

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

**REGULAR MEETING
Monday, November 15, 2021
9:30 A.M.**

Pursuant to Assembly Bill 361, signed into law on September 16, 2021 as urgency legislation, and Governor Newsom’s Proclamation of a State of Emergency on March 4, 2020, which Proclamation is still in effect, and Board of Retirement Resolution 2021-01 dated October 18, 2021, this meeting will be conducted by video/teleconference only, in compliance with Government Code section 54953 as amended by Assembly Bill 361. None of the locations from which the Board members will participate will be open to the public.

Members of the public who wish to observe and/or participate in the meeting may do so via the Zoom app or via telephone. Members of the public who wish to provide comment during the meeting may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad.

OCERS Zoom Video/Teleconference information	
<p>Join Using Zoom App (Video & Audio)</p> <p>https://ocers.zoom.us/j/98457501617</p> <p>Meeting ID: 984 5750 1617 Passcode: 895008</p> <p>Go to https://www.zoom.us/download to download Zoom app before meeting Go to https://zoom.us to connect online using any browser.</p>	<p>Join by Telephone (Audio Only)</p> <p>Dial by your location</p> <ul style="list-style-type: none"> +1 669 900 6833 US (San Jose) +1 346 248 7799 US (Houston) +1 253 215 8782 US +1 301 715 8592 US +1 312 626 6799 US (Chicago) +1 929 436 2866 US (New York) <p>Meeting ID: 984 5750 1617 Passcode: 895008</p>
<p>A Zoom Meeting Participant Guide is available on OCERS website Board & Committee meetings page</p>	

AGENDA

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

**CALL MEETING TO ORDER AND ROLL CALL
PUBLIC COMMENTS**

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 Board; and (2) any matter appearing on the Consent Agenda. Members of the public who wish to provide comment at this time may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad. When addressing the Board, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

In addition, public comment on matters listed on this agenda will be taken at the time the item is addressed.

CONSENT AGENDA

All matters on the Consent Agenda are to be approved by one action unless a Board Member requests separate action on a specific item.

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

Recommendation: Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

- None

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes

October 18, 2021

Recommendation: Approve Minutes.

C-3 BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2021-02

Recommendation: That the Board (1) make the following findings pursuant to Government Code section 54953, as amended by AB 361;

- a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- b. The Board has determined that the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and

- ii. State or local officials continue to impose or recommend measures to promote social distancing.

and

- (2) Adopt Board of Retirement Resolution 2021-02 to reflect such findings.

C-4 GOVERNANCE COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON OCTOBER 28, 2021

Recommendation: The Governance Committee recommends the Board adopt all of the following as presented:

- (1) Revisions to the Procurement and Contracting Policy
- (2) Revisions to the Write Off Policy
- (3) Revisions to the Overpaid and Underpaid Plan Benefits Policy
- (4) Revisions to the Overpaid and Underpaid Plan Contributions Policy
- (5) A new Records Management Policy to replace the existing Records Retention Policy
- (6) A new OCERS Administrative Procedure – Years of Service Credit Calculation

C-5 2021 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN OCERS AND THE COUNTY OF ORANGE REGARDING INTERNAL REVENUE CODE SECTION 415(M) REPLACEMENT BENEFIT PLAN

Recommendation: Adopt an updated Memorandum of Understanding between OCERS and the County of Orange governing the County Replacement Benefit Plan applicable to OCERS members /payees that are otherwise capped by Internal Revenue Code section 415(b).

C-6 PROPOSED 2022 REGULAR BOARD AND OTHER MEETING SCHEDULE

Recommendation: Approve the Proposed 2022 Regular Board and Other Meeting Schedule.

DISABILITY/MEMBER BENEFITS AGENDA

9:30 AM

NOTE: WHEN CONSIDERING DISABILITY RETIREMENT APPLICATIONS OR MEMBER APPEALS OF BENEFIT OR DISABILITY RETIREMENT DETERMINATIONS, THE BOARD MAY ADJOURN TO CLOSED SESSION TO DISCUSS MATTERS RELATING TO THE MEMBER’S APPLICATION OR APPEAL, PURSUANT TO GOVERNMENT CODE SECTIONS 54957 OR 54956.9. IF THE MATTER IS A DISABILITY APPLICATION UNDER SECTION 54957, THE MEMBER MAY REQUEST THAT THE DISCUSSION BE IN PUBLIC.

OPEN SESSION

CONSENT ITEMS

All matters on the Consent Agenda are to be approved by one action unless a Board member requires separate action on a specific item. If separate action is requested, the item will be discussed in closed session during agenda item DA-1.

DC-1: CHRISTOPHER BROWN

Communications Coordinator II, Orange County Sheriff's Department (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service connected disability retirement due to insufficient evidence of job causation.

DC-2: LIDIA CARMONA

Social Worker II, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non-service connected disability retirement.
- Set the effective as October 22, 2010.

DC-3: MANUEL DeBACA

Firefighter, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 26, 2021.

DC-4: TIMOTHY DUFFY

Emergency Transport Technician, Orange County Fire Authority (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as February 2, 2018.

DC-5: CASEY GONZALES

Operations and Maintenance, Orange County Sanitation District (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service and non-service connected disability retirement without prejudice due to the member's failure to cooperate.

DC-6: JOHN LAMB

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as November 6, 2020.

DC-7: CHARLES LEGG

Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as January 15, 2021.

DC-8: MINH TAM LUONG

Senior Public Health Nurse, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service connected disability retirement due to insufficient evidence of job causation.

DC-9: KELLY LUPRO

Administrative Manager II, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non-service connected disability retirement.
- Set the effective as March 29, 2019.

DC-10: WILLIAM MATTERN

Battalion Chief, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 26, 2021.

DC-11: CHRISTINA WATSON

Deputy Sheriff II, Orange County Sheriff's Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as January 15, 2021.

CLOSED SESSION

Government Code section 54957

Adjourn to Closed Session under Government Code section 54957 to consider member disability applications and to discuss member medical records submitted in connection therewith. The applicant may waive confidentiality and request his or her disability application to be considered in Open Session.

OPEN SESSION

**DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE DISABILITY/MEMBER BENEFITS
CONSENT AGENDA**

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

DA-2: VINCENT SARDELLA

Instrumentation Technician II, Orange County Sanitation District

Recommendation: The Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated October 4, 2021 (Recommendation) wherein the Hearing Officer recommended that the Board find the application for disability retirement filed by Applicant, Vincent Sardella was not timely, as he did not prove he was physically or mentally incapacitated to perform his job duties between January 8, 2015 and July 16, 2015, as required by Government Code section 31722.

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Board’s discussion of the item. **Members of the public who wish to provide comment in connection with any matter listed in this agenda may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9, at the time the item is called.**

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

A-2 OCERS’ PROPOSED ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2022

Presentation by Brenda Shott, Assistant CEO, Internal Operations, and Steve Delaney, CEO

Recommendation: Adopt the Proposed Administrative Budget for Fiscal Year 2022 in the amount of \$33,100,984 which includes:

- a. Personnel costs in the amount of \$19,262,569
- b. Services and supplies in the amount of \$13,528,415
- c. Capital expenditures in the amount of \$310,000

A-3 COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

Recommendation: Take appropriate action.

INFORMATIONAL ITEMS

Each of the following informational items will be presented to the Board for discussion.

Presentations

- I-1 ANNUAL EMPLOYER REPORT**
Presentation by Suzanne Jenike, Assistant CEO of External Operations, OCERS
- I-2 COVID-19 UPDATE**
Presentation by Steve Delaney, Chief Executive Officer, OCERS

WRITTEN REPORTS

The following are written reports that will not be discussed unless a member of the Board requests discussion.

- R-1 MEMBER MATERIALS DISTRIBUTED**
Written Report

Application Notices November 15, 2021
Death Notices November 15, 2021
- R-2 COMMITTEE MEETING MINUTES**
- Governance Committee Minutes – March 19, 2021
- R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN**
Written Report
- R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS**
Written Report
- R-5 BOARD COMMUNICATIONS**
Written Report
- R-6 THIRD QUARTER 2021 BUDGET TO ACTUALS REPORT**
Written Report
- R-7 THIRD QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2021**
Written Report
- R-8 GENERAL MEMBER ELECTION UPDATE**
Written Report

R-9 PUBLIC PENSION COORDINATING COUNCIL (PPCC) STANDARDS AWARD FOR FUNDING AND ADMINISTRATION 2021

Written Report

CLOSED SESSION

E-1 PUBLIC EMPLOYEE PERFORMANCE EVALUATION PURSUANT TO GOVERNMENT CODE SECTION 54957

Adjourn to closed session pursuant to Government Code Section 54957

Position to be evaluated: Chief Executive Officer

Recommendation: Take appropriate action.

BOARD MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

ADJOURNMENT: (IN MEMORY OF THE ACTIVE MEMBERS, RETIRED MEMBERS, AND SURVIVING SPOUSES WHO PASSED AWAY THIS PAST MONTH)

NOTICE OF NEXT MEETINGS

INVESTMENT COMMITTEE MEETING

November 17, 2021

9:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

2223 E. WELLINGTON AVENUE, SUITE 100

SANTA ANA, CA 92701

DISABILITY COMMITTEE MEETING

December 13, 2021

8:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

**2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701**

**REGULAR BOARD MEETING
December 13, 2021
9:30 A.M.**

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

AVAILABILITY OF AGENDA MATERIALS - Documents and other materials that are non-exempt public records distributed to all or a majority of the members of the OCERS Board or Committee of the Board in connection with a matter subject to discussion or consideration at an open meeting of the Board or Committee of the Board are available at the OCERS' website: <https://www.ocers.org/board-committee-meetings>. If such materials are distributed to members of the Board or Committee of the Board less than 72 hours prior to the meeting, they will be made available on the OCERS' website at the same time as they are distributed to the Board or Committee members. Non-exempt materials distributed during an open meeting of the Board or Committee of the Board will be made available on the OCERS' website as soon as practicable and will be available promptly upon request.

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.

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

**REGULAR MEETING
Monday, October 18, 2021
9:30 a.m.**

MINUTES

Chair Dewane called the meeting to order at 9:31 a.m.

Cammy Torres administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom Video conference pursuant to Government Code § 54953, as amended by AB 361:

Shawn Dewane, Chair; Frank Eley, Vice-Chair, Richard Oates, Adele Tagalao, Charles Packard, Chris Prevatt, Arthur Hidalgo, Jeremy Vallone, Shari Freidenrich, and Wayne Lindholm

Also Present via Zoom: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Jenny Sadoski, Director of Information Technology, Anthony Beltran, Audio-Visual Technician; Cammy Torres; Recording Secretary

Guests: Harvey Leiderman

BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361

Presentation by Gina Ratto, General Counsel, OCERS

The Board is asked to make the following findings by the attached Resolution:

- (1) The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- (2) The Board has determined that one or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and/or
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

Ms. Ratto presented the Board Findings Pursuant to Government Code § 54953, as amended by AB 361.

MOTION by Packard, **seconded** by Eley to find, and adopt the Resolution to reflect, the following:

- (1) The Board reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
- (2) The Board determined that:
 - a. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

The motion passed **unanimously**.

CONSENT AGENDA

MOTION by Oates, **seconded** by Packard to approve recommendations on all of the following items on the Consent Agenda:

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

Recommendation: Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

- Francis Newcomb
- Marc Hale

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes August 16, 2021

Recommendation: Approve Minutes.

C-3 STRATEGIC PLANNING WORKSHOP MINUTES

Recommendation: Approve Minutes.

C-4 ORANGE COUNTY MOSQUITO AND VECTOR CONTROL DISTRICT’S UAAL TRIENNIAL RECALCULATION

Recommendation: Approve the results of the Recalculation of Orange County Mosquito and Vector Control District’s UAAL Obligation as of December 31, 2020 in the surplus amount of \$(915,479).

C-5 CYPRESS RECREATION AND PARKS DISTRICT’S UAAL TRIENNIAL RECALCULATION

Recommendation: Approve the results of the Recalculation of Cypress Recreation and Parks District’s UAAL Obligation as of December 31, 2020 in the amount of \$536,775.

The motion passed unanimously.

CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Eley, **seconded** by Tagaloo, to approve staff’s recommendation on all of the following items on the Disability/Member Benefits Consent Agenda:

DC-1: WILLIAM BAKER
Assistant Sheriff Orange Sheriff’s Department (Safety Member)

- Recommendation:** The Disability Committee recommends that the Board of Retirement:
- Grant service connected disability retirement.
 - Set the effective date as January 17, 2020.

DC-2: CHRISTOPHER BROWN
Communications Coordinator II, Orange County Sheriff’s Department (General Member)

- Recommendation:** The Disability Committee recommends that the Board of Retirement:
- Grant non- service connected disability retirement.
 - Set the effective date as August 5, 2020.

DC-3: GEOFFREY DALY
Environmental Specialist, Orange County Sanitation District (General Member)

- Recommendation:** The Disability Committee recommends that the Board of Retirement:
- Grant non-service connected disability retirement.
 - Set the effective date as July 19, 2019.

DC-4: SUSAN DOMINGUEZ
Sheriff’s Special Officer II, Orange County Sheriff’s Department (General Member)

- Recommendation:** The Disability Committee recommends that the Board of Retirement:
- Grant service connected disability retirement.
 - Set the effective date as July 17, 2020.

DC-5: AUGUSTINE ESTRADA
Fire Apparatus Engineer, Orange County Fire Authority (Safety Member)

- Recommendation:** The Disability Committee recommends that the Board of Retirement:
- Deny service and non-service connected disability retirement without prejudice due to

the member’s failure to cooperate.

DC-6: BRUCE FERM
Plumber Orange County Sheriff’s Department (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as March 8, 2021.

DC-7: JUAN FLORES
Deputy Juvenile Correctional Officer II, Orange County Probation Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as July 31, 2020.

DC-8: CANDICE FORD
Social Worker II, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate.

DC-9: NICHOLAS FREELAND
Deputy Juvenile Correctional Officer II, Orange County Probation Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as August 28, 2020.

DC-10: FERNANDO HERRERA
Facilities Worker/Builder, Orange County Sanitation District (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate.

DC-11: DEBORAH KANG
Legal Secretary, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Deny service connected disability retirement due to insufficient evidence of job causation.

DC-12: MINH TAM LUONG
Senior Public Health Nurse, Orange County Health Care Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant non- service connected disability retirement.
- Set the effective date as April 26, 2019.

DC-13: DANNY MOORHOUSE

Fire Captain, Orange County Fire Authority (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as July 30, 2021

DC-14: JOHN MURRAY

Sergeant, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as September 7, 2018.

DC-15: JAY MYERS

Sergeant, Orange County Sheriff’s Department (Safety Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as July 5, 2019.

DC-16: RACHAEL RAMOS

Coach Operator, Orange County Transportation Authority (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as December 10, 2017.

DC-17: LAURA SCHUMANN

Office Technician, Orange County Social Services Agency (General Member)

Recommendation: The Disability Committee recommends that the Board of Retirement:

- Grant service connected disability retirement.
- Set the effective date as July 16, 2020.

The motion passed **unanimously**.

**DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE DISABILITY/MEMBER BENEFITS
CONSENT AGENDA**

N/A

CLOSED SESSION

The Board adjourned into closed session at 9:40 a.m.

DA-2: AMBER DRYSQL

Deputy Juvenile Correctional Officer II, Orange County Probation Department

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Analysis of the Evidence and Issue, Proposed Findings of Fact Conclusions and Recommendation dated July 18, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Amber Drysol, is entitled to a service-connected disability retirement.

DA-3: CRISTINA RUPP

Clinical Social Worker II, Orange County Healthcare Agency

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Findings and Decision in an OCERS Service Connected Disability Retirement Case dated July 17, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Cristina Rupp, be denied service-connected disability retirement.

OPEN SESSION

The Board reconvened into open session at 9:48 a.m.

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

Ms. Jenike reported the following:

DA-2: AMBER DRYSQL

Deputy Juvenile Correctional Officer II, Orange County Probation Department

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Analysis of the Evidence and Issue, Proposed Findings of Fact Conclusions and Recommendation dated July 18, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Amber Drysol, is entitled to a service-connected disability retirement.

MOTION by Eley, **seconded** by Lindholm, to approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Analysis of the Evidence and Issue, Proposed Findings of Fact Conclusions and Recommendation dated July 18, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Amber Drysol, is entitled to a service-connected disability retirement.

The motion passed **unanimously**.

DA-3: CRISTINA RUPP

Clinical Social Worker II, Orange County Healthcare Agency

Recommendation: Staff recommends the Board approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Findings and Decision in an OCERS Service Connected Disability Retirement Case dated July 17, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Cristina Rupp, be denied service-connected disability retirement.

MOTION by Lindholm, **seconded** by Tagalao, to approve and adopt the findings and recommendations of the Hearing Officer as set forth in the Findings and Decision in an OCERS Service Connected Disability Retirement Case dated July 17, 2021 (Recommendation) wherein the Hearing Officer recommended that the Applicant, Cristina Rupp, be denied service-connected disability retirement.

The motion passed **unanimously**.

