates of the actual payments to the date(s) the correction is effective. The likelihood of collection, the cost of collection, the amount of possible recovery and extreme hardship to the member will be considered by the CEO and/or the Board when determining whether to compromise a claim. Compromising a claim may include a different method of repayment than is otherwise provided by this policy and/or forgiveness or partial forgiveness of principal and/or interest.

Procedures for Overpaid Contributions

Employers

11. When an employer has overpaid contributions to the Plan, the employer shall be entitled to a credit to its actuarial accrued liability in the amount necessary to correct the error, plus interest at System’s actuarial assumed rate of return.

OCERS Board Policy
Overpaid and Underpaid
Plan Contributions Policy

Members

12. When a member has overpaid contributions to the Plan, (i) an active member shall be entitled to a prospective adjustment to his or her contribution rate to reflect the correct amount, and OCERS will inform the employer of the amount of the overpayment and the employer will offset the amount against the member's future contributions via the employer's payroll system; and (ii) retired and deferred members will be entitled to a lump sum payment within 45 days of discovery of the overpayment and receipt of all information needed to make the correction for all past overpaid amounts, with interest compounded annually using the rate of interest credited by OCERS to member contributions.
13. If a member who overpaid contributions to the Plan dies prior to payment of the lump sum amount due, the payment will be made according to OCERS' standard procedures for paying residual amounts following the death of the member (e.g., to the designated beneficiary, estate, personal representative, trustee of the member trust, etc.).
 - a. If, after following its standard procedures, Plan staff is not able locate a person entitled to payment, the Plan shall hold the funds on behalf of that person for five years. If the funds are not claimed within five years, the funds may be transferred into the System's pension reserve fund. If someone later appears to claim the funds, the Board or the CEO will consider such claims on a case-by-case basis.
 - b. The Plan will maintain a permanent record of all amounts of outstanding refunds of overpaid contributions and any amounts that have been transferred into the pension reserve fund.

Member Appeal Rights

14. A member shall have the right to appeal any decision regarding corrective actions that the Plan takes with respect to recovering and/or returning over and underpayments of Plan contributions.
15. The appeal process will generally follow the same pattern as benefit appeals as set forth in the Adjudication and Administrative Hearing Rules (Disability and Non-Disability Benefits) Policy. Offsets and other collection efforts will be stayed during the pendency of the appeals process; provided, however, that the Board shall have the discretion to suspend implementing its recovery from the member in whole or in part during any ensuing court action. Interest will continue to accrue on all amounts owed to OCERS during the appeals process and litigation.

Policy Review

16. The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History


17. This policy was adopted by the Board of Retirement on MONTH, DATE, 2018.



OCERS Board Policy
Overpaid and Underpaid
Plan Contributions Policy

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.



Steve Delaney
Secretary of the Board

_____ Date

~~Overpaid-Underpaid~~ and ~~Underpaid-Overpaid~~ Plan Contributions Policy

Purpose and Background

1. The purpose of the Orange County Employees Retirement System (“OCERS,” “System,” or “Plan”) *Overpaid and Underpaid Plan Contributions Policy* (“policy”) is to provide a framework for resolving erroneous collection of plan contributions from OCERS members and employers. The OCERS Board of Retirement (“Board”) is charged with the responsibility of administering the System in a manner that assures appropriate and prompt delivery of benefits and related services to members and their beneficiaries and of managing the assets of the System in a prudent manner.

Policy Objectives

2. The Board determines, in consultation with its actuary and in accordance with the law, the amount of required member and employer contributions to the Plan. Subject to all applicable laws and consistent with this policy and the procedures established by the Board, it is OCERS’ policy to make every reasonable effort to recover from a member or employer the amount of any underpaid contributions to the Plan, and remit or credit to a member or employer the amount of any overpaid contributions to the Plan, to the extent applicable in accordance with applicable Internal Revenue Service guidance.

Policy Guidelines

3. As soon as practicable after discovery of overpaid or underpaid contributions and after written notification to the affected member and employer, OCERS will (i) correct the contribution amount for active members and employers prospectively; and (ii) pay or credit to, or collect from, the member and credit to or collect from the employer, the amounts to which the member, employer or the Plan is entitled in accordance with this policy and applicable law.
4. This policy is designed for use when calculation and other errors affect an individual member’s plan contributions. In the event of a system-wide error that affects multiple members’ contributions, the Board may implement a system-wide correction process that it determines is appropriate under the circumstances.
5. In the event of any inconsistency between applicable law (including IRS rules) and these policies and procedures, the law shall govern.