DA-4: JEFFREY MANCHESTER

Deputy Sheriff II, Orange County Sheriff's Department

Recommendation: Staff recommends that:

- (1) The Board review and determine the Request for Administrative Review of CEO Determination filed by OCERS member, Jeffrey Manchester (Applicant), at the Board's meeting on October 18, 2021; and
- (2) The Board affirm that OCERS' Staff correctly calculated the Applicant's final average salary in accordance with the law and OCERS' policies and procedures.

This item has been **pulled** from the agenda.

ACTION ITEMS:

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

N/A

A-2 OCERS 2022-2024 STRATEGIC PLAN

Presentation by Steve Delaney, Chief Executive Officer

Recommendation: Approve OCERS 2022-2024 Strategic Plan.

Mr. Delaney presented and briefly discussed the OCERS 2022-2024 Strategic Plan.

MOTION by Lindholm, **seconded** by Tagalao, to approve OCERS 2022-2024 Strategic Plan.

The motion passed **unanimously**.

A-3 OCERS 2022 BUSINESS PLAN

Presentation by Steve Delaney, Chief Executive Officer and Brenda Shott, Assistant CEO, Finance and Internal Operations

Recommendation: Approve OCERS 2022 Business Plan.

Ms. Shott presented and briefly discussed the OCERS 2022 Business Plan.

MOTION by Oates, **seconded** by Packard, to approve OCERS 2022 Business Plan.

The motion passed **unanimously**.

A-4 VOTING DIRECTION FOR SACRS BUSINESS MEETING

Presentation by Gina Ratto, General Counsel, OCERS

Recommendation: Give voting direction to OCERS' delegates for November 12, 2021 SACRS business meeting.

Ms. Freidenrich asked if OCERS is consistent with other systems regarding sick leave service credit.

Ms. Ratto confirmed yes, it is consistent with other systems.

MOTION by Eley, **seconded** by Prevatt, to direct OCERS' delegates to vote in favor of the SACRS proposed legislation (described in the attachment to the Board memo) at the November 12, 2021 SACRS business meeting.

The motion passed **unanimously**.

A-5 PERSONNEL COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON SEPTEMBER 15, 2021

Presentation Steve Delaney, Chief Executive Officer, OCERS

Recommendation: The Personnel Committee recommends the Board of Retirement approve the following items related to the 2022 Staffing Plan at the October 18, 2021 Board meeting:

1. Add two (2) Information Technology Managers to the IT department (Est. cost \$214,000 each or \$428,000)
2. Add a total of ten (10) new positions to the Member Services department (Est. total cost \$1,230,672).
 - a. Two (2) Benefit Analysts - Payroll and QA \$303,362
 - b. Two (2) Retirement Supervisors - QA \$254,566
 - c. Four (4) Senior Retirement Program Specialist (Sr. RPS) - QA \$455,744
 - d. Two (2) Retirement Program Specialist (RPS) - Call Center \$217,000

The costs above include salary and a 55% fringe benefits load factor. The total annual cost related to increasing the OCERS headcount from 96 to 108 for the positions listed above is \$1,658,672.

Mr. Delaney presented the additional staffing requests.

Mr. Prevatt, Chair of the Personnel Committee, discussed the amount of work and collaboration that was conducted by the Personnel Committee on this topic.

Ms. Freidenrich discussed her concerns regarding the transferring of positions.

Mr. Prevatt stated that any position reallocation would first go through the Personnel Committee for approval as well as the full Board for final approval.

MOTION by Packard, **seconded** by Prevatt, to approve the items related to the 2022 Staffing Plan.

The motion passed **unanimously**.

The Board recessed for break at 10:37 a.m.
The Board reconvened from break at 10:55 a.m.

Presentations

I-1 STATE OF OCERS

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney presented the annual State of OCERS.

Ms. Freidenrich congratulated OCERS

I-2 COVID-19 UPDATE

Presentation by Steve Delaney, Chief Executive Officer, OCERS

Mr. Delaney informed the Board that OCERS plans to bring staff back in person in January of 2022 for at least three days a week.

RECONSIDERATION OF BOARD ACTION ADOPTING RESOLUTION REGARDING AB 361

After Board discussion, a **MOTION** by Freidenrich, **seconded** by Prevatt, was made to reconsider the Board Findings Pursuant to Government Code § 54953, as amended by AB 361, and the Resolution adopted to reflect those findings, as approved at the beginning of the Board meeting.

The motion passed **unanimously**.

MOTION by Prevatt, **seconded** by Dewane, to revise the findings and Resolution adopted by the Board at the beginning of the meeting to specify that the Board's findings are on behalf of itself as well as on behalf of the Board's committees, and to approve and adopt revisions to the Resolution to reflect the amended findings.

The motion passed **unanimously**.

Written Reports

No written reports were pulled for discussion.

R-1 MEMBER MATERIALS DISTRIBUTED

Written Report

Application Notices

October 18, 2021

Death Notices

October 18, 2021

R-2 COMMITTEE MEETING MINUTES

- 02-09-2021 Building Committee Meeting Minutes
- 06-04-2021 Audit Committee Meeting Minutes
- 06-09-2021 Personnel Committee Meeting Minutes

R-3 CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN

Written Report

R-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

R-5 BOARD COMMUNICATIONS

Written Report

R-6 LEGISLATIVE UPDATE

Written Report

R-7 THIRD QUARTER 2021 TRAVEL AND TRAINING EXPENSE REPORT

Written Report

R-8 GENERAL MEMBER ELECTION UPDATE

Written Report

R-9 BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN EXERCISE EXECUTIVE SUMMARY

Written Report

R-10 UPDATE ON THE CITY OF SAN JUAN CAPISTRANO’S TRANSITION OF WATER AND SEWER SERVICES

Written Report

BOARD MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

Orange County Employees Retirement System
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Regular Board Meeting – Minutes

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The meeting **ADJOURNED** at 11:40 am.

Submitted by:

Approved by:

Steve Delaney
Secretary to the Board

Shawn Dewane
Chairman



Memorandum

DATE: November 15, 2021
TO: Members of the Board
FROM: Gina M. Ratto, General Counsel
SUBJECT: **BOARD FINDINGS PURSUANT TO GOVERNMENT CODE § 54953, AS AMENDED BY AB 361, AND ADOPTION OF BOARD RESOLUTION 2021-02**

Recommendation

That the Board:

- (1) Make the following findings pursuant to Government Code section 54953, as amended by AB 361;
 - a. The Board has reconsidered the circumstances of the state of emergency resulting from the COVID-19 pandemic; and
 - b. The Board has determined that the following circumstances exist:
 - i. The state of emergency continues to directly impact the ability of the members of the Board to meet safely in person; and
 - ii. State or local officials continue to impose or recommend measures to promote social distancing.

and
- (2) Adopt Board of Retirement Resolution 2021-02 to reflect such findings.

Background/Discussion

In March of 2020, amid rising concern surrounding the spread of COVID-19 throughout communities in the state, Governor Newsom declared a state of emergency and issued a series of Executive Orders that modified certain requirements of the Brown Act. The orders waived several requirements for meetings conducted by teleconference, including the requirement that each teleconference location be accessible to the public, that agendas are posted at all teleconference locations, and that each teleconference location be accessible to the public.

On June 11, 2021, the Governor issued Executive Order N-08-21, rescinding the aforementioned modifications of the Brown Act effective September 30, 2021. On September 16, 2021, Assembly Bill 361 was signed into law as urgency legislation. AB 361 provides local agencies with the ability to meet remotely during proclaimed states of emergency under modifications to the Brown Act that are similar in many ways to the rules and procedures established by the Governor's Executive Orders. On September 20, 2021, the Governor signed an executive order waiving the application of AB 361 until October 1, 2021.

AB 361 amended the teleconference rules of the Brown Act and added new provisions for abbreviated teleconferencing procedures that deviate from the traditional teleconferencing procedures during a proclaimed state of emergency, subject to certain requirements specified in the statute.

More specifically, AB 361 amended the Brown Act to add subdivision (e) to Gov't Code § 54953. This subdivision describes the circumstances and procedures for adopting abbreviated teleconferencing procedures during a proclaimed state of emergency, such as the current continuing COVID-19 pandemic. Subdivision (e)(1) of the statute provides the circumstances and requirements under which a local legislative body may adopt the abbreviated teleconferencing procedures. Once a local legislative body meets the requirements for adopting teleconferencing procedures, subdivision (e)(2) provides the requirements for the abbreviated teleconferencing procedures that the local legislative body must implement.

Adopting Abbreviated Teleconferencing Procedures Under AB 361

A local legislative body, such as OCERS and its standing committees, may elect to use the abbreviated teleconferencing procedures under AB 361 where a state of emergency has been formally proclaimed, ***provided that***:

- State or local officials have imposed or recommended measures to promote social distancing at the time the legislative body holds the meeting (Gov't Code § 54953(e)(1)(A)); ***or***
- The legislative body holds a meeting for the first time for the purpose of determining by majority vote whether, as a result of proclaimed state of emergency, meeting in person would present imminent risks to the health and safety of attendees (Gov't Code § 54953(e)(1)(B)), ***or***
- The legislative body has determined (per previous bullet) that, as a result of the proclaimed state of emergency, meeting in person would continue to present imminent risks to the health or safety of attendees (Gov't Code § 54953(e)(1)(C)).

AB 361 further imposes on local legislative bodies a duty to make factual findings to justify the election to continue to use the abbreviated teleconferencing procedures. (Gov't Code § 54953(e)(3).) Local legislative bodies who wish to consider using the AB 361 abbreviated teleconferencing procedures must make the following factual findings within 30 days after teleconferencing for the first time after the expiration of Executive Order N-29-20, and every 30 days thereafter:

- 1) The legislative body has reconsidered the circumstances of the state of emergency; and
- 2) One or both of the following circumstances exist:
 - a. The state of emergency continues to directly impact the ability of the members to meet safely in person.
 - b. State or local officials continue to impose or recommend measures to promote social distancing.

Until January 1, 2024, public retirement boards and their Boards must reconsider the aforementioned circumstances and make factual findings by majority vote that the circumstances continue to exist in order for the local legislative body to elect and continue to use the abbreviated teleconferencing procedures. (Note that AB 361 was designed not only to deal with COVID-19 but also with other types of states of emergency, as defined in Gov't Code § 8625 of the California Emergency State Services Act.)

On October 18, 2021, the Board adopted Resolution 2021-01 to reflect the findings made by the Board pursuant to AB 361. Resolution 2021-01 expires on November 17, 2021. **Staff recommends the Board renew its findings**

and adopt Resolution 2021-02 in order for the Board and its committees to continue to meet by teleconference.

Reconsideration of the State of Emergency and Requisite Findings

A state of emergency continues to directly impact the ability of the members of the Board and its committees to meet safely in person and, as more fully set forth below, both state and local officials continue to impose or recommend measures to promote social distancing.

The COVID-19 Prevention Emergency Temporary Standards issued by the California Division of Occupational Safety and Health (Cal/OSHA) (codified at 8 C.C.R. § 3205) recommends physical distancing and requires it under certain circumstances. For example, the regulations require employees not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19. In addition, six feet of distance between people is recommended even when outdoors for those who are unmasked and unvaccinated.

In addition, OSHA has issued guidance on mitigating and preventing the spread of COVID-19 in the workplace that recommends physical distancing in all communal work areas for unvaccinated and otherwise at-risk workers: "[a] key way to protect such workers is to physically distance them from other such people (workers or customers) – generally at least 6 feet of distance is recommended, although this is not a guarantee of safety, especially in enclosed or poorly ventilated spaces."

Moreover, the County of Orange Health Officer's "Orders and Strong Recommendations" (revised October 12, 2021) states that, in general, the older a person is, the more health conditions a person has, and the more severe the conditions, the more important it is to take preventive measures for COVID-19 such as getting vaccinated, practicing social distancing, and wearing a mask when around people who don't live in the same household. The Health Officer recognizes the Center for Disease Control's admonition that anyone infected with COVID-19 can spread it even if they do not have symptoms, and that the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing, frequently wash hands with soap, wearing face covering and get vaccinated.

Based on the foregoing, staff recommends the Board find that the state of emergency continues to directly impact the ability of the members of the Board to meet safely in person, and that state and local officials continue to impose or recommend measures to promote social distancing. Staff further recommends the Board adopt the attached Resolution 2021-02 to memorialize such findings.

Attachment

Submitted by:



Gina M. Ratto
General Counsel

**OCERS BOARD OF RETIREMENT
RESOLUTION NO. 2021-02**

RESOLUTION OF THE BOARD OF THE ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM:

- **RATIFYING (1) THE PROCLAMATION OF A LOCAL HEALTH EMERGENCY BY THE COUNTY OF ORANGE HEALTH OFFICER ON FEBRUARY 26, 2020; (2) THE PROCLAMATION OF A LOCAL EMERGENCY BY THE CHAIRWOMAN OF THE ORANGE COUNTY BOARD OF SUPERVISORS ON FEBRUARY 26, 2020; (3) RESOLUTIONS NO. 20-011 AND 20-012 OF THE ORANGE COUNTY BOARD OF SUPERVISORS RATIFYING THE LOCAL HEALTH EMERGENCY AND THE LOCAL EMERGENCY; AND (4) THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR NEWSOM ON MARCH 4, 2020; AND**
- **AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE BOARD AND ITS COMMITTEES THROUGH DECEMBER 14, 2021, PURSUANT TO BROWN ACT PROVISIONS.**

WHEREAS, the Board of the Orange County Employees Retirement System (OCERS Board) is a legislative body under Government Code section 54952; and

WHEREAS, OCERS is committed to preserving and nurturing public access and participation in meetings of the OCERS Board and its committees; and

WHEREAS, all meetings of the OCERS Board and its committees are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the OCERS Board and its committees conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a State of Emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the geographical boundaries within which the OCERS Board and its committees hold their meetings, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in Orange County, specifically, a Local Health Emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County

was declared by the County of Orange Health Officer on February 26, 2020; a Local Emergency based on the imminent and proximate threat to public health from the introduction of COVID-19 that created conditions of extreme peril to the safety of persons and property within the territorial limits of Orange County was proclaimed by the Chairwoman of the Board of Supervisors on February 26, 2020; Resolutions No. 20-011 and No. 20-012 of the Orange County Board of Supervisors were adopted on March 2, 2020, ratifying the Local Health Emergency and Local Emergency; and a State of Emergency was proclaimed by Governor Newsom for the State of California on March 4, 2020 based on an outbreak of respiratory illness due to COVID-19; and

WHEREAS, the California Division of Occupational Safety and Health has issued COVID-19 prevention Emergency Temporary Standards requiring any employee not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19; and

WHEREAS, the County of Orange Health Officer's Orders and Strong Recommendations, last revised on October 12, 2021, state that the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing; and

WHEREAS, the CDC currently recommends that organizations prioritize COVID-19 prevention strategies for indoor settings, and that multiple interventions, including maintaining physical distance and avoiding crowds, should be used concurrently to reduce the spread of disease; and

WHEREAS, the OCERS Board does hereby find that the COVID-19 pandemic has caused, and will continue to cause, conditions of peril to the safety of persons that are likely to be beyond the control of services, personnel, equipment, and facilities of OCERS; and

WHEREAS, in making the aforementioned finding, the OCERS Board acknowledges the proclamation of State of Emergency by the Governor of the State of California; the proclamation of Local Health Emergency by the County of Orange Health Officer; the proclamation of a Local Emergency by the Chairwoman of the Orange County Board of Supervisors; and the ratification of the Local Health Emergency and Local Emergency by the Orange County Board of Supervisors; as well as CalOSHA's prevention Emergency Temporary Standards requiring any employee not wearing a face covering to be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19; the County of Orange Health Officer's Orders and Strong Recommendations for unvaccinated persons to avoid gathering and practice social distancing; and the CDC's recommendation for maintaining physical distance and avoiding crowds; and

WHEREAS, as a consequence of the State of Emergency, Local Health Emergency and Local Emergency, the OCERS Board does hereby find that conditions exist to enable the OCERS Board and its committees to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that the OCERS Board and its committees will comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, members of the public who wish to observe or participate in the meeting may do so via the Zoom application or via telephone, as explained in the agenda for the meeting posted on the OCERS' website and at its business office location at least 72 hours prior to the meeting.

NOW, THEREFORE, THE OCERS BOARD DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Acknowledgement of Proclamation of State and Local Emergency. The OCERS Board hereby acknowledges that a State of Emergency has been proclaimed by the Governor of the State of California effective March 4, 2020; that a Local Health Emergency has been proclaimed by the Orange County Health Officer on February 26, 2020; that a Local Emergency has been proclaimed by the Chairwoman of the Board of Supervisors on February 26, 2020; and that the Local Health Emergency and Local Emergency were ratified by the Orange County Board of Supervisors on March 2, 2020, all of which continue to exist within the geographical boundaries of the territory within which the OCERS Board and its committees hold meetings to conduct business.

Section 3. Determination Regarding Health and Safety Need to Continue Teleconferencing. The OCERS Board finds that the State of Emergency directly impacts the ability of the OCERS Board, its committees, members and staff to meet safely in person, and that state or local officials continue to impose or recommend measures to promote social distancing.

Section 4. Remote Teleconference Meetings. The staff and the OCERS Board and each of its committees are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution will take effect immediately upon its adoption and shall be effective until the earlier of December 14, 2021, or such time the OCERS Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the OCERS Board and its committees may continue to meet by teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of the Orange County Employees Retirement System this 15th day of November, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

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resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

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to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

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(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

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54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

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the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member’s private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public’s right to access information concerning the conduct of the people’s business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

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DECLARATION OF A LOCAL HEALTH EMERGENCY

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biologic agent, toxin, or radioactive agent;

WHEREAS, the Centers for Disease Control and Prevention announced on February 25, 2020 that community spread of COVID-19 is likely to occur in the United States;

WHEREAS, based on the Centers for Disease Control and Prevention statements, there is an ongoing risk and likelihood of COVID-19 positive patients being identified in Orange County;

WHEREAS, based on the foregoing, there is an imminent and proximate threat of the introduction of COVID-19 in the County of Orange and a threat to the public health of the County residents;

THEREFORE, the County Health Officer hereby declares a health emergency.



Nichole Quick, MD, MPH
Health Officer

2/26/2020

Date

COUNTY OF ORANGE
STATE OF CALIFORNIA
PROCLAMATION OF A LOCAL EMERGENCY

REQUEST FOR GOVERNOR TO DECLARE A STATE OF EMERGENCY

WHEREAS, in accordance with Government Code Section 8630, a local emergency may be proclaimed by the Board of Supervisors of the County of Orange or by an official so designated by ordinance adopted by the Board of Supervisors; and

WHEREAS, Section 3-1-6(a) of the Codified Ordinances of the County of Orange provides that the Director of Emergency Services shall request the Board of Supervisors to proclaim a local emergency when the Board of Supervisors is in session and the Chair of the Emergency Management Council to so proclaim when the Board of Supervisors is not in session; and

WHEREAS, the Board of Supervisors is not currently in session, and the Director of Emergency Services has requested that the Chair of the Emergency Management Council proclaim a local emergency; and

WHEREAS, a novel coronavirus, COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases death, has arisen in China and spread to numerous other countries including the United States; and

WHEREAS, the Centers for Disease Control and Prevention has determined the virus to be a very serious public health threat, yet the method and efficacy of transmission of the virus is not yet fully understood and no vaccine currently exists; and

WHEREAS, Orange County has a population of over 3 million residents, is a major tourist destination, has a high volume airport within its jurisdiction and is a significant

destination for business travel all resulting in high volumes of foreign and domestic travelers traveling into and out of the County, which has the potential to result in significant spreading of the disease; and

WHEREAS, the Health Officer of the County of Orange has determined that the County is preparing for an imminent and proximate threat to public health from the virus; and

WHEREAS, communities within the geographic boundaries of Orange County have and will continue to prepare and, as necessary, take significant response actions to any developing contagion and to any other risks that may arise from introduction and possible spread of the virus;

WHEREAS, the above described events are creating a condition of extreme peril to the safety of persons and property within the territorial limits of the County of Orange which conditions are or are likely to be beyond the control of the services, personnel, equipment and facilities of the County of Orange, and require the combined forces of other political subdivisions to combat;

IT IS HEREBY PROCLAIMED that a local emergency exists within the geographic area of Orange County;

IT IS FURTHER PROCLAIMED AND ORDERED that as of this date all County departments and agencies take those actions, measures and steps deemed necessary to assure the safety and welfare of Orange County residents and property, including requesting mutual aid to the extent such aid is necessary and utilizing EOC Cal Cards and any other available funding stream to acquire resources determined by the DES or an authorized emergency purchaser as necessary to respond to this declared emergency.

ACCORDINGLY, THE CHAIR OF THE BOARD OF SUPERVISORS ACTING AS THE CHAIR OF THE EMERGENCY MANAGEMENT COUNCIL HEREBY REQUESTS that the Governor declare a State of Emergency and make all relevant funds available to the County of Orange and all eligible community members and businesses, including but not limited to, California Disaster Assistance Act funds and State Private Nonprofit Organizations Assistance Program funds, and that the Governor request that the President of the United States make a Presidential Declaration of Emergency in and for the County of Orange and make all relevant funds available to the County of Orange and all eligible community members and businesses, including, but not limited to, aid provided by the Small Business Administration.

Date: 2/26/20

Signed: 

Michelle Steel,
Chairwoman of the Board of Supervisors Acting as
the Chair of the Emergency Management Council
County of Orange

Attachment A

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
March 2, 2020

WHEREAS, Health and Safety Code section 101080 authorizes a local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, non-communicable biologic agent, toxin, or radioactive agent;

WHEREAS, on February 26, 2020, the County's Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named "COVID-19") in Orange County.

WHEREAS, under Health and Safety Code Section 101080, the local health emergency shall not remain in effect for more than seven days unless ratified by the Board of Supervisors;

WHEREAS, the Board of Supervisors hereby finds that there continues to exist an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County for reasons set forth in the declaration of local health emergency by County's Health Officer, dated February 26, 2020;

NOW, THEREFORE, BE IT RESOLVED by the Orange County Board of Supervisors **that:**

1. The local health emergency declared by the County's Health Officer on February 26, 2020 is hereby ratified. Under Health and Safety Code Section 101080, the local health emergency may remain in effect for no more than 30 days from the date of this Resolution.
2. The County's Health Officer is directed to bring for review by the Board of Supervisors the need for continuing the local health emergency no later than the date


coinciding with the expiration of this Resolution

3. The Board of Supervisors delegates authority to the County's Health Officer to terminate the local health emergency, pursuant to Health and Safety Code Section 101080, "at the earliest possible date that conditions warrant the terminations."
4. All County departments and agencies take those actions, measures, and steps deemed necessary to assure the health, safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

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APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By 
Deputy
Date 2/27/20

Attachment C

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA
March 2, 2020

WHEREAS, Government Code section 8630 and section 3-1-6(a) of the Codified Ordinances of the County of Orange empower the Director of Emergency Services to request the Chair of the Emergency Management Council to proclaim the existence or threatened existence of a local emergency, subject to ratification by the Board of Supervisors within seven days; and

WHEREAS, a novel coronavirus, COVID-19, which causes infectious disease resulting in symptoms of fever, coughing and shortness of breath with outcomes ranging from mild to severe illness and in some cases death, has arisen in China and spread to numerous other countries including the United States; and

WHEREAS, the Centers for Disease Control and Prevention has determined the virus to be a very serious public health threat, yet the method and efficacy of transmission of the virus is not yet fully understood and no vaccine currently exists; and

WHEREAS, Orange County has a population of over 3 million residents, is a major tourist destination, has a high volume airport within its jurisdiction and is a significant destination for business travel all resulting in high volumes of foreign and domestic travelers traveling into and out of the County, which has the potential to result in significant spreading of the disease; and

WHEREAS, the Health Officer of the County of Orange has determined that the County is preparing for an imminent and proximate threat to public health from the virus; and

WHEREAS, communities within the geographic boundaries of Orange County have and will continue to prepare and, as necessary, take significant response actions to any developing contagion and to any other risks that may arise from introduction and possible spread of the virus;

Attachment C

WHEREAS, the above described events are creating conditions of extreme peril and such conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the County, requiring the combined forces of other political subdivisions to combat;
and

WHEREAS, at the request of the Director of Emergency Services, the Chair of the Emergency Management Council, on February 26, 2020, did proclaim the existence of local emergency within the County of Orange; and

WHEREAS, the Board of Supervisors does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the proclamation of the existence of a local emergency;
and

WHEREAS, the Board of Supervisors also finds a local emergency does exist and shall be deemed to continue to exist until its termination is proclaimed by the Board of Supervisors;

NOW, THEREFORE, BE IT RESOLVED that the Orange County Board of Supervisors does hereby ratify the Chair of the Emergency Management Council's February 26, 2020, Proclamation of a Local Emergency.

BE IT FURTHER RESOLVED that all powers, functions, and duties of the emergency organization of the County of Orange shall be vested in such persons as prescribed by federal and state law, by County ordinances and resolutions, and by the Orange County Emergency Plan now in effect.

BE IT FURTHER RESOLVED that all County departments and agencies take those actions, measures, and steps deemed necessary to assure the safety and welfare of Orange County citizens and property, including requesting mutual aid to the extent such aid is necessary.

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Resolution No. _____ Item No. _____
Proclamation of a Local Emergency

APPROVED AS TO FORM
OFFICE OF THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By [Signature]
Deputy
Date 2/27/20

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and



WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.



IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and



notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The



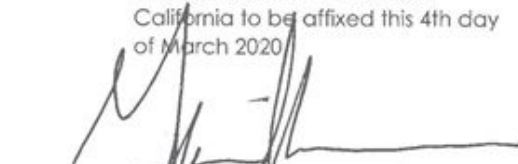
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.


GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



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Subchapter 7. General Industry Safety Orders
Introduction

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§3205. COVID-19 Prevention.

NOTE: See Executive Order N-84-20 (2019 CA EO 84-20), issued in response to the COVID-19 pandemic, which suspends certain provisions relating to the exclusion of COVID-19 cases from the workplace.

(a) Scope.

(1) This section applies to all employees and places of employment, with the following exceptions:

(A) Work locations with one employee who does not have contact with other persons.

(B) Employees working from home.

(C) Employees with occupational exposure as defined by section 5199, when covered by that section.

(D) Employees teleworking from a location of the employee's choice, which is not under the control of the employer.

(2) Nothing in this section is intended to limit more protective or stringent state or local health department mandates or guidance.

(b) Definitions. The following definitions apply to this section and to sections 3205.1 through 3205.4.

(1) “Close contact” means being within six feet of a COVID-19 case for a cumulative total of 15 minutes or greater in any 24-hour period within or overlapping with the “high-risk exposure period” defined by this section. This definition applies regardless of the use of face coverings.

EXCEPTION: Employees have not had a close contact if they wore a respirator required by the employer and used in compliance with section 5144, whenever they were within six feet of the COVID-19 case during the high-risk exposure period.

(2) “COVID-19” means coronavirus disease, an infectious disease caused by the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

(3) “COVID-19 case” means a person who:

(A) Has a positive “COVID-19 test” as defined in this section; or

(B) Has a positive COVID-19 diagnosis from a licensed health care provider; or

(C) Is subject to a COVID-19-related order to isolate issued by a local or state health official; or

(D) Has died due to COVID-19, in the determination of a local health department or per inclusion in the COVID-19 statistics of a county.

(4) “COVID-19 hazard” means potentially infectious material that may contain SARS-CoV-2, the virus that causes COVID-19. Potentially infectious materials include airborne droplets, small particle aerosols, and airborne droplet nuclei, which most commonly result from a person or persons exhaling, talking or vocalizing, coughing, or sneezing, or from procedures performed on persons which may aerosolize saliva or respiratory tract fluids. This also includes objects or surfaces that may be contaminated with SARS-CoV-2.

(5) “COVID-19 symptoms” means fever of 100.4 degrees Fahrenheit or higher, chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or

diarrhea, unless a licensed health care professional determines the person's symptoms were caused by a known condition other than COVID-19.

(6) "COVID-19 test" means a viral test for SARS-CoV-2 that is:

(A) Approved by the United States Food and Drug Administration (FDA) or has an Emergency Use Authorization from the FDA to diagnose current infection with the SARS-CoV-2 virus; and

(B) Administered in accordance with the FDA approval or the FDA Emergency Use Authorization as applicable.

(7) "Exposed group" means all employees at a work location, working area, or a common area at work, where an employee COVID-19 case was present at any time during the high-risk exposure period. A common area at work includes bathrooms, walkways, hallways, aisles, break or eating areas, and waiting areas. The following exceptions apply:

(A) For the purpose of determining the exposed group, a place where persons momentarily pass through while everyone is wearing face coverings, without congregating, is not a work location, working area, or a common area at work.

(B) If the COVID-19 case was part of a distinct group of employees who are not present at the workplace at the same time as other employees, for instance a work crew or shift that does not overlap with another work crew or shift, only employees within that distinct group are part of the exposed group.

(C) If the COVID-19 case visited a work location, working area, or a common area at work for less than 15 minutes during the high-risk exposure period, and the COVID-19 case was wearing a face covering during the entire visit, other people at the work location, working area, or common area are not part of the exposed group.

NOTE: An exposed group may include the employees of more than one employer. See Labor Code sections 6303 and 6304.1.

(8) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

(9) “Fully vaccinated” means the employer has documented that the person received, at least 14 days prior, either the second dose in a two-dose COVID-19 vaccine series or a single-dose COVID-19 vaccine. Vaccines must be FDA approved; have an emergency use authorization from the FDA; or, for persons fully vaccinated outside the United States, be listed for emergency use by the World Health Organization (WHO).

(10) “High-risk exposure period” means the following time period:

(A) For COVID-19 cases who develop COVID-19 symptoms, from two days before they first develop symptoms until all of the following are true: it has been 10 days since symptoms first appeared; 24 hours have passed with no fever, without the use of fever-reducing medications; and symptoms have improved.

(B) For COVID-19 cases who never develop COVID-19 symptoms, from two days before until 10 days after the specimen for their first positive test for COVID-19 was collected.

(11) “Respirator” means a respiratory protection device approved by the National Institute for Occupational Safety and Health (NIOSH) to protect the wearer from particulate matter, such as an N95 filtering facepiece respirator.

(12) “Worksite,” for the limited purposes of COVID-19 prevention regulations only, means the building, store, facility, agricultural field, or other location where a COVID-19 case was present during the high-risk exposure period. It does not apply to buildings, floors, or other locations of the employer that a COVID-19 case did not enter.

NOTE: The term worksite is used for the purpose of notice requirements in subsections (c)(3)(B)3. and 4. only.

(c) Written COVID-19 Prevention Program. Employers shall establish, implement, and maintain an effective, written COVID-19 Prevention Program, which may be integrated into the employer's Injury and Illness Prevention Program required by section 3203, or be maintained in a separate document. The written elements of a COVID-19 Prevention Program shall include:

(1) System for communicating. The employer shall do all of the following in a form readily understandable by employees:

(A) Ask employees to report to the employer, without fear of reprisal, COVID-19 symptoms, possible close contacts, and possible COVID-19 hazards at the workplace.

(B) Describe how employees with medical or other conditions that put them at increased

risk of severe COVID-19 illness can request accommodations.

(C) Provide information about access to COVID-19 testing as described in subsection (c)(5) (I) when testing is required under this section, section 3205.1, or section 3205.2.

(D) In accordance with subsection (c)(3)(B), communicate information about COVID-19 hazards and the employer's COVID-19 policies and procedures to employees and to other employers, persons, and entities within or in contact with the employer's workplace.

NOTE: See subsection (c)(3)(C) for confidentiality requirements for COVID-19 cases.

(2) Identification and evaluation of COVID-19 hazards.

(A) The employer shall allow for employee and authorized employee representative participation in the identification and evaluation of COVID-19 hazards.

(B) The employer shall develop and implement a process for screening employees for and responding to employees with COVID-19 symptoms. The employer may ask employees to evaluate their own symptoms before reporting to work. If the employer conducts screening indoors at the workplace, the employer shall ensure that face coverings are used during screening by both screeners and employees who are not fully vaccinated and, if temperatures are measured, that non-contact thermometers are used.

(C) The employer shall develop COVID-19 policies and procedures to respond effectively and immediately to individuals at the workplace who are a COVID-19 case to prevent or reduce the risk of transmission of COVID-19 in the workplace.

(D) The employer shall conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to COVID-19 hazards. Employers shall treat all persons, regardless of symptoms or negative COVID-19 test results, as potentially infectious.

1. This shall include identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or not, for instance during meetings or trainings and including in and around entrances, bathrooms, hallways, aisles, walkways, elevators, break or eating areas, cool-down areas, and waiting areas.

2. This shall include an evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including

coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Employers shall consider how employees and other persons enter, leave, and travel through the workplace, in addition to addressing stationary work.

(E) For indoor locations, the employer shall evaluate how to maximize ventilation with outdoor air; the highest level of filtration efficiency compatible with the existing ventilation system; and whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of COVID-19 transmission.

(F) The employer shall review applicable orders and guidance from the State of California and the local health department related to COVID-19 hazards and prevention. These orders and guidance are both information of general application, including Interim guidance for Ventilation, Filtration, and Air Quality in Indoor Environments by the California Department of Public Health (CDPH), and information specific to the employer's industry, location, and operations.

(G) The employer shall evaluate existing COVID-19 prevention controls at the workplace and the need for different or additional controls. This includes evaluation of controls in subsections (c)(4), (c)(6), and (c)(7).

(H) The employer shall conduct periodic inspections as needed to identify unhealthy conditions, work practices, and work procedures related to COVID-19 and to ensure compliance with employers' COVID-19 policies and procedures.

(3) Investigating and responding to COVID-19 cases in the workplace.

(A) Employers shall have an effective procedure to investigate COVID-19 cases in the workplace. This includes procedures for seeking information from employees regarding COVID-19 cases and close contacts, COVID-19 test results, and onset of COVID-19 symptoms, and identifying and recording COVID-19 cases.

(B) The employer shall take the following actions when there has been a COVID-19 case at the place of employment:

1. Determine the day and time the COVID-19 case was last present and, to the extent possible, the date of the positive COVID-19 test(s) and/or diagnosis, and the date the COVID-19 case first had one or more COVID-19 symptoms, if any were experienced.

2. Determine who may have had a close contact. This requires an evaluation of the activities of the COVID-19 case and all locations at the workplace which may have been visited by the COVID-19 case during the high-risk exposure period.