Procedures for Underpaid Contributions

Employers

6. When an employer has underpaid plan contributions, the employer will be required to:
 - a. Pay to the Plan the underpaid contributions associated with member compensation earned in prior fiscal years as soon as reasonably practicable, and
 - b. Pay to the Plan the underpaid contributions associated with member compensation earned in the current fiscal year no later than the end of the current fiscal year.

~~Overpaid-Underpaid~~ and ~~Underpaid-Overpaid~~ Plan Contributions Policy

Interest on the underpaid contributions shall be charged to and paid by the employer at the System's actuarially assumed rate of return.

Members

7. **Active Members.** When an active member has underpaid contributions to the Plan, OCERS will (i) make a prospective correction to (increase in) the member's contribution rate to the Plan; and (ii) take all reasonable steps to recover the full amount of all underpaid contributions, going back to the inception of the error, and charge interest to the member using the rate of interest credited by OCERS to member contributions, compounded annually during the period in which the contributions were underpaid and during any repayment period (*i.e.*, applied to the outstanding amount due until fully repaid). In cases where there is evidence that the contribution underpayment was solely the result of an error by OCERS and/or the members employer, the CEO has the discretion to compromise part of or the entire interest charge.

The amount of the member's underpaid contributions for active members will be collected in accordance with section 9 below.

If the active member retires or becomes a deferred member of the Plan prior to repayment in full of the underpaid contributions, the remaining amount owing to the Plan will be collected in accordance with section 8 below.

8. **Retired and Deferred Members.** When a retired or deferred member has underpaid contributions to the Plan, OCERS will collect the full amount of all underpaid contributions, going back to the inception of the error, and charge interest to the member using the rate of interest credited by OCERS to member contributions, compounded annually during the period in which the contributions were underpaid.

The amount of the member's underpaid contributions for retired and deferred members will be collected in accordance with section 9 below.

9. The Board adopts the following procedures to recover underpaid contributions by members to the Plan:
- a. **For Active Members.** Upon discovery of the underpaid contributions, OCERS will notify the member of the prospective adjustment to (increase in) the member's contribution rate to the Plan (to reflect the correct amount of member contributions to the Plan) and provide the member with the following two options:
- *Option 1* – Equal pre-tax installment payments deducted from the member's biweekly salary over the same length of time that the underpaid contributions occurred, with interest as set forth in section 7 above applied during the underpayment period and during the repayment period; or
 - *Option 2* – Lump sum payment to the Plan for the full amount underpaid, with interest as set forth in section 7 above applied during the underpayment period.

~~Overpaid-Underpaid~~ and ~~Underpaid-Overpaid~~ Plan Contributions Policy

- b. **For Retired and Deferred Members.** Inform the member of the underpayment and provide the member with the following two options:
 - *Option 1* – Equal installments deducted from the member’s monthly pension amount over a period established in the discretion of the Director of Member Services not to exceed five years; or
 - *Option 2* – Lump sum payment to the Plan for the full amount underpaid, with interest as set forth in section 8 above applied during the underpayment period.
 - c. In cases of ~~extreme~~ hardship, the member may request, and the CEO may grant, a longer period of repayment of the underpaid contributions
 - d. OCERS may pursue all legal remedies to collect such underpaid member contributions to the Plan, including making a claim against the member’s estate or trust. In addition, if the member dies before the full amount of principal and interest is paid, OCERS may recover the remaining principal and interest from any lump sum amount OCERS is obligated to pay to the member’s estate or named beneficiaries of the member; provided, however, OCERS shall not seek to recover any such remaining amounts from any continuation payments made to a surviving spouse or an optional beneficiary of the member, unless an erroneous payment is made to the surviving spouse or optional beneficiary.
10. Compromising Claims.
- a. When the total amount of the Plan’s claim against the member, not including interest, is \$1,000 or less, the CEO, on the advice of legal counsel, shall have the authority to compromise the claim.
 - b. Only the Board may compromise claims in which the total amount of such underpaid contributions, not including interest, is greater than \$1,000.
 - c. The amount of the Plan’s claim for underpaid contributions is the difference between the amounts actually paid by the member for the recovery period and the amounts that should have been paid, together with “appropriate interest” from the dates of the actual payments to the date(s) the correction is effective. The likelihood of collection, the cost of collection, the amount of possible recovery and extreme hardship to the member will be considered by the CEO and/or the Board when determining whether to compromise a claim. Compromising a claim may include a different method of repayment than is otherwise provided by this policy and/or forgiveness or partial forgiveness of principal and/or interest.

Procedures for Overpaid Contributions

Employers

11. When an employer has overpaid contributions to the Plan, the employer shall be entitled to a credit to its actuarial accrued liability in the amount necessary to correct the error, plus interest at System’s actuarial assumed rate of return.



OCERS Board Policy

~~Overpaid-Underpaid~~ and ~~Underpaid-Overpaid~~
Plan Contributions Policy

Overpaid-Underpaid and Underpaid-Overpaid Plan Contributions Policy

Members

12. When a member has overpaid contributions to the Plan, (i) an active member shall be entitled to a prospective adjustment to his or her contribution rate to reflect the correct amount, and OCERS will inform the employer of the amount of the overpayment and the employer will offset the amount against the member's future contributions via the employer's payroll system; and (ii) retired and deferred members will be entitled to a lump sum payment within 45 days of discovery of the overpayment and receipt of all information needed to make the correction for all past overpaid amounts, with interest compounded annually using the rate of interest credited by OCERS to member contributions.
13. If a member who overpaid contributions to the Plan dies prior to payment of the lump sum amount due, the payment will be made according to OCERS' standard procedures for paying residual amounts following the death of the member (*e.g.*, to the designated beneficiary, estate, personal representative, trustee of the member trust, etc.).
 - a. If, after following its standard procedures, Plan staff is not able locate a person entitled to payment, the Plan shall hold the funds on behalf of that person for five years. If the funds are not claimed within five years, the funds may be transferred into the System's pension reserve fund. If someone later appears to claim the funds, the Board or the CEO will consider such claims on a case-by-case basis.
 - b. The Plan will maintain a permanent record of all amounts of outstanding refunds of overpaid contributions and any amounts that have been transferred into the pension reserve fund.

Member Appeal Rights

14. A member shall have the right to appeal any decision regarding corrective actions that the Plan takes with respect to recovering and/or returning over and underpayments of Plan contributions.
15. The appeal process will generally follow the same pattern as benefit appeals as set forth in the Adjudication and Administrative Hearing Rules (Disability and Non-Disability Benefits) Policy. Offsets and other collection efforts will be stayed during the pendency of the appeals process; provided, however, that the Board shall have the discretion to suspend implementing its recovery from the member in whole or in part during any ensuing court action. Interest will continue to accrue on all amounts owed to OCERS during the appeals process and litigation.

Policy Review

16. The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

17. This policy was adopted by the Board of Retirement on MONTH, DATE, 2018.



~~Overpaid-Underpaid~~ and ~~Underpaid-Overpaid~~ Plan Contributions Policy

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

A handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney
Secretary of the Board

_____ Date

A-5

Memorandum

DATE: December 11, 2018
TO: Members of the Governance Committee
FROM: Cynthia Hockless, Director of Administrative Services
SUBJECT: TRIENNIAL REVIEW OF THE WHISTLEBLOWER POLICY

Recommendation

Approve, and recommend that the Board of Retirement approve, revisions to the *Whistleblower Policy*.

Background/Discussion

The *Whistleblower Policy* was adopted by the Board on May 17, 2011, and was last reviewed and revised on March 17, 2014. It is scheduled for review and approval by the Board, after review by the Governance Committee.

Whistleblower Policy

Staff has reviewed the *Whistleblower Policy* and recommends the following revisions under Policy Guidelines:

Add to paragraph 9, the redline listed below:

9. It is the policy of the Board of Retirement of OCERS that no Board member, management employee, or other employee may retaliate against any OCERS Board member, employee, service provider, member, beneficiary, or any other person who discloses information to a government or law enforcement agency in compliance with the whistleblower provisions of the Labor Code. However, OCERS reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

Add additional language to paragraph 10, which clarifies the details needed to register a compliant.

10. Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis, but should describe in detail the specific facts demonstrating the bases for the complaint, report or inquiry. They may be directed to the Chief Executive Officer or Director of Administrative Services, or to the General Counsel if involving the Chief Executive Officer or Director of Administrative Services. OCERS will conduct a prompt, discreet, and objective review of investigation in response to the complaint, report or inquiry. However, employees must recognize that OCERS may be unable to fully evaluate or address a report or inquiry that is made anonymously on in a vague or general matter. It is further the policy of the Board of Retirement of OCERS that all disclosures of information regarding violations of law or violations or noncompliance with rules and regulations shall be investigated and acted on appropriately by the OCERS Board and OCERS management.

The revisions are set forth in underlined/strikeout text in the attached copy of the policy.