NOTE: See subsection (c)(9) for exclusion requirements for employees after a close contact.

3. Within one business day of the time the employer knew or should have known of a COVID-19 case, the employer shall give written notice, in a form readily understandable by employees, that people at the worksite may have been exposed to COVID-19. The notice shall be written in a way that does not reveal any personal identifying information of the COVID-19 case. Written notice may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending. The notice shall include the disinfection plan required by Labor Code section 6409.6(a)(4). The notice must be sent to the following:

a. All employees at the worksite during the high-risk exposure period. If the employer should reasonably know that an employee has not received the notice, or has limited literacy in the language used in the notice, the employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.

b. Independent contractors and other employers at the worksite during the high-risk exposure period.

4. Within one business day of the time the employer knew or should have known of the COVID-19 case, the employer shall provide the notice required by Labor Code section 6409.6(a)(2) and (c) to the authorized representative of any employee at the worksite during the high-risk exposure period.

5. Make COVID-19 testing available at no cost, during paid time, to all employees of the employer who had a close contact in the workplace and provide them with the information on benefits described in subsections (c)(5)(B) and (c)(9)(C), with the following exceptions:

a. Employees who were fully vaccinated before the close contact and do not have COVID-19 symptoms.

b. COVID-19 cases who returned to work pursuant to subsection 3205(c)(10) (A) or (B) and have remained free of COVID-19 symptoms, for 90 days after

the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, for 90 days after the first positive test.

6. Investigate whether workplace conditions could have contributed to the risk of COVID-19 exposure and what could be done to reduce exposure to COVID-19 hazards.

(C) Personal identifying information of COVID-19 cases or persons with COVID-19 symptoms, and any employee medical records required by this section or by sections 3205.1 through 3205.4, shall be kept confidential unless disclosure is required or permitted by law. Unredacted information on COVID-19 cases shall be provided to the local health department, CDPH, the Division, and NIOSH immediately upon request, and when required by law.

(4) Correction of COVID-19 hazards. Employers shall implement effective policies and/or procedures for correcting unsafe or unhealthy conditions, work practices, policies and procedures in a timely manner based on the severity of the hazard. This includes, but is not limited to, implementing controls and/or policies and procedures in response to the evaluations conducted under subsections (c)(2) and (c)(3) and implementing the controls required by subsections (c)(6) and (c)(7).

(5) Training and instruction. The employer shall provide effective training and instruction to employees that includes the following:

(A) The employer's COVID-19 policies and procedures to protect employees from COVID-19 hazards, and how to participate in the identification and evaluation of COVID-19 hazards under subsection (c)(2)(A).

(B) Information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws. This includes any benefits available under legally mandated sick and vaccination leave, if applicable, workers' compensation law, local governmental requirements, the employer's own leave policies, leave guaranteed by contract, and this section.

(C) The fact that COVID-19 is an infectious disease that can be spread through the air when an infectious person talks or vocalizes, sneezes, coughs, or exhales; that COVID-19 may be transmitted when a person touches a contaminated object and then touches their eyes, nose, or mouth, although that is less common; and that an infectious person may have no symptoms.

(D) The fact that particles containing the virus can travel more than six feet, especially indoors, so physical distancing, face coverings, increased ventilation indoors, and respiratory protection decrease the spread of COVID-19, but are most effective when used in combination.

(E) The employer's policies for providing respirators, and the right of employees who are not fully vaccinated to request a respirator for voluntary use as stated in this section, without fear of retaliation and at no cost to employees. Whenever respirators are provided for voluntary use under this section or sections 3205.1 through 3205.4:

1. How to properly wear the respirator provided;
2. How to perform a seal check according to the manufacturer's instructions each time a respirator is worn, and the fact that facial hair interferes with a seal.

(F) The importance of frequent hand washing with soap and water for at least 20 seconds and using hand sanitizer when employees do not have immediate access to a sink or hand washing facility, and that hand sanitizer does not work if the hands are soiled.

(G) Proper use of face coverings and the fact that face coverings are not respiratory protective equipment. COVID-19 is an airborne disease. N95s and more protective respirators protect the users from airborne disease while face coverings primarily protect people around the user.

(H) COVID-19 symptoms, and the importance of not coming to work and obtaining a COVID-19 test if the employee has COVID-19 symptoms.

(I) Information on the employer's COVID-19 policies; how to access COVID-19 testing and vaccination; and the fact that vaccination is effective at preventing COVID-19, protecting against both transmission and serious illness or death.

(J) The conditions under which face coverings must be worn at the workplace and that face coverings are additionally recommended outdoors for people who are not fully vaccinated if six feet of distance between people cannot be maintained. Employees can request face coverings from the employer at no cost to the employee and can wear them at work, regardless of vaccination status, without fear of retaliation.

(6) Face coverings.

(A) For all employees who are not fully vaccinated, employers shall provide face coverings

and ensure they are worn when indoors or in vehicles.

(B) Employers shall provide face coverings and ensure they are worn by employees when required by orders from the CDPH.

(C) Employers shall ensure that required face coverings are clean and undamaged, and that they are worn over the nose and mouth. Face shields are not a replacement for face coverings, although they may be worn together for additional protection.

(D) When employees are required to wear face coverings under this section or sections 3205.1 through 3205.4, the following exceptions apply:

1. When an employee is alone in a room or vehicle.
2. While eating or drinking at the workplace, provided employees are at least six feet apart and outside air supply to the area, if indoors, has been maximized to the extent feasible.
3. Employees wearing respirators required by the employer and used in compliance with section 5144.
4. Employees who cannot wear face coverings due to a medical or mental health condition or disability, or who are hearing-impaired or communicating with a hearing-impaired person.
5. Specific tasks which cannot feasibly be performed with a face covering. This exception is limited to the time period in which such tasks are actually being performed.

(E) Employees exempted from wearing face coverings due to a medical condition, mental health condition, or disability shall wear an effective non-restrictive alternative, such as a face shield with a drape on the bottom, if their condition or disability permits it.

(F) Any employee not wearing a face covering, pursuant to the exceptions in subsections (c) (6)(D)4. or 5., and not wearing a non-restrictive alternative when allowed by subsection (c) (6)(E), shall be at least six feet apart from all other persons unless the unmasked employee is either fully vaccinated or tested at least weekly for COVID-19 during paid time and at no cost to the employee. Employers may not use the provisions of subsection (c)(6)(F) as an alternative to face coverings when face coverings are otherwise required by this section.

(G) No employer shall prevent any employee from wearing a face covering when not required by this section, unless it would create a safety hazard, such as interfering with the safe operation of equipment.

(H) When face coverings are not required by this section or by sections 3205.1 through 3205.4, employers shall provide face coverings to employees upon request, regardless of vaccination status.

(I) Employers shall implement measures to communicate to non-employees the face coverings requirements on their premises.

(7) Other engineering controls, administrative controls, and personal protective equipment.

(A) For buildings with mechanical or natural ventilation, or both, employers shall maximize the quantity of outside air provided to the extent feasible, except when the United States Environmental Protection Agency (EPA) Air Quality Index is greater than 100 for any pollutant or if opening windows or maximizing outdoor air by other means would cause a hazard to employees, for instance from excessive heat or cold.

(B) Employers shall implement cleaning and disinfecting procedures, which require:

1. Identifying and regularly cleaning frequently touched surfaces and objects, such as doorknobs, elevator buttons, equipment, tools, handrails, handles, controls, phones, headsets, bathroom surfaces, and steering wheels. The employer shall inform employees and authorized employee representatives of cleaning and disinfection protocols, including the planned frequency and scope of cleaning and disinfection.
2. Cleaning of areas, material, and equipment used by a COVID-19 case during the high-risk exposure period, and disinfection if the area, material, or equipment is indoors and will be used by another employee within 24 hours of the COVID-19 case.

NOTE: Cleaning and disinfecting must be done in a manner that does not create a hazard to employees. See Group 2 and Group 16 of the General Industry Safety Orders for further information.

(C) To protect employees from COVID-19 hazards, the employer shall evaluate its handwashing facilities, determine the need for additional facilities, encourage and allow time for employee handwashing, and provide employees with an effective hand sanitizer.

Employers shall encourage employees to wash their hands for at least 20 seconds each time. Provision or use of hand sanitizers with methyl alcohol is prohibited.

(D) Personal protective equipment.

1. Employers shall evaluate the need for personal protective equipment to prevent exposure to COVID-19 hazards, such as gloves, goggles, and face shields, and provide such personal protective equipment as needed.

2. Upon request, employers shall provide respirators for voluntary use in compliance with subsection 5144(c)(2) to all employees who are not fully vaccinated and who are working indoors or in vehicles with more than one person. Whenever an employer makes respirators for voluntary use available, under this section or sections 3205.1 through 3205.4, the employer shall encourage their use and shall ensure that employees are provided with a respirator of the correct size.

3. Employers shall provide and ensure use of respirators in compliance with section 5144 when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

4. Employers shall provide and ensure use of eye protection and respiratory protection in compliance with section 5144 when employees are exposed to procedures that may aerosolize potentially infectious material such as saliva or respiratory tract fluids.

NOTE: Examples of work covered by subsection (c)(7)(D)4. include, but are not limited to, certain dental procedures and outpatient medical specialties not covered by section 5199.

(E) Testing of symptomatic employees. Employers shall make COVID-19 testing available at no cost to employees with COVID-19 symptoms who are not fully vaccinated, during employees' paid time.

(8) Reporting, recordkeeping, and access.

(A) The employer shall report information about COVID-19 cases and outbreaks at the workplace to the local health department whenever required by law, and shall provide any related information requested by the local health department. The employer shall report all information to the local health department as required by Labor Code section 6409.6.

(B) The employer shall maintain records of the steps taken to implement the written

COVID-19 Prevention Program in accordance with section 3203(b).

(C) The written COVID-19 Prevention Program shall be made available at the workplace to employees, authorized employee representatives, and to representatives of the Division immediately upon request.

(D) The employer shall keep a record of and track all COVID-19 cases with the employee's name, contact information, occupation, location where the employee worked, the date of the last day at the workplace, and the date of a positive COVID-19 test.

(9) Exclusion of COVID-19 cases and employees who had a close contact. The purpose of this subsection is to limit transmission of COVID-19 in the workplace.

(A) Employers shall ensure that COVID-19 cases are excluded from the workplace until the return to work requirements of subsection (c)(10) are met.

(B) Employers shall exclude from the workplace employees who had a close contact until the return to work requirements of subsection (c)(10) are met, with the following exceptions:

1. Employees who were fully vaccinated before the close contact and who do not develop COVID-19 symptoms; and
2. COVID-19 cases who returned to work pursuant to subsection (c)(10)(A) or (B) and have remained free of COVID-19 symptoms, for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed COVID-19 symptoms, for 90 days after the first positive test.

(C) For employees excluded from work under subsection (c)(9), employers shall continue and maintain an employee's earnings, wages, seniority, and all other employee rights and benefits, including the employee's right to their former job status, as if the employee had not been removed from their job. Employers may use employer-provided employee sick leave for this purpose to the extent permitted by law. Wages due under this subsection are subject to existing wage payment obligations and must be paid at the employee's regular rate of pay no later than the regular pay day for the pay period(s) in which the employee is excluded. Unpaid wages owed under this subsection are subject to enforcement through procedures available in existing law. If an employer determines that one of the exceptions below applies, it shall inform the employee of the denial and the applicable exception.

EXCEPTION 1: Subsection (c)(9)(C) does not apply where the employee received disability

payments or was covered by workers' compensation and received temporary disability.

EXCEPTION 2: Subsection (c)(9)(C) does not apply where the employer demonstrates that the close contact is not work related.

(D) Subsection (c)(9) does not limit any other applicable law, employer policy, or collective bargaining agreement that provides for greater protections.

(E) At the time of exclusion, the employer shall provide the employee the information on benefits described in subsections (c)(5)(B) and (c)(9)(C).

(10) Return to work criteria.

(A) COVID-19 cases with COVID-19 symptoms shall not return to work until:

1. At least 24 hours have passed since a fever of 100.4 degrees Fahrenheit or higher has resolved without the use of fever-reducing medications; and
2. COVID-19 symptoms have improved; and
3. At least 10 days have passed since COVID-19 symptoms first appeared.

(B) COVID-19 cases who tested positive but never developed COVID-19 symptoms shall not return to work until a minimum of 10 days have passed since the date of specimen collection of their first positive COVID-19 test.

(C) Once a COVID-19 case has met the requirements of subsection (c)(10)(A) or (B), as applicable, a negative COVID-19 test shall not be required for an employee to return to work.

(D) Persons who had a close contact may return to work as follows:

1. Persons who had a close contact but never developed any COVID-19 symptoms may return to work when 10 days have passed since the last known close contact.
2. Persons who had a close contact and developed any COVID-19 symptom cannot return to work until the requirements of subsection (c)(10)(A) have been met, unless all of the following are true:
 - a. The person tested negative for COVID-19 using a polymerase chain reaction (PCR) COVID-19 test with specimen taken after the onset of

symptoms; and

b. At least 10 days have passed since the last known close contact; and

c. The person has been symptom-free for at least 24 hours, without using fever-reducing medications.

3. During critical staffing shortages, when there are not enough staff to provide safe patient care, essential critical infrastructure workers in the following categories may return after Day 7 from the date of last exposure if they have received a negative PCR COVID-19 test result from a specimen collected after Day 5:

a. Health care workers who did not develop COVID-19 symptoms;

b. Emergency response workers who did not develop COVID-19 symptoms; and

c. Social service workers who did not develop COVID-19 symptoms and who work face to face with clients in child welfare or assisted living.

(E) If an order to isolate, quarantine, or exclude an employee is issued by a local or state health official, the employee shall not return to work until the period of isolation or quarantine is completed or the order is lifted. If no period was specified, then the period shall be in accordance with the return to work periods in subsection (c)(10)(A), (c)(10)(B), or (c)(10)(D), as applicable.

(F) If no violations of local or state health officer orders for isolation, quarantine, or exclusion would result, the Division may, upon request, allow employees to return to work on the basis that the removal of an employee would create undue risk to a community's health and safety. In such cases, the employer shall develop, implement, and maintain effective control measures to prevent transmission in the workplace including providing isolation for the employee at the workplace and, if isolation is not feasible, the use of respirators in the workplace.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3, 144.6 and 6409.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 74, No. 43.
2. Governor Newsom issued Executive Order N-84-20 (2019 CA EO 84-20), dated December 14, 2020, which suspended certain provisions relating to the exclusion of COVID-19 cases from the workplace.
3. Editorial correction of punctuation errors in subsections (b)(1), (c)(3)(D), (c)(10)(C) and (c)(10)(E) (Register 2021, No. 24).
4. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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Introduction

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§3205.1. Multiple COVID-19 Infections and COVID-19 Outbreaks.

(a) Scope.

(1) This section applies to a workplace covered by section 3205 if three or more employee COVID-19 cases within an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period at any time during a 14-day period.

(2) This section shall apply until there are no new COVID-19 cases detected in the exposed group for a 14-day period.

(b) COVID-19 testing.

(1) The employer shall make COVID-19 testing available at no cost to its employees within the exposed group, during employees' paid time, except:

(A) Employees who were not present at the workplace during the relevant 14-day period(s) under subsection (a).

(B) Employees who were fully vaccinated before section 3205.1 became applicable to the workplace and who do not have COVID-19 symptoms.

(C) For COVID-19 cases who did not develop COVID-19 symptoms after returning to work pursuant to subsections 3205(c)(10)(A) or (B), no testing is required for 90 days after the initial onset of COVID-19 symptoms or, for COVID-19 cases who never developed symptoms, 90 days after the first positive test.

(2) COVID-19 testing shall consist of the following:

(A) Immediately upon being covered by this section, testing shall be made available to all employees in the exposed group and then again one week later. Negative COVID-19 test results of employees with COVID-19 exposure shall not impact the duration of any quarantine, isolation, or exclusion period required by, or orders issued by, the local health department.

(B) After the first two COVID-19 tests required by subsection (b)(2)(A), employers shall make COVID-19 testing available once a week at no cost, during paid time, to all employees in the exposed group who remain at the workplace, or more frequently if recommended by the local health department, until this section no longer applies pursuant to subsection (a)(2).

(c) Employers shall make additional testing available at no cost to employees, during employees' paid time, when deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8, section 332.3.

(d) The employer shall continue to comply with all applicable provisions of section 3205, and shall also do the following:

(1) Employees in the exposed group shall wear face coverings when indoors, or when outdoors and less than six feet from another person, unless one of the exceptions in subsection 3205(c)(6)(D) applies.

(2) Employers shall give notice to employees in the exposed group of their right to request a respirator for voluntary use under subsection 3205(c)(7)(D)2., if they are not fully vaccinated.

(3) Employers shall evaluate whether to implement physical distancing of at least six feet between persons or, where six feet of physical distancing is not feasible, the use of cleanable solid partitions of sufficient size to reduce COVID-19 transmission.

(e) COVID-19 Investigation, review and hazard correction. The employer shall immediately perform a review of potentially relevant COVID-19 policies, procedures, and controls and

implement changes as needed to prevent further spread of COVID-19. The investigation and review shall be documented and include:

(1) Investigation of new or unabated COVID-19 hazards including the employer's leave policies and practices and whether employees are discouraged from remaining home when sick; the employer's COVID-19 testing policies; insufficient outdoor air; insufficient air filtration; and lack of physical distancing.