Attachments

Submitted by:



C.H. – APPROVED

Cynthia Hockless
Director of Administrative Services

OCERS Board Policy **Whistleblower Policy**

Purpose and Background

1. It is the policy of the Board of Retirement of OCERS to encourage employees to notify an appropriate government or law enforcement agency when an employee has reasonable cause to believe that information in the employee's possession discloses a violation of a state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Employees are provided with protection against retaliation for engaging in valid whistleblowing activities, as defined below, under the provisions of California Labor Code §1102.5. The purpose of this policy is to assure OCERS' employees that they are provided with such protection in compliance with the law.

Policy Objectives

2. The objectives of the policy are to provide guidance to OCERS Board members, staff, and management regarding the reporting of violations of state or federal laws, rules, and regulations, and to assure staff that reports based upon a reasonable belief of wrongdoing will be accepted and acted upon without fear of retaliation.

Policy Guidelines

3. OCERS should carry out its duties in the spirit of open governance.
4. The persons protected by the policy are "whistleblowers" who are OCERS employees, including employees of the County of Orange assigned to work at OCERS and OCERS Board members.
5. Under the Labor Code, protected activity is the disclosure of information to a government or law enforcement agency where the employee has reasonable cause to believe that the information discloses a violation of state or federal law or a violation or noncompliance with a state or federal rule or regulation.
6. Protected activity may also include the disclosure of suspected fraud, misuse of OCERS' resources by vendors, contractors, OCERS Board members or employees, and significant violations of OCERS or County of Orange policy.
7. Protected activity may also include, with reference to employee safety or health, disclosure of unsafe working conditions or work practices in the employee's employment or place of employment.
8. For the purposes of this policy, a report made by an OCERS employee to OCERS management or to a member of the Board of Retirement is a disclosure of information to a government or law enforcement agency.
9. It is the policy of the Board of Retirement of OCERS that no Board member, management employee, or other employee may retaliate against any OCERS Board member, employee, service provider, member, beneficiary, or any other person who discloses information to a government or law enforcement agency in compliance with the whistleblower provisions of the Labor Code. However, OCERS reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

OCERS Board Policy Whistleblower Policy

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Policy Review

11. The Board of Retirement will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

12. The Board of Retirement adopted this policy on May 17, 2011. The policy was revised on March 17, 2014 and December 17, 2018.

Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney
Secretary of the Board

3/17/14 12/17/18

Date

OCERS Board Policy **Whistleblower Policy**

Purpose and Background

1. It is the policy of the Board of Retirement of OCERS to encourage employees to notify an appropriate government or law enforcement agency when an employee has reasonable cause to believe that information in the employee's possession discloses a violation of a state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Employees are provided with protection against retaliation for engaging in valid whistleblowing activities, as defined below, under the provisions of California Labor Code §1102.5. The purpose of this policy is to assure OCERS' employees that they are provided with such protection in compliance with the law.

Policy Objectives

2. The objectives of the policy are to provide guidance to OCERS Board members, staff, and management regarding the reporting of violations of state or federal laws, rules, and regulations, and to assure staff that reports based upon a reasonable belief of wrongdoing will be accepted and acted upon without fear of retaliation.

Policy Guidelines

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6. Protected activity may also include the disclosure of suspected fraud, misuse of OCERS' resources by vendors, contractors, OCERS Board members or employees, and significant violations of OCERS or County of Orange policy.
7. Protected activity may also include, with reference to employee safety or health, disclosure of unsafe working conditions or work practices in the employee's employment or place of employment.
8. For the purposes of this policy, a report made by an OCERS employee to OCERS management or to a member of the Board of Retirement is a disclosure of information to a government or law enforcement agency.
9. It is the policy of the Board of Retirement of OCERS that no Board member, management employee, or other employee may retaliate against any OCERS Board member, employee, service provider, member, beneficiary, or any other person who discloses information to a government or law enforcement agency in compliance with the whistleblower provisions of the Labor Code. However, OCERS reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

OCERS Board Policy Whistleblower Policy

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Policy History

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Secretary's Certificate

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

<hr/>	12/17/18
Steve Delaney Secretary of the Board	Date

A-6

Memorandum

DATE: December 11, 2018
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **MONITORING AND REPORTING POLICY**

Recommendation:

That the full Board adopt changes to the Monitoring and Reporting Policy.

Background:

In keeping with its duty to oversee the activities and performance of OCERS, the Board established this policy in 2001 to set out the Board's expectations concerning the reports it should receive on a regular basis.

This policy was due for review in 2017, but in being reassigned to the CEO as lead rather than the Legal Department as had been the case in the past, it was overlooked. Ms. Ratto, as Governance Committee liaison has done an admirable job in ensuring we are back on track with the required review schedule for all policies.

The attachments are redlined and clean drafts that set forth proposed modifications to the Monitoring and Reporting Policy.

The policy includes an attachment (Appendix I to the policy) that lists the routine reports and identifies those responsible for preparing them. The changes in Appendix I are intended to conform the list of reports to actual current practices.

On the proposed Appendix I –

- Four reports have been modified in their titling or description,
- Three reports have been added to the list, and
- Five have been deleted:
 - Portfolio Rebalancing as it is now part of the Portfolio Activity Report
 - Derivatives Report – Deleted by Committee in current IPS
 - Performance Review of Direct Hedge Fund Investments – Stopped with termination of Hedge Fund Consultant
 - Economic Dashboards and CIO House Views – Replaced by CIO monthly verbal report to Committee
 - Annual Derivatives Report – Deleted by Committee in current IPS

Memorandum

The *three added reports* are set forth below.

INVESTMENTS

Issue	Description and Purpose of Report	Frequency	Prepared By
Manager Selection and Terminations	Enables Committee to review recent manager activity	Monthly	CIO

AUDIT

Issue	Description and Purpose of Report	Frequency	Prepared By
Business Continuity and Disaster Recovery	Enables Board to evaluate staff activities ensuring agency preparedness.	Quarterly	Assistant CEO of Internal Operations
Cybersecurity	Enables Audit Committee to evaluate staff activities ensuring agency data security.	Quarterly	Director of Cybersecurity

The *five deleted reports* are set forth below.

INVESTMENTS


Issue	Description and Purpose of Report	Frequency	Prepared By
Portfolio Rebalancing	Enables Investment Committee to review re-balancing activities.	Semi-annually	Investment Staff
Derivatives Report	Enables Investment Committee to review OCERS' derivatives exposure within separate accounts.	Quarterly	Investment Staff/Risk Consultant
Performance Review of Direct Hedge Fund Investments	Enables Investment Committee to evaluate the performance of the system's direct hedge fund investments	Quarterly	Hedge Fund Consultant

Memorandum

Issue	Description and Purpose of Report	Frequency	Prepared By
Economic Dashboards and CIO House Views	Informs Investment Committee of current economic and market conditions	Monthly	Investment Staff
Annual Derivatives Report	Enables Investment Committee to review OCERS' overall risk of derivatives and associated risks	Annually	CIO

Attachments

Submitted by:



Steve Delaney
 Chief Executive Officer

BACKGROUND

1. In keeping with the duty of the Board of Retirement to oversee the activities and performance of OCERS, the Board has established this Monitoring and Reporting Policy, which sets out the Board's expectations concerning the reports it is to receive on a regular basis.

PRINCIPLES

2. Although it is prudent for the Board of Retirement to delegate certain of its responsibilities, it must nevertheless supervise those to whom it has delegated responsibilities using defined reporting and monitoring processes.

GUIDELINES

3. The Board of Retirement will be provided the routine reports outlined in Appendix 1 with a frequency also set out in Appendix 1. The Board will be provided other ad hoc reports as required.
4. Appendix 1 of this Policy will address the routine reporting needs of the Board of Retirement across a range of reporting areas including:
 - a) Governance;
 - b) Investments;
 - c) Funding;
 - d) Member Services and Disability;
 - e) Administration; and
 - f) Audit.
5. Board members are expected to review all reports provided to the Board of Retirement, and to question management about any issues of concern contained in any such report.
6. Management will work continuously to improve the format and content of routine reports provided to the Board to ensure they meet the needs of the Board, provide adequate and timely information and are understandable.

7. Routine reports will not only address performance measurement, but also compliance with OCERS' policies and procedures.

Investment Reports

8. For the purposes of Board reporting, investment performance of the Fund will be measured by an independent performance measurement firm.
9. Investment performance reports will be prepared in accordance with the *Performance Presentation Standards* prescribed by the CFA Institute, or comparable standards.
10. Investment performance benchmarks will be specified within the investment policy statement.
11. The primary performance benchmarks used to evaluate the performance of public market investments will be based on passive market indices or similar generally accepted benchmarks. For the alternative assets, appropriate benchmarks as specified within the investment policy statement will be used to evaluate performance. Peer comparisons of total fund performance will be considered when reviewing the performance of the investment program, but shall not constitute the primary investment benchmark.

Other Reports

12. Where feasible, performance measurement on administration and other matters – such as service quality to members – may be delegated to independent third-parties; however, due to the lack of standard measurement techniques and benchmarks, much of the performance measurement function may be performed internally for the foreseeable future. If available, appropriate peer group comparisons may be used as benchmarks in assessing the performance of the benefit administration function.

POLICY REVIEW

13. The Board of Retirement will review this policy, including Appendix 1, at least once every three (3) years to ensure that it remains relevant and appropriate.