(2) The review shall be updated every 30 days that this section continues to apply, in response to new information or to new or previously unrecognized COVID-19 hazards, or when otherwise necessary.

(3) The employer shall implement changes to reduce the transmission of COVID-19 based on the investigation and review required by subsections (e)(1) and (e)(2). The employer shall consider moving indoor tasks outdoors or having them performed remotely, increasing outdoor air supply when work is done indoors, improving air filtration, increasing physical distancing as much as feasible, requiring respiratory protection in compliance with section 5144, and other applicable controls.

(f) In buildings or structures with mechanical ventilation, employers shall filter recirculated air with Minimum Efficiency Reporting Value (MERV) 13 or higher efficiency filters if compatible with the ventilation system. If MERV-13 or higher filters are not compatible with the ventilation system, employers shall use filters with the highest compatible filtering efficiency. Employers shall also evaluate whether portable or mounted High Efficiency Particulate Air (HEPA) filtration units or other air cleaning systems would reduce the risk of transmission and, if so, shall implement their use to the degree feasible.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency

expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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§3205.2. Major COVID-19 Outbreaks.

(a) Scope.

(1) This section applies to any workplace covered by section 3205 if 20 or more employee COVID-19 cases in an exposed group, as defined by section 3205(b), visited the workplace during their high-risk exposure period within a 30-day period.

(2) This section shall apply until there are fewer than three COVID-19 cases detected in the exposed group for a 14-day period.

(b) Employers shall continue to comply with section 3205.1, except that the COVID-19 testing described in section 3205.1(b) shall be made available to all employees in the exposed group, regardless of vaccination status, twice a week or more frequently if recommended by the local health department.

(c) In addition to the requirements of sections 3205 and 3205.1, the employer shall take the following actions:

(1) The employer shall provide a respirator for voluntary use in compliance with subsection 5144(c)(2) to employees in the exposed group and shall determine the need for a respiratory

protection program or changes to an existing respiratory protection program under section 5144 to address COVID-19 hazards.

(2) Any employees in the exposed group who are not wearing respirators required by the employer and used in compliance with section 5144 shall be separated from other persons by at least six feet, except where an employer can demonstrate that six feet of separation is not feasible, and except for momentary exposure while persons are in movement. Methods of physical distancing include: telework or other remote work arrangements; reducing the number of persons in an area at one time, including visitors; visual cues such as signs and floor markings to indicate where employees and others should be located or their direction and path of travel; staggered arrival, departure, work, and break times; and adjusted work processes or procedures, such as reducing production speed, to allow greater distance between employees. When it is not feasible to maintain a distance of at least six feet, individuals shall be as far apart as feasible.

(3) At work stations where an employee in the exposed group is assigned to work for an extended period of time, such as cash registers, desks, and production line stations, and where the physical distancing requirement in subsection (c)(2) is not maintained at all times, the employer shall install cleanable solid partitions that effectively reduce transmission between the employee and other persons.

(4) The employer shall evaluate whether to halt some or all operations at the workplace until COVID-19 hazards have been corrected.

(5) Any other control measures deemed necessary by the Division through the Issuance of Order to Take Special Action, in accordance with title 8 section 332.3.

Note: Authority cited: Section 142.3, Labor Code. Reference: Sections 142.3 and 144.6, Labor Code.

HISTORY

1. New section filed 11-30-2020 as an emergency; operative 11-30-2020. Emergency expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20) (Register 2020, No. 49). A Certificate of Compliance must be transmitted to OAL by 10-1-2021 or emergency language will be repealed by operation of law on the following day.

2. New section refiled with amendments 6-17-2021 as an emergency; operative 6-17-2021 pursuant to Executive Order N-09-21 (Register 2021, No. 25). Exempt from the APA pursuant to Government Code sections 8567, 8571 and 8627 (Executive Order N-09-21). Emergency

expiration extended 60 days (Executive Order N-40-20) plus an additional 60 days (Executive Order N-71-20). A Certificate of Compliance must be transmitted to OAL by 1-13-2022 or emergency language will be repealed by operation of law on the following day.

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How to Protect Yourself and Others

Accessible version: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

Know how it spreads



- **The best way to prevent COVID-19 is to avoid being exposed to this virus.**
- The virus is thought to spread mainly from person-to-person.
 - » Between people who are in close contact with one another (within about 6 feet).
 - » Through respiratory droplets produced when an infected person coughs, sneezes or talks.
 - » These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
 - » COVID-19 may be spread by people who are not showing symptoms.

Everyone should

Clean your hands often



- **Wash your hands** often with soap and water for at least 20 seconds especially after you have been in a public place, or after blowing your nose, coughing, or sneezing.
- If soap and water are not readily available, **use a hand sanitizer that contains at least 60% alcohol.** Cover all surfaces of your hands and rub them together until they feel dry.
- **Avoid touching your eyes, nose, and mouth** with unwashed hands.

Avoid close contact



- **Limit contact with people who don't live in your household as much as possible.**
- **Avoid close contact** with people who are sick.
- **Put distance between yourself and other people.**
 - » Remember that some people without symptoms may be able to spread virus.
 - » This is especially important for **people who are at increased risk for severe illness.** <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.



[cdc.gov/coronavirus](https://www.cdc.gov/coronavirus)

Cover your mouth and nose with a mask when around others



- **You could spread COVID-19 to others** even if you do not feel sick.
- **Everyone should wear a mask in public settings** and when around people not living in their household, especially when social distancing is difficult to maintain.
 - » Masks should not be placed on young children under age 2, anyone who has trouble breathing, or is unconscious, incapacitated or otherwise unable to remove the mask without assistance.
- **A mask helps prevent a person who is sick** from spreading the virus to others, and offers some protection to the wearer as well.
- Do **NOT** use a facemask meant for a healthcare worker.
- Continue to **keep at least 6 feet between yourself and others**. The mask is not a substitute for social distancing.

Cover coughs and sneezes



- **Always cover your mouth and nose** with a tissue when you cough or sneeze or use the inside of your elbow.
- **Throw used tissues** in the trash.
- Immediately **wash your hands** with soap and water for at least 20 seconds. If soap and water are not readily available, clean your hands with a hand sanitizer that contains at least 60% alcohol.

Clean and disinfect



- **Clean AND disinfect frequently touched surfaces** daily. This includes tables, doorknobs, light switches, countertops, handles, desks, phones, keyboards, toilets, faucets, and sinks. www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/disinfecting-your-home.html
- **If surfaces are dirty, clean them:** Use detergent or soap and water prior to disinfection.
- **Then, use a household disinfectant.** You can see a list of [EPA-registered household disinfectants here](#).



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**COUNTY OF ORANGE HEALTH OFFICER'S
ORDERS AND STRONG RECOMMENDATIONS**
(Revised October 12, 2021)

In light of the new and recent guidance on COVID-19 isolation and quarantine issued by California Department of Public Health (CDPH), the following **Orders and Strong Recommendations** shall revise and replace the prior Orders and Strong Recommendations of the County Health Officer that were issued on September 28, 2021. The Orders and Strong Recommendations issued on September 28, 2021, are no longer in effect as of October 12, 2021.

Pursuant to California Health and Safety Code sections 101030, 101040, 101470, 120175, and 120130, the County Health Officer for County of Orange orders and strongly recommends the following:

ORDERS

Effective immediately, and continuing until further notice, the following shall be in effect in unincorporated and incorporated territories of Orange County, California:

I. Self-Isolation and Self-Quarantine Orders

• **Self-isolation of Persons with COVID-19.**

Persons with COVID-19 symptoms. All Orange County residents and visitors *with COVID-19 who are symptomatic* (as defined below) shall immediately isolate themselves in their home or another residence. They may discontinue self-isolation under the following conditions:

- At least 10 days have passed since symptom onset; AND
- At least 24 hours have passed since resolution of fever without the use of fever-reducing medications; AND

Order and Strong Recommendations of the County of Orange Health Officer
October 12, 2021
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- Other symptoms have improved (except that loss of taste and smell may persist for weeks or months after recovery and need not delay the end of isolation).

Persons without COVID-19 symptoms. All Orange County residents and visitors *with COVID-19 who are asymptomatic* (i.e., they do not have any symptom(s), as defined below) shall isolate themselves immediately in their home or another residence. They may discontinue self-isolation under the following conditions:

- At least 10 days have passed since the first positive COVID-19 PCR or rapid antigen laboratory test.

Additional Considerations.

- A Person who is self-isolated may not leave his or her place of isolation except to receive necessary medical care.
- If a more specific and individualized isolation order is issued by the County Health Officer for any county resident, the resident shall follow the specific order instead of the order herein.
- People who are severely ill with COVID-19 might need to stay in self-isolation longer than 10 days and up to 20 days after symptoms first appeared. People with weakened immune systems may require testing to determine when they can be around others. Talk to your healthcare provider for more information. Your healthcare provider will let you know if you can resume being around other people based on the results of your testing.

This self-isolation order DOES NOT in any way restrict access by first responders to an isolation site during an emergency.

Definition.

- A person is considered to “*with COVID-19*” if the person has:
 - Received a positive COVID-19 PCR or rapid antigen laboratory test result; and/or
 - Exhibits symptoms (as defined below).
- People with COVID-19 have had a wide range of symptoms reported – ranging from mild symptoms to severe illness. Symptoms may appear 2-14 days after exposure to the virus. Anyone can have mild to severe symptoms. People with these symptoms may have COVID-19:
 - Fever or chills
 - Cough

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- Shortness of breath or difficulty breathing
- Fatigue
- Muscle or body aches
- Headache
- New loss of taste or smell
- Sore throat
- Congestion or runny nose
- Nausea or vomiting
- Diarrhea

The list above does not include all possible symptoms.

- **Self-Quarantine of Persons Exposed to COVID-19 and Exemptions.**

All Orange County residents and visitors who know that they have been in close contact (within 6 feet of someone for a cumulative total of 15 minutes or more over a 24-hour period) with a person who has, or is suspected to have, COVID-19 and who do not have any symptoms (as defined above) shall take the following actions:

Not Fully Vaccinated Persons

- Stay in their home or another place of residence:
 - For at least 10 days from the date of last contact with a person who has COVID-19 without testing; OR
 - For at least 7 days with a negative COVID-19 diagnostic test result. Diagnostic specimen shall be collected on Day 5 or later from the date of last contact with person with COVID-19.
- The following persons shall quarantine themselves in their home or another place of residence for 14 days from the from the date of last contact with a person who has COVID-19:
 - All persons who reside or work in a high-risk congregate living setting (e.g., skilled nursing facilities, prisons, jails, shelters).
 - All persons who reside or work with severely immunosuppressed persons (e.g., Bone marrow or solid organ transplants, chemotherapy)

All persons who are required to self-quarantine, as specified above, shall also take the following additional actions:

- Self-monitor for COVID-19 symptoms through Day 14 from the date of last contact with a person who has COVID-19 and if any symptoms

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develop during 14 days after the last date of close contact with a person with COVID-19, they shall immediately self-isolate themselves and contact the Orange County Health Care Agency or their healthcare provider and seek COVID-19 testing.

- Wear face coverings at all times through Day 14 and adhere to the face covering order specified in Section II, below, after Day 14;
- Perform frequent hand hygiene; and
- May not leave their place of quarantine during their quarantine period except to receive necessary medical care or to obtain such other goods or services necessary for their basic subsistence.

Exemptions:

- 1) **Asymptomatic Fully Vaccinated Persons.** Persons who are fully vaccinated for COVID-19 prior to their close contact with a person with COVID-19 and have not developed any symptoms (as defined above) since their exposure are not required to quarantine.
 - People are considered fully vaccinated for COVID-19:
 - 14 days or more after they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna); or
 - 14 days or more after they have received a single-dose vaccine (Johnson and Johnson/Janssen).
- 2) **Asymptomatic Persons Previously Infected.** If an exposed person tested positive for COVID-19 before their new, recent close contact with a person with COVID-19 and it has been less than 3 months since they started having symptoms from that previous infection (or since their first positive COVID-19 test if asymptomatic), they do not need to quarantine, as long as they have not had any new symptoms since their recent exposure to COVID-19.

All individuals who fall under any of the Exemptions, above, shall also take the following additional actions:

- Test for COVID-19 3-5 days after last date of exposure (note: this requirement does not apply to *Asymptomatic Previously Infected Individuals*).
 - If they test positive, they shall immediately self-isolate, as ordered above, and contact their healthcare provider with any questions regarding their care.

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- If they test negative, they shall continue monitoring their symptoms.
- Self-monitor for COVID-19 symptoms through Day 14 and if symptoms occur, immediately isolate as ordered above, they shall immediately self-isolate themselves and contact the Orange County Health Care Agency or their healthcare provider and seek COVID-19 testing.

3) **Quarantine Exemption for Students in both Private and Public Transitional Kindergarten through Grade 12.**

Quarantine Duration for *Unvaccinated* Students:

- A. The following students shall quarantine, as stated under (2), below, if *any* of the following occur EITHER in the community OR in any indoor or at outdoor school settings, including on buses operated by public and private school systems:
- Either the student or person with COVID-19 (or both) was (were) NOT wearing face covering when they were within 6 feet of each other for a cumulative total of 15 minutes or more over a 24-hour period.
 - Both student and person with COVID-19 were wearing face covering when they were within 6 feet of each other for a cumulative total of 15 minutes or more over a 24-hour period.
- B. If the student (as defined in Paragraph (A), above) remains asymptomatic (meaning they have NOT had any COVID-19 symptoms, as defined in this Order, above), the student may discontinue self-quarantine under the following conditions:
- i. Quarantine can end after Day 10 from the date of last exposure without testing for COVID-19; OR
 - ii. Quarantine can end after Day 7 if a test specimen (i.e., antigen diagnostic test, PCR/molecular diagnostic test, or pooled PCR/molecular test) is collected on or after Day 5 from the date of last exposure and the result is negative.
- C. All quarantined students from Day 1 through Day 14 shall:
- Continue daily self-monitoring for symptoms through Day 14 from last known exposure; AND

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- Follow all recommended non-pharmaceutical interventions (e.g., wearing a mask when around others, hand washing) through Day 14 from the Day of last known exposure.
- If any symptoms develop during this 14-day period, the exposed student shall immediately isolate as stated in this Order, above, get tested, and contact his or her healthcare provider with any questions regarding their care.

Exemption for Attending In-Person Instruction for Quarantined Unvaccinated Students – i.e., Modified Quarantine

If unvaccinated student and person with COVID-19 were wearing face covering when they were within 6 feet of each other for a cumulative total of 15 minutes or more over a 24-hour period, the exposed student may continue to attend school for in-person instruction during the duration of his or her quarantine period as specified in Paragraph (B), above, if the following conditions are met:

- The exposed student is asymptomatic; and
 - The exposed student continues to appropriately wear face covering; and
 - The exposed student undergoes at least twice weekly testing during his or her quarantine period (as specified in Paragraph (B), above); and
 - The exposed student refrains from participation in all extracurricular activities at school, including sports, and activities within the community setting for the duration of his or her quarantine period (as stated in (B), above). The exposed student may participate in all required instructional components of the school day, except activities where a mask cannot be worn, such as while playing certain musical instruments. The exposed student may also eat meals on campus; and
 - The exposed student complies with the conditions specified in Paragraph C, above.
- 4) **Acute Care Hospital Staff Shortage.** Acute care hospitals in collaboration with human resources and occupational health services that determine they are experiencing staff shortage and therefore are unable to provide safe patient care at their facilities may allow the following health care providers to continue to work onsite at their facilities throughout their 14-day exposure period: Asymptomatic health care providers, who are not fully vaccinated for COVID-19 and who have had a higher-risk exposure to COVID-19 but are not known to be infected. These health care providers shall be monitored for symptoms for COVID-19 and shall immediately isolate as consistent with the isolation order above if any symptoms develop (as defined above).

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The above self-quarantine orders and exemptions DO NOT in any way restrict access by first responders to a quarantine site during an emergency.

II. Face-Covering Order:

- 1) **Wear a Cloth Face-Covering.** To help prevent the spread of droplets containing COVID-19, all County residents and visitors shall wear face coverings in accordance with and as required by the *Guidance for the Use of Face Coverings* issued by CDPH, effective July 28, 2021. The Guidance is attached herein as Attachment “A” and can be found at: <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>. The Guidance orders, as follows:

Masking Requirements.

Masks are required for **all individuals** in the following indoor settings, regardless of vaccination status:

- On public transit (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
- Indoors in K-12 schools, childcare
- Emergency shelters [4] and cooling centers

Masks are required for **all individuals**, in the following indoor settings, regardless of vaccination status (and surgical masks are recommended):

- Healthcare settings
- State and local correctional facilities and detention centers
- Homeless shelters
- Long Term Care Settings & Adult and Senior Care Facilities

Additionally, masks are required for unvaccinated individuals in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, state, and local government offices serving the public).

Guidance for Businesses, Venue Operators or Hosts.

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In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:

- Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.
- Implement vaccine verification to determine whether individuals are required to wear a mask.
- Require all patrons to wear masks.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements.