POLICY HISTORY

14. The Board of Retirement adopted this policy on Monday, November 18, 2002.

15. The policy was revised May 16, 2005, May 19, 2008, December 19, 2011, and September 10, 2014.

I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney, Secretary to the Board

Date

APPENDIX I

GOVERNANCE REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Trustee Education	Summarizes the activities of the Board of Retirement with respect to education.	Quarterly	Chief Executive Officer
CEO Evaluation	Summarizes the performance assessment of the CEO.	Annually	Chair / Designated Third Party

INVESTMENT REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Investment Performance	Enables Investment Committee to assess investment performance for total fund, each asset class, and by investment manager.	Quarterly	Investment Consultant
Investment Manager Portfolio Compliance	Enables Investment Committee to review investment manager compliance with respect to investment guidelines.	Quarterly	Investment Staff
Performance Review of Alternative Investments	Enables Investment Committee to evaluate performance of alternative investment classes such as private equity, venture capital and natural resource investments.	Semi-annually	General Investment Private Equity / Private Real Assets Consultant
Performance Review of Real Estate Investments	Enables Investment Committee to assess the performance of the system's real estate investments.	Quarterly	Real Estate Consultant
Portfolio Values and Actual vs. Target Allocations <u>Portfolio Allocations</u>	Enables Investment Committee to monitor the portfolio and the asset allocations.	Monthly	Investment Staff
Portfolio Re-balancing	Enables Investment Committee to review re-balancing activities.	Semi-annually	Investment Staff
Derivatives Report	Enables Investment Committee to review OCERS' derivative exposure within separate accounts.	Quarterly	Investment Staff/Risk Consultant,

Issue	Description and Purpose of Report	Frequency	Prepared By
Performance Review of Direct Hedge Fund Investments	Enables Investment Committee to evaluate the performance of the system's direct hedge fund investments.	Quarterly	Hedge Fund Consultant
Portfolio Risk Review	Enables Investment Committee to assess risks in the system's portfolio and current macro risks.	Quarterly	Risk Consultant
Economic Dashboards and CIO House Views	Informs Investment Committee of current economic and market conditions.	Monthly	Investment Staff
Manager Surveillance Investment Manager Compliance Report	Facilitates periodic review of Committee's Watch list and staff's portfolio surveillance activity.	Quarterly	Investment Staff
Asset Class and Sector Reviews	Assures periodic Investment Committee review of the structure and manager performance within sub asset classes.	1 or 2 per quarter	General Investment Consultants, <u>Private Equity and Real Estate</u>

Other Investment Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Annual review of CAFR investment items	Provides public information for review of various investment expenses and risk exposures.	Annually	Investment and Finance Staff
Annual Fee Report	Enables Investment Committee to monitor and evaluate OCERS' manager fees for prior calendar year by manager and by asset class.	Annually	CIO
Annual Proxy Voting Report	Facilitates Board's ongoing oversight of OCERS' proxy voting policy, summary of OCERS' proxy voting, and key governance trends for current proxy voting season.	Annually	Proxy Voting Service Provider
Annual Derivatives Report	Enables Investment Committee to review OCERS' overall use of derivatives and associated risks.	Annually	CIO

FUNDING REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Actuarial Valuation	Establishes the financial position of the pension plan on a going concern and solvency basis, and determines the rates of contribution.	Annually	Consulting Actuary
Experience Analysis	Reviews the appropriate long-term economic assumptions such as investment return and wage and price inflation, and demographic assumptions such as disability rates and mortality rates.	Every three years	Consulting Actuary
Asset / Liability Study	A study of the relationship between OCERS's assets and liabilities to determine the appropriateness of OCERS' asset allocation policy.	At least every five years	Consulting Actuary / Investment Consultant

MEMBER SERVICES AND DISABILITY

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Applications for Retirement	Report on members who have applied for retirement	Monthly	Member Services
Payees who have died	Identifies payees who have died	Monthly	Member Services
Disability applications	Report on disability applications processed during the preceding year	Yearly	Disability

AUDIT

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Actuarial Audit	An independent review of the validity of the analyses and methodologies used in preparing OCERS' actuarial valuation.	At least every five years	Independent Actuary

Issue	Description and Purpose of Report	Frequency	Prepared By
<u>Business Continuity / Disaster Recovery</u>	<u>Report on staff activities to ensure OCERS preparedness</u>	<u>Quarterly</u>	<u>Assistant CEO of Internal Operations</u>
<u>Cybersecurity</u>	<u>Report on staff activities regarding cybersecurity</u>	<u>Quarterly</u>	<u>Director of Cyber Security</u>
Financial statements audit reports: “OCERS’ Report to the Audit Committee for the Year Ended December 31, 20XX” and “Independent Auditor’s Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards”	The external auditor’s report on communications with the Audit Committee, including significant findings and other matters. The second report describes the scope of audit testing of internal control, compliance, and the results of testing.	Annually	External Auditor
Audit Plan	A description of planned audits and projects of Internal Audit approved by the Audit Committee.	At least annually	Internal Audit
Ethics, Compliance, and Fraud Hotline Usage Report	A description of the reports submitted using a third party hotline.	At least annually	Internal Audit

ADMINISTRATIVE REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Business Plan and Strategic Plan	Summarizes the status of each initiative contained in the Business Plan and sets out the multi-year Strategic Plan.	Annually	CEO
Budget	Operational Budget for both Administration and Investment.	Annually	CEO
Budget Variance	Summarizes the status of material variances from the operational budget.	Quarterly	Assistant CEO, Internal Operations

Issue	Description and Purpose of Report	Frequency	Prepared By
Financial Reports	Quarterly report on the financial position of OCERS, covering unaudited financial statements, progress on the audited financial statements, expenses and recaptured commissions.	Quarterly	Assistant CEO, Internal Operations
Audited Financial Statements & Auditor's Opinion	The audited financial statements, which indicate the financial position of OCERS.	Annually	Independent Auditor
Form 700 Filing Requirements	List of positions that are Designated Filers (under the OCERS Conflict of Interest Code) required to file Form 700 annually.	Annually in January	OCERS Form 700 Filing Officer
Vendor Contracts	List of all vendor contracts above \$50,000 annually with those due for renewal highlighted.	Annually	Budget Officer

Monitoring and Reporting Policy

BACKGROUND

1. In keeping with the duty of the Board of Retirement to oversee the activities and performance of OCERS, the Board has established this Monitoring and Reporting Policy, which sets out the Board's expectations concerning the reports it is to receive on a regular basis.

PRINCIPLES

2. Although it is prudent for the Board of Retirement to delegate certain of its responsibilities, it must nevertheless supervise those to whom it has delegated responsibilities using defined reporting and monitoring processes.

GUIDELINES

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 - c) Funding;
 - d) Member Services and Disability;
 - e) Administration; and
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5. Board members are expected to review all reports provided to the Board of Retirement, and to question management about any issues of concern contained in any such report.

Monitoring and Reporting Policy

6. Management will work continuously to improve the format and content of routine reports provided to the Board to ensure they meet the needs of the Board, provide adequate and timely information and are understandable.
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Investment Reports

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Other Reports

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Monitoring and Reporting Policy

appropriate peer group comparisons may be used as benchmarks in assessing the performance of the benefit administration function.

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I, the undersigned, the duly appointed Secretary of the Orange County Employees Retirement System, hereby certify the adoption of this policy.

Steve Delaney, Secretary to the Board

Date

OCERS Board Policy

Monitoring and Reporting Policy

APPENDIX I

GOVERNANCE REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Trustee Education	Summarizes the activities of the Board of Retirement with respect to education.	Quarterly	Chief Executive Officer
CEO Evaluation	Summarizes the performance assessment of the CEO.	Annually	Chair / Designated Third Party

INVESTMENT REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
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Investment Manager Portfolio Compliance	Enables Investment Committee to review investment manager compliance with respect to investment guidelines.	Quarterly	Investment Staff
Performance Review of Alternative Investments	Enables Investment Committee to evaluate performance of alternative investment classes such as private equity, venture capital and natural resource investments.	Semi-annually	Private Equity / Private Real Assets Consultant
Performance Review of Real Estate Investments	Enables Investment Committee to assess the performance of the system's real estate investments.	Quarterly	Real Estate Consultant

Monitoring and Reporting Policy

Issue	Description and Purpose of Report	Frequency	Prepared By
Portfolio Allocations	Enables Investment Committee to monitor the portfolio and the asset allocations.	Monthly	Investment Staff
Portfolio Risk Review	Enables Investment Committee to assess risks in the system's portfolio and current macro risks.	Quarterly	Risk Consultant
Investment Manager Compliance Report	Facilitates periodic review of Committee's Watch list and staff's portfolio surveillance activity.	Quarterly	Investment Staff
Asset Class and Sector Reviews	Assures periodic Investment Committee review of the structure and manager performance within sub asset classes.	1 or 2 per quarter	General Investment Consultants, Private Equity and Real Estate