The following individuals are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

Face shields may be considered for members of the public who cannot wear a face covering due to a medical condition or other exemption, although they may not work as well as face coverings in their ability to prevent the spread of COVID-19 to others. A cloth “drape” should be attached to the bottom edge of the face shield and tucked into the shirt to minimize gaps between the face and face shield.

III. Vaccination and Testing for COVID-19 Orders:

- 1) **COVID-19 Vaccination for Workers and Service Providers of Certain Facilities.**
To help prevent transmission of COVID-19, all workers who provide services or

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work in facilities described below shall comply with the vaccination requirements as set forth in the August 5, 2021, State Health Officer Order. A copy of the State Health Officer Order is attached herein as Attachment “B” and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Health-Care-Worker-Vaccine-Requirement.aspx>

The State Health Officer Order orders, as follows:

All workers who provide services or work in facilities described below shall have their first dose of a one-dose regimen or their second dose of a two-dose regimen by September 30, 2021:

- General Acute Care Hospitals
- Skilled Nursing Facilities (including Subacute Facilities)
- Intermediate Care Facilities
- Acute Psychiatric Hospitals
- Adult Day Health Care Centers
- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- Ambulatory Surgery Centers
- Chemical Dependency Recovery Hospitals
- Clinics & Doctor Offices (including behavioral health, surgical)
- Congregate Living Health Facilities
- Dialysis Centers
- Hospice Facilities
- Pediatric Day Health and Respite Care Facilities
- Residential Substance Use Treatment and Mental Health Treatment Facilities

Two-dose vaccines include Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization. The one-dose vaccine is Johnson and Johnson [J&J]/Janssen.

"Worker" refers to all paid and unpaid individuals who work in indoor settings where (1) care is provided to patients, or (2) patients have access for any purpose. This includes workers serving in health care or other health care settings who have the potential for direct or indirect exposure to patients or SARS-CoV-2 airborne aerosols. Workers include, but are not limited to, nurses, nursing assistants, physicians, technicians, therapists, phlebotomists, pharmacists, students and trainees, contractual staff not employed by the health care facility, and persons not directly involved in patient care, but who could be exposed to infectious agents that can be transmitted in the health care setting (e.g., clerical, dietary, environmental services, laundry,

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security, engineering and facilities management, administrative, billing, and volunteer personnel).

Exemption from Vaccination. Workers may be exempt from the vaccination requirements under only upon providing the operator of the facility a declination form, signed by the individual stating either of the following: (1) the worker is declining vaccination based on Religious Beliefs, or (2) the worker is excused from receiving any COVID-19 vaccine due to Qualifying Medical Reasons.

Eligibility for Qualified Medical Reasons Exemption. To be eligible for a Qualified Medical Reasons exemption, the worker must also provide to their employer a written statement signed by a physician, nurse practitioner, or other licensed medical professional practicing under the license of a physician stating that the individual qualifies for the exemption (but the statement should not describe the underlying medical condition or disability) and indicating the probable duration of the worker's inability to receive the vaccine (or if the duration is unknown or permanent, so indicate).

Condition of Entry into Facility for Exempted Workers. If an operator of facility deems a worker to have met the requirements of an exemption, the unvaccinated exempt worker must meet the following requirements when entering or working in such facility:

- Test for COVID-19 with either PCR or antigen test that either has Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services. Testing must occur twice weekly for unvaccinated exempt workers in acute health care and long-term care settings, and once weekly for such workers in other health care settings.
- Wear a surgical mask or higher-level respirator approved by the National Institute of Occupational Safety and Health (NIOSH), such as an N95 filtering facepiece respirator, at all times while in the facility.

- 2) **Requirements for COVID-19 Vaccination Status Verification, COVID-19 Testing, and Masking for Certain Facilities.** To help prevent transmission of COVID-19, all facilities described below shall comply with the State Health Officer Order, effective August 9, 2021. A copy of the State Health Officer Order is attached herein as Attachment "C" and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Unvaccinated-Workers-In-High-Risk-Settings.aspx>

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Acute Health Care and Long-Term Care Settings:

- General Acute Care Hospitals
- Skilled Nursing Facilities (including Subacute Facilities)
- Intermediate Care Facilities

High-Risk Congregate Settings:

- Adult and Senior Care Facilities
- Homeless Shelters
- State and Local Correctional Facilities and Detention Centers

Other Health Care Settings:

- Acute Psychiatric Hospitals
- Adult Day Health Care Centers
- Adult Day Programs Licensed by the California Department of Social Services
- Program of All-Inclusive Care for the Elderly (PACE) and PACE Centers
- Ambulatory Surgery Centers
- Chemical Dependency Recovery Hospitals
- Clinics & Doctor Offices (including behavioral health, surgical)
- Congregate Living Health Facilities
- Dental Offices
- Dialysis Centers
- Hospice Facilities
- Pediatric Day Health and Respite Care Facilities
- Residential Substance Use Treatment and Mental Health Treatment Facilities

- 3) **Requirements for COVID-19 Vaccine Status Verification and COVID-19 Testing for School Workers in Transitional Kindergarten through Grade 12.** To prevent the further spread of COVID-19 in K-12 school settings, all public and private schools serving students in transitional kindergarten through grade 12 shall comply with the State Health Officer Order, effective August 12, 2021, regarding verification of COVID-19 vaccination status and COVID-19 testing of all workers. A copy of the State Health Officer Order is attached herein as Attachment “D” and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Vaccine-Verification-for-Workers-in-Schools.aspx>

This Order does not apply to (i) home schools, (ii) child care settings, or (iii) higher education.

- 4) **Local Correctional Facilities and Detention Centers Health Care Worker Vaccination Requirement.** To prevent the further spread of COVID-19 in local

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correctional facilities and detention centers, all individuals identified in the State Health Officer Order, effective August 19, 2021, regarding obtaining COVID-19 vaccination shall comply with the State Health Officer's Order. A copy of the State Health Officer Order is attached herein as Attachment "E" and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Correctional-Facilities-and-Detention-Centers-Health-Care-Worker-Vaccination-Order.aspx>

IV. Visiting Acute Health Care and Long-Term Care Setting Order:

- **Requirements for Visiting Acute Health Care and Long-Term Care Settings.** To help prevent transmission of COVID-19, all acute health care and long-term care settings shall comply with the indoor visitation requirements set forth in the State Health Officer, effective August 11, 2021. A copy of the State Health Officer Order is attached herein as Attachment "F" and can be found at the following link:

<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Order-of-the-State-Public-Health-Officer-Requirements-for-Visitors-in-Acute-Health-Care-and-Long-Term-Care-Settings.aspx>

V. Seasonal Flu Vaccination Order:

- 1) **Seasonal Flu Vaccination for Certain County Residents.** All individuals who reside or work in Orange County and fall under one of the following categories, shall obtain the seasonal flu vaccination unless a medical or religious exemption applies: (i) current providers for congregate settings; (ii) current health care providers; and (iii) current emergency responders. However, nothing herein shall be construed as an obligation, on the part of employers, public or private, to require employees obtain the seasonal flu vaccination as a term or condition of employment.
 - *Emergency responder* shall mean military or national guard; law enforcement officers; correctional institution personnel; fire fighters; emergency medical services personnel; physicians; nurses; public health personnel; emergency medical technicians; paramedics; emergency management personnel; 911 operators; child welfare workers and service providers; public works personnel; and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency; as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.
 - *Health care provider* shall mean physicians; psychiatrists; nurses; nurse practitioners; nurse assistants; medical technicians; any other person who is employed to provide diagnostic services, preventive services, treatment services or other services that are integrated with and necessary to the provision of patient care and, if not provided, would adversely impact patient care; and employees who directly assist or are supervised by a direct provider of diagnostic,

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preventive, treatment, or other patient care services; and employees who do not provide direct health care services to a patient but are otherwise integrated into and necessary to the provision those services – for example, a laboratory technician who processes medical test results to aid in the diagnosis and treatment of a health condition. A person is not a health care provider merely because his or her employer provides health care services or because he or she provides a service that affects the provision of health care services. For example, IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers are not health care providers, even if they work at a hospital of a similar health care facility.

STRONG RECOMMENDATIONS

Effective immediately, and continuing until further notice, the following shall be in effect in unincorporated and incorporated territories in Orange County, California:

1. **For Vulnerable Population.** In general, the older a person is, the more health conditions a person has, and the more severe the conditions, the more important it is to take preventive measures for COVID-19 such as getting vaccinated, social distancing and wearing a mask when around people who don't live in the same household, and practicing hand hygiene. For more information, see <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.
2. **COVID-19 Vaccination for County Residents.** All Orange County residents should receive COVID-19 vaccination in accordance with the Federal Food and Drug Administration (FDA) and CDC guidance unless a medical contraindication applies. Minors, who are eligible to receive COVID-19 vaccination in accordance with the applicable CDC guidelines, should be vaccinated in the presence of their parent or legal guardian.
3. **Seasonal Flu Vaccination for County Residents.** All County residents who are six months of age or older should obtain the seasonal flu vaccination unless a medical or religious exemption applies.
4. **COVID-19 Vaccination and Testing for Emergency Medical Technicians, Paramedics and Home Healthcare Providers.** To help prevent transmission of COVID-19, it is strongly recommended that all Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home Supportive Services Program workers) are fully vaccinated by September 30, 2021.

Furthermore, it is strongly recommended that all unvaccinated Emergency Medical Technicians, Paramedics, and Home Healthcare Providers (including In Home Supportive Services Program workers) undergo at least twice weekly testing for COVID-19 until such time they are fully vaccinated.

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GENERAL PROVISIONS

1. The Orders and Strong Recommendations, above, shall not supersede any conflicting or more restrictive orders issued by the State of California or federal government. If any portion of this document or the application thereof to any person or circumstance is held to be invalid, the remainder of the document, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of the orders and strong recommendations are severable.
2. The Orders contained in this document may be enforced by the Orange County Sheriff or Chiefs of Police pursuant to California Health and Safety Code section 101029, and California Government Code sections 26602 and 41601. A violation of a health order is subject to fine, imprisonment, or both (California Health and Safety Code section 120295).

REASONS FOR THE ORDERS AND STRONG RECOMMENDATIONS

1. On February 26, 2020, the County of Orange Health Officer declared a Local Health Emergency based on an imminent and proximate threat to public health from the introduction of COVID-19 in Orange County.
2. On February 26, 2020, the Chairwoman of the Board of Supervisors, acting as the Chair of Emergency Management Council, proclaimed a Local Emergency in that the imminent and proximate threat to public health from the introduction of COVID-19 created conditions of extreme peril to the safety of persons and property within the territorial limits of Orange County.
3. On March 2, 2020, the Orange County Board of Supervisors adopted Resolutions No. 20-011 and No. 20-012 ratifying the Local Health Emergency and Local Emergency, referenced above.
4. On March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of COVID-19.
5. As of October 12, 2021, the County has reported a total of 299,041 recorded confirmed COVID-19 cases and 5,499 COVID-19 related deaths.
6. Safe and effective authorized COVID-19 vaccines are recommended by the CDC. According to CDC, anyone infected with COVID-19 can spread it, even if they do NOT have symptoms. The novel coronavirus is spread in 3 ways: 1) Breathing in air when close to an infected person who is exhaling small droplets and particles that contain the virus. 2) Having these small droplets and particles that contain virus land on the eyes, nose, or mouth, especially through splashes and sprays like a cough or sneeze. 3) Touching eyes, nose, or mouth with hands that have the virus on them. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html>.

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7. CDC requires face coverings on planes, buses, trains, and other forms of public transportation traveling into, within, or out of the United States and in U.S. transportation hubs such as airports and stations. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.
8. The CDPH issued a revised Guidance for the Use of Face Coverings, effective July 28, 2021, available at:
<https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>
9. According to the CDC and CDPH, older adults, individuals with medical conditions, and pregnant and recently pregnant persons are at higher risk of severe illness when they contract COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>; see also <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/PublicHealthGuidanceSelfIsolationforOlderAdultsandThoseWhoHaveElevatedRisk.aspx>.
10. The Orders and the Strong Recommendations contained in this document are based on the following facts, in addition to the facts stated under the foregoing paragraphs: (i) Safe and effective FDA authorized COVID-19 vaccines have become widely available, but many Orange County residents have not yet had the opportunity to be vaccinated, or have not completed their vaccination series to be fully vaccinated; (ii) there are currently limited therapeutic options proven effective that consistently prevents the severe illness associated with COVID-19; (iii) the current consensus among public health officials for slowing down the transmission of and avoiding contracting COVID-19 is for unvaccinated persons to avoid gathering and practice social distancing, frequently wash hands with soap, wearing face covering and get vaccinated; (iv) some individuals who contract COVID-19 have no symptoms or have only mild symptoms and so are unaware that they carry the virus and are transmitting it to others; (v) current evidence shows that the novel coronavirus can survive on surfaces and can be indirectly transmitted between individuals; (vi) older adults and individuals with medical conditions are at higher risk of severe illness; (vii) sustained COVID-19 community transmission continues to occur; (viii) the age, condition, and health of a significant portion of Orange County's residents place them at risk for serious health complications, including hospitalization and death, from COVID-19; (ix) younger and otherwise healthy people are also at risk for serious negative health outcomes and for transmitting the novel coronavirus to others.
11. The orders and strong recommendations contained in this document are necessary and less restrictive preventive measures to control and reduce the spread of COVID-19 in Orange County, help preserve critical and limited healthcare capacity in Orange County and save the lives of Orange County residents.
12. The California Health and Safety Code section 120175 requires the County of Orange Health Officer knowing or having reason to believe that any case of a communicable

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disease exists or has recently existed within the County to take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases.

13. The California Health and Safety Code sections 101030 and 101470 require the county health officer to enforce and observe in the unincorporated territory of the county and within the city boundaries located with a county all of the following: (a) Orders and ordinances of the board of supervisors, pertaining to the public health and sanitary matters; (b) Orders, including quarantine and other regulations, prescribed by the department; and (c) Statutes relating to public health.
14. The California Health and Safety Code section 101040 authorizes the County of Orange Health Officer to take any preventive measure that may be necessary to protect and preserve the public health from any public health hazard during any “state of war emergency,” “state of emergency,” or “local emergency,” as defined by Section 8558 of the Government Code, within his or her jurisdiction. “Preventive measure” means abatement, correction, removal, or any other protective step that may be taken against any public health hazard that is caused by a disaster and affects the public health.
15. The California Health and Safety Code section 120130 (d) authorizes the County of Orange Health Officer to require strict or modified isolation, or quarantine, for any case of contagious, infectious, or communicable disease, when such action is necessary for the protection of the public health.

IT IS SO ORDERED:

Date: October 12, 2021



Clayton Chau MD, PhD
County Health Officer
County of Orange



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Brenda Shott, Asst. CEO, Finance and Internal Operations; Suzanne Jenike, Asst. CEO, Internal Operations; and Gina M. Ratto, General Counsel
SUBJECT: GOVERNANCE COMMITTEE OUTCOMES FROM COMMITTEE MEETING HELD ON OCTOBER 28, 2021

Recommendation

The Governance Committee recommends the Board adopt all of the following as presented:

- (1) Revisions to the **Procurement and Contracting Policy**
- (2) Revisions to the **Write Off Policy**
- (3) Revisions to the Overpaid and Underpaid Plan Benefits Policy**
- (4) Revisions to the **Overpaid and Underpaid Plan Contributions Policy**
- (5) A new **Records Management Policy** to replace the existing Records Retention Policy
- (6) A new **OCERS Administrative Procedure – Years of Service Credit Calculation**

Background/Discussion

(1) Procurement and Contracting Policy

The Governance Committee met on October 28, 2021, and conducted a triennial review of the Procurement and Contracting Policy. The Procurement and Contracting Policy was adopted by the Board on November 18, 2002, and was last reviewed on October 15, 2018. The policy sets forth guidelines by which OCERS will procure goods and services.

The Committee reviewed and approved staff's recommended changes to the Procurement and Contracting Policy as presented. The recommended changes included significant structural and formatting changes to the policy as well as several edits to either provide clarification or reflect current practice and/or best practices seen in the public pension industry.

A summary of the material changes to the Procurement and Contracting Policy that were recommended to and approved by the Committee include:

- Format and structural changes to provide better clarity and better organize the policy.
- Clarify that investment management agreements are not covered by the policy.
- Clarification the following roles of the Board of Retirement:
 - Oversee (instead of monitor) compliance with the policy.
 - Authorize staff to execute contracts (instead of approve contracts) with Named Service Providers.
- Add the following roles for the Contract Administrator:
 - Maintain appropriate contract and solicitation templates in consultation with the Legal Division.

- Review Contractor's certificates of insurance to verify compliance with the contracted requirements for coverage.
- Report to the Board annually all contracts that exceed a Contract Value of \$100,000.
- Revised the Definitions section to provide clarity and removed terms related to types of search and selection processes that were not necessary to be a defined term and instead described the processes in the Search and Selection Process section of the policy.
- Revised policy to use defined terms where appropriate throughout the document to provide clarity and eliminate confusion (i.e. utilizing the term Contract Value where appropriate).
- Revised Contract Term section to allow any contract term to not to exceed a total of six years instead of stipulating a required initial term of three years with authority to extend up to a total term of six years.
- Inserted a requirement for obtaining a Service Organization Control type 2 report (SOC 2) as part of due diligence process for certain Information Technology contracts.
- Increase the dollar value of a contract that requires staff to conduct an RFP or IFB from \$50,000 up to \$100,000.
- Allow for a designee of the Responsible Executive to approve contracts valued under \$1,000.
- Remove Custodian and Pension Administration Software Provider as Named Service Providers, as these contractors do not report to the Board and the Board has little direct interaction with them.
- Clarified the approval and execution process of contracts with Named Service Providers will include the Board being informed of the general contract term and conditions that have been negotiated instead of informing them only that the contracted was executed.