Other Investment Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Annual review of CAFR investment items	Provides public information for review of various investment expenses and risk exposures.	Annually	Investment and Finance Staff
Annual Fee Report	Enables Investment Committee to monitor and evaluate OCERS' manager fees for prior calendar year by manager and by asset class.	Annually	CIO
Annual Proxy Voting Report	Facilitates Board's ongoing oversight of OCERS' proxy voting policy, summary of OCERS' proxy voting, and key governance trends for current proxy voting season.	Annually	Proxy Voting Service Provider

Monitoring and Reporting Policy

FUNDING REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Actuarial Valuation	Establishes the financial position of the pension plan on a going concern and solvency basis, and determines the rates of contribution.	Annually	Consulting Actuary
Experience Analysis	Reviews the appropriate long-term economic assumptions such as investment return and wage and price inflation, and demographic assumptions such as disability rates and mortality rates.	Every three years	Consulting Actuary
Asset / Liability Study	A study of the relationship between OCERS's assets and liabilities to determine the appropriateness of OCERS' asset allocation policy.	At least every five years	Consulting Actuary / Investment Consultant

MEMBER SERVICES AND DISABILITY

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Applications for Retirement	Report on members who have applied for retirement	Monthly	Member Services
Payees who have died	Identifies payees who have died	Monthly	Member Services
Disability applications	Report on disability applications processed during the preceding year	Yearly	Disability

OCERS Board Policy

Monitoring and Reporting Policy

AUDIT

Standard Reports

Issue	Description and Purpose of Report
Actuarial Audit	An independent review of the validity of OCERS' actuarial valuation.
Business Continuity / Disaster Recovery	Report on staff activities to ensure business continuity.
Cybersecurity	Report on staff activities regarding cybersecurity.
Financial statements audit reports: "OCERS' Report to the Audit Committee for the Year Ended December 31, 20XX" and "Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards"	The external auditor's report on the financial statements and significant findings and other matters. The second report describes the scope and results of testing.
Audit Plan	A description of planned audits and the role of the Audit Committee.
Ethics, Compliance, and Fraud Hotline Usage Report	A description of the reports submitted to the Audit Committee.

ADMINISTRATIVE REPORTS

Standard Reports

Issue	Description and Purpose of Report	Frequency	Prepared By
Business Plan and Strategic Plan	Summarizes the status of each initiative contained in the Business Plan and sets out the multi-year Strategic Plan.	Annually	CEO
Budget	Operational Budget for both Administration and Investment.	Annually	CEO
Budget Variance	Summarizes the status of material variances from the operational budget.	Quarterly	Assistant CEO, Internal Operations

Monitoring and Reporting Policy

Issue	Description and Purpose of Report	Frequency	Prepared By
Financial Reports	Quarterly report on the financial position of OCERS, covering unaudited financial statements, progress on the audited financial statements, expenses and recaptured commissions.	Quarterly	Assistant CEO, Internal Operations
Audited Financial Statements & Auditor's Opinion	The audited financial statements, which indicate the financial position of OCERS.	Annually	Independent Auditor
Form 700 Filing Requirements	List of positions that are Designated Filers (under the OCERS Conflict of Interest Code) required to file Form 700 annually.	Annually in January	OCERS Form 700 Filing Officer
Vendor Contracts	List of all vendor contracts above \$50,000 annually with those due for renewal highlighted.	Annually	Budget Officer

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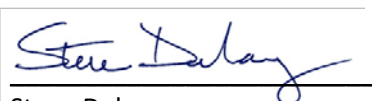
Memorandum

DATE: December 3, 2018
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: SENIOR EXECUTIVE CHARTERS

Written Report

Review and discussion of this item continues. With the Governance Committee Chair's approval, this item has been removed from the December 11, 2018 agenda.

Submitted by:



Steve Delaney
Chief Executive Officer

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Memorandum

DATE: December 11, 2018
TO: Members of the Governance Committee
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: WITHDRAWING PLAN SPONSOR AND DECLINING PAYROLL POLICIES - UPDATE

UPDATE

The *Withdrawing Plan Sponsor and Declining Payroll Policies* ("Policies") are scheduled for triennial review in 2018. We have concluded that the two Policies need significant revisions and at minimum need to be harmonized. In addition, there is an employer scenario that is not covered in either policy that may result in another policy, i.e. an employer who wishes to pay off their UAAL entirely. Staff is in the process of revising/harmonizing the policies and evaluating how best to document the entire payoff scenario. We will either create another policy, incorporate this scenario into one of the existing policies or combine them into a single employer funding policy with multiple chapters.

Submitted by:



Suzanne Jenike
Assistant CEO, External Operations