A copy of the Procurement and Contracting Policy, with proposed changes indicated in underlined/strikeout text, along with a clean version are attached.

(2) Write Off Policy

The Governance Committee met on October 28, 2021, and conducted a triennial review of the Write Off Policy. This policy was adopted by the Board on November 19, 2018. This was the first review of the policy since its adoption.

Staff recommended and the Committee approved the following changes to the Write Off Policy:

- Minor modifications to clearly document the process.
- Changed the write off amount from \$100 to \$250 in instances of overpayments to members/payees.
- Left the write off amount of \$75 unchanged in instances of underpayments to members/payees.
- Clarified that ongoing benefit payments will be adjusted prospectively.

(3) Overpaid and Underpaid Plan Benefits Policy

The Governance Committee met on October 28, 2021, and conducted a review of the Overpaid and Underpaid Plan Benefits Policy. This policy was adopted by the Board on May 16, 2016, and was last reviewed on October 21, 2019.

Staff recommended and the Committee approved the following changes to the Overpaid and Underpaid Plan Benefits Policy:

- Format and structural changes to provide better clarity.
- Clarified that benefit payments would be adjusted prospectively to avoid additional over/under payments.

- Clarified interest calculation and process for collection:
 - When fraud or misconduct by members interest would be recouped from the member/payee;
 - When error by OCERS or Employer interest would be recouped from the Employer.
- Changed minimum amount of overpaid benefits to be collected from \$100-\$250 (consistent with Write Off Policy).
- Retitled and changed the language of the Member Appeal Rights section of the policy so that it is consistent with the Board's Administrative Review and Hearing Policy.

(4) Overpaid and Underpaid Plan Contributions Policy

The Governance Committee met on October 28, 2021, and conducted a review of the Overpaid and Underpaid Plan Contributions Policy. This policy was adopted by the Board on January 16, 2019, and this was the first review of the policy since its adoption.

Staff recommended and the Committee approved the following changes to the Overpaid and Underpaid Plan Contributions Policy:

- Format and structural changes to provide better clarity.
- Added language to address employer pick up of employee contributions.
- Clarified that contributions would be adjusted prospectively to avoid additional over/under payments.
- Added language regarding recouping underpaid contributions from the Employer as part of the actuarial valuation process.
- Added language regarding minimum amount of overpaid contributions to be refunded (consistent with write off policy).
- Retitled and changed the language of the Member Appeal Rights section of the policy so that it is consistent with the Board's Administrative Review and Hearing Policy.

(5) New Records Management Policy

The Governance Committee met on October 28, 2021, and considered a new Records Management Policy to replace the Board's existing Record Retention Policy and Guidelines. The Committee approved the new policy with the understanding that the Retention Schedule would be updated to add the records of the Member Services Division before presentation to the Board. In addition, after the Committee meeting, staff discovered that the Executive Division had not been separately listed in the Retention Schedule. Accordingly, a new section for the Executive Division was added.

Government Code section 31537 provides that, "The board may establish efficient records management procedures, which may include ... maintenance and, when determined by the board to be necessary, disposal of records in its jurisdiction." On October 23, 2003, the Board adopted a Record Retention Policy and Guidelines. This policy was last reviewed and revised on April 17, 2017. (A copy of the existing policy is attached for reference.)

In 2020, OCERS determined that in order to improve the governance of OCERS' processes regarding the management, maintenance and disposal of OCERS records, a comprehensive review of the Record Retention Policy and Guidelines was necessary. In addition, OCERS recognizes that more than a written policy is required. Procedures for implementing initial compliance with the policy and ensuring continuing compliance with the policy are necessary. Accordingly, starting in 2020, the OCERS Business Plan has included an objective under the Effective Governance goal to improve the governance and management of OCERS' records. The objective includes developing and implementing, over multiple years, a records management program that

reflects best practices and identifies appropriate retention periods for each category of records; establishes storage protocols and automates destruction schedules for electronic mail; establishes an alternate “work space” and/or storage place for emails; systematically brings each department within OCERS into compliance with the new program; and establishes procedures to maintain and audit compliance with the program.

After initially researching the records management practices of other governmental agencies, including the other CERL systems, the OCERS legal staff drafted the new Records Management Policy that clearly communicates the goals of OCERS in adopting, implementing and ensuring compliance with a new comprehensive records management program.

The new Records Management Policy:

- Reinforces the objective that records should be retained only as long as they serve the administrative, legal, or fiscal purposes for which they were created, after which they should be disposed of as soon as practicable and in a secure manner.
- Includes a new Record Retention Schedule that is the result of meetings between the OCERS legal staff and representatives of each department within OCERS to identify the records that each department is responsible for maintaining. The appropriate retention period for each category of record was determined based on any applicable legal requirements and the business needs of OCERS and each department.
- Emphasizes that proper disposal of outdated records is an essential part of a robust records management program in order to protect any confidential information included in the records, and to allow for more efficient search both for the records that are still valuable and necessary to OCERS’ operations and that are responsive to discovery and public records requests.
- Specifies proper destruction for paper and electronic records.
- Includes a provision governing electronic mail, and provides that unless otherwise required by law, a litigation hold, or Board policy, email communications will not be retained for more than two years. The two-year retention period is a starting point. Over time, staff will recommend shortening the retention period until electronic mail is retained for no more than 90 days.
- Assigns responsibility for compliance with the records management program to the Director of each Department (or Senior Executive where there is no Director within the applicable Division) to:
 - Ensure the policy is communicated to every team member in the Department/Division;
 - Ensure the Department/Division is initially brought into full compliance with the policy;
 - Institute a periodic reminder system and process for ensuring the Department/ Division remains in full compliance with the policy;
 - Require each team member in the Department/Division to certify to the Director on an annual basis that the Department/Division is in full compliance with the policy; and
 - Review the record categories listed in the Retention Schedule on at least an annual basis to confirm that the record categories continue to be accurate and reflective of the types of records maintained by the related Department/Division and promptly inform the Legal Division if any modifications are necessary.

Separately, staff has developed an implementation plan for the new records management program. The implementation plan contemplates that by the end of 2021, each Department/Division will designate a records retention compliance person that will act as a liaison with the records management team/project leader; and determine and standardize storage locations where copies of each record category will be saved and in what format.

By June 30, 2022 for the Investments and Legal Divisions; by September 30, 2022 for Internal Operations and Internal Audits Divisions; and by December 30, 2022 for the External Operations and Executive Divisions, all Departments within each Division will:

- Identify and destroy/delete unnecessary and duplicate documents and files;
- Purge all records past their retention date;
- Identify and save to alternative format emails requiring longer term preservation;
- Certify initial compliance with Records Management Policy; and
- Commence automatic deletion of emails.

By the end of 2023, each Department will be required to certify for the first time compliance with records management program and the policy. Certification will be required at the end of every subsequent year.

(6) New OCERS Administrative Procedure – Years of Service Credit Calculation

The Governance Committee met on October 28, 2021, and considered a new OCERS Administrative Procedure (OAP) on Years of Service Credit Calculation. The Committee approved the new OAP.

Years of service credit is one of the four factors used to calculate a member’s monthly retirement allowance, along with the plan's formula factor, age at retirement, and final average salary. Years of service credit are accrued throughout an active member’s career as OCERS retirement deductions are taken from the member’s compensation while employed, or while receiving paid time off. The new OAP defines the process for converting hours paid into years of service credit, and delineates the differences between years with 26 vs 27 pay periods.

Attachments:

- (1) Procurement and Contracting Policy (marked)
- (2) Procurement and Contracting Policy (unmarked)
- (3) Write Off Policy (marked)
- (4) Write Off Policy (unmarked)
- (5) Overpaid and Underpaid Plan Benefits Policy (marked)
- (6) Overpaid and Underpaid Plan Benefits Policy (unmarked)
- (7) Overpaid and Underpaid Plan Contributions Policy (marked)
- (8) Overpaid and Underpaid Plan Contributions Policy (unmarked)
- (9) New Records Management Policy
- (10) Existing Record Retention Policy and Guidelines (for reference purposes only)
- (11) New OCERS Administrative Procedure (OAP) on Years of Service Credit Calculation

Submitted by:



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Procurement and Contracting

I. Purpose and Background

A. Purpose

The Procurement and Contracting Policy ~~is intended to establish~~(policy) establishes the guidelines by which OCERS will procure goods and services. Investment Management Agreements (as defined below) are exempt from this policy, and will instead be governed by the CIO Charter and the Investment Policy Statement.

B. Objectives

The objectives of this policy are to ensure that:

1. Contractual arrangements ~~and for~~ the purchase of goods and services are made in the best interests of the a manner consistent with OCERS' fiduciary duty to its members and beneficiaries ~~of OCERS;~~
2. The procurement of goods and services is efficient, ~~diligent~~, transparent, economical, fair, and in compliance with all applicable laws;
3. A system of internal controls, ~~that includes appropriate segregation of duties, and appropriate approvals,~~ related to the procurement of goods and services is implemented ~~and followed;~~
4. All contracting activities are performed by qualified individuals with specifically delegated ~~the authority, responsibility and accountability for said activities, who use~~ using sound business practices in an ethical manner, ~~taking into consideration applicable law and regulations;~~
5. ~~Contracts for the provision of goods and services are procured from qualified sources that provide best value for each expenditure, taking into consideration the nature of the goods and services and, as appropriate, quality and reliability, competitive price, institutional knowledge, and delivery schedule; and~~
- 6.5. The selection of ~~service providers and vendors reflect~~ Contractors reflects a level of rigor that is commensurate with the importance and materiality cost of the service or ~~purchase of~~ goods in question.

C. Roles and Responsibilities

1. The role of the Board of Retirement (Board) is to:
 - i. Establish appropriate policies to ensure selection decisions are prudent and sound;
 - ii. Monitor/Oversee compliance with such policies;
 - iii. Select and appoint Named Service Providers; and
 - iv. Approve/Authorize staff to execute contracts ~~for which the Board is responsible under this policy~~ with Named Service Providers.
2. The role of the Chief Executive Officer (CEO) is to:



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- ~~i. Approve the purchase of goods and services for which the CEO is responsible under the provisions of this policy; and~~
 - ~~ii. Approve the contracts the Board is responsible for under the provisions of this policy; and~~
 - ~~iii. ii. Keep the Board of Retirement apprised of all material and relevant contract actions as necessary for the Board to carry out its oversight function.~~
 3. The role of the Responsible Executive is to:
 - i. Approve the purchase of goods and services for which s/he is responsible ~~for procuring under this policy;~~
 - ii. Keep the CEO apprised of all ~~material and relevant~~ significant contract actions for which the Responsible Executive is responsible;
 - iii. Ensure that budget authority exists within the budget line item from which a contract will be paid;
 - iv. Select the appropriate procurement process to be used and participate in the preparation of the solicitation documents for the goods and services being procured.
 - v. Select, or recommend that the CEO select as the case may be, ~~contract providers~~ Contractors in the area for which ~~s/he the Responsible Executive~~ is responsible;
 - vi. Negotiate, or delegate to an appropriate staff member who will negotiate, terms and conditions of contracts for the contract with selected providers purchase of goods and services for which s/he is responsible.
 4. The role of the Contract Administrator is to:
 - i. Manage the ~~vendor~~ Contractor files, and the lifecycle management system, and ~~insure ensure compliance with~~ best practices for ~~contract and vendor~~ Contractor management;
 - ii. Assemble, manage, and distribute all contract solicitations and other contract acquisition efforts;
 - ~~iii. Maintain appropriate contract and solicitations templates in consultation with the Legal Division;~~
 - ~~iii. iv. Assist the Responsible Executive with selection of providers~~ Contractors and negotiation of contractual terms;
 - ~~iv. v. Conduct due diligence for potential contracts and providers~~ Contractors;
 - ~~vi. Review Contractors' certificates of insurance to verify compliance with the contracted requirements for coverage;~~
 - ~~v. vii. Serve as the CEO's designee under Section 3.b of the Quiet Period Policy; and~~



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- ~~vi-viii.~~ Develop (subject to approval of the Responsible Executive and in consultation with the Legal Division) required and preferred terms and conditions to be included in OCERS contracts, ~~and develop and maintain contract templates to be used for OCERS;~~
- ~~vii-ix.~~ Ensure all solicitations are reflected in the Quiet Period Report to the Board; ~~and~~
 - ~~x.~~ Coordinate and oversee the review of Contractors' performance;
 - ~~xi.~~ Monitor the expiration dates of all contracts to ensure ~~that there is an appropriate level of oversight for investment managers~~ either timely extension of the contract term or timely issuance of contract solicitation; and
- ~~viii-xii.~~ Report to the Board annually all contracts ~~– that exceed a Contract Value of \$100,000.~~

5. The role of ~~Legal~~General Counsel or his/her designee is to:

- i. Review contracts before execution for compliance with legal requirements and to provide assessment of ~~legal~~ risk to the agency;
- ii. Assist the CEO, Responsible Executive, and Contract Administrator in preparing ~~RFPs, IFBs, Requests for Proposals, Invitations to Bid~~ and other solicitations when requested;
- iii. Assist the Responsible Executive and Contract Administrator in negotiation of contractual terms and conditions when requested; and
- iv. Assist the Contract Administrator in developing necessary and preferred terms and conditions and contract templates.

D. Definitions

- ~~1. Executive: The role of CEO, the CIO is to comply with Assistant CEOs, the CIO Charter as it pertains to Chief Investment Officer, and the General Counsel.~~
- ~~2. Responsible Executive: The Executive who manages the budget line item for the funds being committed under the contract.~~
- ~~3. Contract Value: For the purposes of the dollar thresholds in this policy in cases, the value of a contract is the amount OCERS is obligated to pay for one year under the contract~~
- ~~4. Routine Items: expenses that are regularly budgeted on an annual basis:~~
 - ~~i. Must have available funds in the approved budget, including any Board approved amendments to the budget.~~
 - ~~ii. Can be approved by the Executive responsible for the budget item~~
 - ~~iii. These items include but are not limited to the following:~~
 - ~~a. Office supplies, postage, furniture, office equipment, subscriptions, temporary services, professional and consulting services engaged to supplement or support staff, and~~



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~~b. contract~~ General services contracts and agreements such as hearing officers, medical panel reviewers, property management, maintenance and acquisition repair of landscaping, building and equipment, printing, Board of Retirement elections, computer consulting, software licenses, messenger services, catering etc.

5. Non-Routine Items: expenses that are not regularly purchased or budgeted on an annual basis. Contracts or purchase orders for non-routine items require:

i. Available funds in the approved budget, including any Board approved amendments to the budget designated for the goods or services being procured,

ii. Approval by the Executive responsible for the budget in which the goods or services to paid from for expenditures valued at less than \$100,000,

iii. Approval by the Board for expenditures valued over \$100,000. The Board may approve of the expenditure either as part of the annual budget, budget amendment, annual Business Plan or a specific Board approval of the contract or purchase order.

6. Contractors: For purposes of this policy, Contractors include providers of services and vendors of goods.

7. Named Service Providers: Contractors recommended by the CEO and selected and appointed by the Board where such providers are retained primarily to fulfill an independent audit or advisory role for the Board. See also below section V.

8. Time and Material (T&M) Contracts: agreements with Contractors where the value of the contract is variable based on the time and material costs of the Contractor. In these types of contracts, the contract will include a provision stating that the Contract Value is not to exceed a specified dollar amount, or the Contract Value will be limited by the available budget for the goods or services.

~~6-9.~~ Investment Management Agreements: agreements of any kind that evidence and/or govern the investment vendors of OCERS' assets in any investment class. Investment Consultant Agreements are not Investment Management Agreements.

II. Provisions Applicable to All Contracts

A. Contracting ~~Policy~~ Philosophy

~~1. OCERS will consider as broad a universe of qualified service providers and vendors that~~ Contractors as is practical and reasonable given budgetary, staffing, time and other relevant constraints and considerations.

~~2. OCERS will take advantage of available tools, technology or other resources that will allow for efficient screening of potential service providers and/or vendors so as to arrive at a qualified pool of candidates that warrant detailed examination, provided such tools, technology, or resources are consistent with sound and prudent industry practices.~~



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~~3.2.~~ ~~All~~ The search, selection, monitoring, and reporting provisions contained in this policy serve as minimum requirements. If more stringent requirements are established under the law or within other policies of OCERS, the law and such other policies will control.

~~4.3.~~ Consistent with Title 2, Division 6, Chapter 7 of the California Code of Regulations, §§ 18700-18720, no OCERS Board Member or staff ~~shall~~will be directly or indirectly involved in an OCERS contracting decision if the decision will have a material financial effect on an economic interest of the Board Member, staff person, or the immediate family of the Board Member or staff person.

4. OCERS values diversity and inclusion and is committed to fostering diversity in its procurement process through the outreach to small and diverse businesses. In the distribution and publication of solicitations, OCERS will endeavour to reach beyond traditional sources and list opportunities in locations that will notify a diverse audience of Contractors.

B. Authority for Entering Into Contracts.

1. Before entering into any contract for goods or services, OCERS must have available funds in the current year’s approved budget, including any Board approved amendments to the budget, to fund the current year’s expense or ~~cost~~Contract Value.

2. Only the Responsible Executive or his/her designee may bind or commit OCERS for the purchase of goods or services as set forth in this policy, except in emergencies and as may be otherwise authorized by the Board ~~of Retirement~~.

3. An emergency is any circumstance that would interfere with OCERS' ability to meet its fiduciary obligations, threaten the health and safety of its staff, or compromise its legal rights or remedies. If a contract is needed as the result of an emergency, report of the contract will be made to the Responsible Executive or to the Board whose authorization is normally required for such contract as soon as practicable.

~~3.4.~~ The CEO may delegate his/her authority to execute documents to an Executive.

~~4.5.~~ A Responsible Executive may delegate his/her authority to approve check requests and/or purchase requisitions.

~~5.6.~~ All delegations will be documented in writing, identifying the individual to whom the authority is delegated and any dollar restriction or budget account restrictions associated therewith.

C. Contract Term

~~C. Definitions~~

~~—“Executive”:~~ The ~~CEO, the Assistant CEOs, the Chief Investment Officer, and the General Counsel.~~

~~1. “Responsible Executive”:~~ The ~~Executive who manages the budget line item for the funds being committed under the contract.~~



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- ~~—~~ Value term of a contract. ~~For the purposes of the dollar thresholds in this policy, the value of a contract shall be determined based on the annual expected value of the contract.—~~
- 2. ~~“Contracted Supplier”: A vendor of goods or services which has previously been selected through a competitive bidding process and may be used for procuring additional goods and services, as set forth below in Section III.B.—~~
- 2. ~~“Invitation for Bid (IFB)”: A procurement process whereby multiple bidders are solicited for the procurement of goods or services where the requirements can be stated in detail, with precision. Typically, an IFB is used for commodities that are easily defined. See also below section III.A.—~~
- 2. ~~“Request for Proposal (RFP)”: A procurement process whereby a product or service to be acquired cannot be stated with specificity (such as consulting services) or where OCERS may seek to evaluate a number of different types of professional services or products. See also below section III.A.—~~
- 2. ~~“Request for Qualifications (RFQ)”: A process whereby OCERS seeks to validate qualifications from various vendors for a product or service. This is not a procurement process and would not lead to the execution of a contract unless followed by an appropriate procurement process.—~~
- 2. ~~“Request for Information (RFI)”: A process whereby OCERS is gathering information from various vendors as a way to determine appropriate bidders and/or details about a product or service for an RFP. This is not a procurement process and would not lead to the execution of a contract unless followed by an appropriate procurement process.—~~
- 7.1. ~~“Routine items”: are those expenses that are budgeted on an annual basis:—~~
 - ~~i. Must have available funds in the approved budget, including any Board approved amendments to the budget.—~~
 - ~~i. Can be approved by the Executive responsible for the budget item.—~~
 - ~~i. These items include but are not limited to the following:—~~
 - ~~a. Office supplies, postage, furniture, office equipment, subscriptions, temporary services, professional and consulting services engaged to supplement or support staff, and.—~~
 - 0. ~~General services contracts and agreements such as hearing officers, medical panel reviewers, property management, maintenance and repair of landscaping, building and equipment, printing, board of retirement member elections, computer consulting, software licenses, messenger services, catering etc.—~~
- 2. ~~“Non-Routine items”: are those expenses that are not Routine:—~~
 - ~~i. Must have available funds in the approved budget, including any Board approved amendments to the budget.—~~



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- ~~• Valued under \$100,000 can be purchased with the approval of the Executive responsible for the budget in which the goods are to be paid from,~~
- ~~• Valued over \$100,000 must be approved by the CEO and the Board as either part of the annual budget or a specific Board approval~~

~~7.1 “Named Service Providers”: Are those vendors recommended by the CEO and approved by the Board of Retirement where such providers are retained primarily to fulfill an independent audit or advisory role for the Board of Retirement. See also below section V.~~

~~“Small Purchase Procedure”: This process is used for an expenditure of minimal cost. This process must document that the procurement was fair, ethical and transparent. A minimum of three oral or written price or rate quotes from qualified sources must be obtained. Documentation of all quotes received will be retained and provided to the Responsible Executive upon request not exceed six years.~~

D. Performance Reviews

- ~~1. The performance Contract Administrator will coordinate the evaluation of every contracted provider all Contractors to determine if Contractors are performing their contractual obligations.~~
- ~~1.2. The performance of Named Service Providers and Contractors with Contract Values that exceed \$100,000 will be reviewed at least every three years. In addition, at least six months before the expiration of the initial term of a contract with a Named Service Provider and Contract Value over \$100,000, the continued appropriateness and cost-effectiveness of the Contractor will be assessed. For contracts with Named Service Providers, the CEO and the Board or the pertinent committee of the Board will make the performance review and assessment. For Contract Values over \$100,000, the CEO (or his/her designee) will make the performance review and assessment.~~
- ~~0. The results of performance review reviews of Named Service Providers will be coordinated by summarized and reported to the Contracts Administrator who will solicit performance opinions from various staff and Board members as deemed appropriate.~~
- ~~3. Performance for Investment Managers will be reviewed based on the guidelines and timelines as outlined within the Investment Policy Statement and the CIO Charter.~~

III. Search and Selection Process

A. Competitive Search and Selection Process

Where a competitive search and selection process is required under this policy, the Responsible Executive ~~shall~~will use one of the following procurement methods.

1. Invitation for Bid (IFB):



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- i. This method will be used when multiple bidders are available and willing to bid, and procurement needs can be stated in detail, with precision, or where services or products are standardized.
 - ii. The IFB process requires the evaluation of price, delivery and payment terms, and compliance with technical standards. The bid that provides the best pricing and delivery and payment terms will be selected.
 - iii. The bids may be reviewed by a minimum of three OCERS staff members to identify the bidder who provides the best value to OCERS.
2. Request for Proposal (RFP)
- i. This method will be used where the product or service to be acquired cannot be stated with specificity (such as consulting services) or where OCERS may seek to evaluate a number of different types of professional services or products.
 - ii. ~~The RFP process requires evaluation of the technical and price competition between vendors and service providers.~~ The proposal that best meets OCERS’ needs, with consideration for price, qualifications, and other relevant factors set forth in the RFP, will be selected.
 - iii. This method ~~shall~~will be used in most circumstances where the ~~value of the products or services procured~~Contract Value exceeds \$~~50~~100,000 ~~in value~~. In ~~those~~ cases where the Responsible Executive deems an RFP will not be of benefit, the Responsible Executive or designee ~~shall~~will provide a report to the CEO detailing the reasons why an RFP ~~would~~is not ~~be~~ beneficial. The ~~report shall be provided~~CEO must approve the exception prior to ~~purchase or contracting with the selected third party service provider.~~ selecting a Contractor.
3. Small Purchase Procedure
- i. Where the ~~procurement of goods and services requires an expenditure of~~Contract Value is at least \$1,000 but less than \$~~50~~100,000, a minimum of three ~~oral or written price or rate~~ quotes from qualified sources must be obtained. If three qualified sources cannot be reasonably identified, then the Responsible Executive may authorize the use of a sole source process, as set forth below in Section III.BC.
 - ~~Documentation of all quotes received will be retained.~~
 - ~~The Small Purchase Procedure process must include documentation that the procurement was fair, ethical and transparent.~~
- ~~6.4.~~ Process for Receiving Bids in Response to an RFP or IFB
- i. ~~Upon issuance of the RFP or IFB,~~ The period for ~~receiving~~submitting bids ~~shall be open for in response to an RFP and IFB will be~~ at least fifteen (15) days ~~from the date the RFP or IFB is issued.~~ All ~~such proposals shall~~RFPs and IFBs will be posted on the OCERS website ~~as well as~~and distributed to entities that OCERS identifies as likely to be interested.
 - ii. The ~~OCERS Contact~~Contract Administrator or his/her designee ~~shall be available to will~~ answer questions from any bidder or potential bidder, and all answers provided to any



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bidder ~~shall~~will be made available to all bidders by posting on the OCERS website and by e-mailing ~~any person who has submitted a bid~~all bidders.

- iii. ~~Except for Investment Manager Agreements,~~ Best efforts will be made to have at least three- ~~(3)~~ OCERS personnel review the bids and recommend finalists. Best efforts will be made to include at least one ~~(1)~~ representative from a department other than the one that has authority over the ~~vendor~~ contract. In the case where external expertise is used ~~to review the bids,~~ at least one ~~(1) decision maker~~reviewer must be an OCERS employee.

B. Contracted Suppliers

~~Where a provider of goods or services has been selected through a competitive bidding process, that supplier may be used as a Contracted Supplier in certain circumstances set forth in this policy. The Contracted Supplier may be selected directly~~Where a Contractor has been selected by OCERS pursuant to a competitive search and selection process or by the County of Orange or other governmental agency, ~~and OCERS may leverage the other agency's procurement process to obtain similar goods and services. pursuant to a competitive search and selection process, the Contractor may be used as a Contracted Supplier under certain circumstances as set forth in this policy.~~ Such Contracted Suppliers may include, by way of example, retail sellers of off the shelf office supplies contracted ~~either through~~by the County of Orange or directly by OCERS.

C. Sole Source

A sole source approach may be permitted under the following circumstances:

- 1. In cases where a competitive search and selection process will not likely yield a viable alternative to a known service provider; or
- 2. Where legal services are urgently needed, a competitive search and selection process will not be timely, and a known ~~service provider~~Contractor exists.

~~The Responsible Executive must provide to the CEO~~A report describing the unique characteristics of the situation, the known ~~service provider~~Contractor and sound justification for a sole source approach; ~~and the CEO (and the Board, if it is a contract subject to Board approval) must will be provided to the Executive who will either~~ approve ~~the sole source approach or deny the request to use a sole source approach. Executives who wish to use a sole source approach will provide the report to the CEO, who will either approve or deny the request.~~ When the CEO is the Responsible Executive, the report will be provided to the Board Chair and Vice-Chair ~~who will either approve or deny the request to use a sole source approach.~~

D. Exclusions

Notwithstanding any other provision in this policy, Contractor back-fill or temporary help for staff augmentation does not require ~~the Board of Retirement~~ approval or compliance with this policy as long as budgetary amounts are available for individual contractor positions.

E. Due Diligence

- 1. Before awarding a contract, the Contract Administrator ~~shall~~will conduct due diligence of any bidder selected to ensure that the ~~contractor is qualified. A qualified contractor must~~bidder:



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- ~~i. meet any~~Meets all minimum qualifications set forth in the solicitation document, ~~established by the Board or by the CEO or his or her designee, or required by law,~~
 - ~~ii. i. not have any conflicts of interest that pose substantial legal or operational risks;~~2 and
 - ~~iii. ii. Meet any~~Meets all other standards which, in the exercise of sound business judgment, are required of the Contractor.
- ~~2. If any~~ selected bidder is disqualified as a result of ~~a failure to be a qualified contractor for the contract~~the due diligence process, the reason ~~shall for the disqualification will~~ be documented and ~~approved by~~forwarded to the Responsible Executive.
- ~~3.2. A failure of a bidder to be a qualified contractor for one contract shall not prevent the bidder from being a qualified contractor for another contract~~confirmation.
- ~~4.3. For certain critical Information Technology Contractors, SOC2 reports will be requested during the due diligence process. These reports will then be requested from the Contractor annually to ensure proper Information Technology and security controls are in place.~~



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IV. Contract Guidelines Summary

Contract Value	Approver	Signatory	Procurement Requirements
Named Service Provider	Board of Retirement or represented committee	CEO (or CIO on Investment-related contracts) +1 Executive	IFB or RFP
\$100,000 or More	CEO	CEO (or CIO on Investment-related contracts) +1 Executive	IFB or RFP
\$1,000 to \$99,999. 99	Responsible Executive	Responsible Executive + 1 Executive, Director or Manager From Another Department	IFB, RFP, Small Purchase Procedure, or Contracted Supplier
Under \$1,000	Responsible Executive <u>or designee</u>	Responsible Executive + 1 Director or Manager From Another Department <u>designee</u>	Contracted Supplier, Small Purchase Procedure, Contracted Supplier
Investment Managers	CEO / CIO	CEO or CIO +1 Executive	In accordance with CIO Charter and IC Charter and IPS

V. Contracts with Named Service Providers

~~All contracting~~ Contracts with Named Service Providers ~~shall be carried out in accordance~~ will comply with the requirements of this section.

A. Designation of Named Service Providers

The following service providers are designated as Named Service Providers:

1. Consulting actuary;
2. Actuarial auditor;
3. General investment consultant;
4. Alternative investments consultant;



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5. Fiduciary counsel;

~~6.—Custodian;~~

~~7-6.~~ Securities lending manager;

~~8.—Financial auditor;~~

~~9-7.~~ Pension Administration Software Provider; and

~~10-8.~~ Any additional consultant not named above but which the Board may, from time to time, designate.

~~B.—Term~~

~~All contracts with Named Service Providers shall be for an initial term of three years and may be extended by the Board for up to three additional years, for a total maximum term of six years.~~

~~E.—Review and Renewal~~

~~0.— At least six months before the expiration of the initial term of any contract with a Named Service Provider, the CEO and the pertinent committee(s) of the Board shall assess the continued appropriateness and cost-effectiveness of the Named Service Provider in question~~

~~0.— Performance reviews of Named Service Providers will include opinions solicited from Board of Retirement or designated sub-committee members, and/or selected staff members. The results of the review will be summarized and reported to the Board of Retirement.~~

~~0.— The CEO will report regularly and in a timely fashion to the Board of Retirement on all monitoring efforts involving Named Services Providers, identifying any material issues or actions taken.~~

~~0.— Upon recommendation of the CEO and the pertinent committee(s), the Board shall either extend the initial term of the contract or direct the CEO to conduct a new search and selection process.~~

~~0.— The CEO will report promptly to the Board any failures by Named Service Providers to comply with the terms of their contract.~~

~~0.— At least annually, the CEO will provide the Board of Retirement a schedule of the contracts with Named Service Providers due for renewal and those whose terms will expire in the coming year.~~

~~L.B.~~ Search and Selection Process

1. At least six months before the expiration of the final extension of a contract with a Named Service Provider, or upon direction of the Board ~~as set forth in Part C, above~~ following the review of the performance of the Named Service Provider, the CEO ~~shall~~ will conduct a competitive search and selection process for ~~the~~ a Named Service Provider.



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2. Prior to conducting a search for a Named Service Provider, the CEO or his designee will present a written summary to the Board, which ~~shall~~will include:
 - i. The type of service provider being sought and the supporting rationale;
 - ii. The objectives and selection criteria to be met and their relative importance;
 - iii. An estimated timeline for completion of the search process; and
 - iv. A description of the search methodology that is deemed most appropriate and cost effective in the particular circumstances, and that addresses such issues as:
 - a. What method of competitive search and selection process will be used, ~~a copy of the proposed IFB or RFP will be attached for information purposes;~~
 - b. Whether a consultant is to be used to assist with the search process~~;~~;
 - c. The due diligence efforts to be undertaken, including such efforts as site visits, and reference checks;
 - d. Such other information that the CEO believes may assist the Board ~~of Retirement~~ in better understanding the search process.
3. The CEO will provide the Board ~~of Retirement~~ (or a designated committee of the Board ~~of Retirement~~) with periodic reports on the status of all search processes involving Named Service Providers.
4. Upon completion of the analysis and due diligence involved in a search process for a Named Service Provider, the CEO will provide the Board ~~of Retirement~~ (or a designated committee of the Board ~~of Retirement~~) with a written report containing, at a minimum:
 - i. A description of the due diligence activities undertaken;
 - ii. The recommended finalist ~~or a list of finalist candidates(s)~~ and analysis ~~concerning of the candidates recommendation;~~
 - iii. Confirmation of compliance with the objectives, selection criteria and search methodology presented to the Board ~~of Retirement~~ prior to the commencement of the search, or an explanation of any deviations that occurred;
 - iv. A description of performance expectations and the proper time horizon for evaluation of results;
 - v. A bid (pricing) summary with annotations regarding differentiating features; and
 - vi. A description of the expected performance monitoring and reporting efforts to be carried out with respect to the Named Service Provider throughout the term of the contract, including the reporting to be provided to the Board ~~of Retirement~~.
5. The Board ~~of Retirement~~ (or a designated committee of the Board ~~of Retirement~~) will interview the candidate or candidates recommended for appointment as a Named Service ~~Providers~~Provider. If a committee reviews the candidates, the committee ~~shall~~will recommend to the Board the appointment of the Named Service ~~Providers~~Provider. If the



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Board interviews the candidates, the Board itself ~~shall choose from amongst~~ will decide on the candidates appointment.

- 6. Upon selection of the candidate, the CEO (or his/her designee) ~~shall~~ will negotiate a final contract with the selected Named Service Provider, consistent with the terms of the contract solicitation ~~(e.g. IFB or RFP),~~ this policy, and any other direction from the Board. If, at any time during the negotiations, the CEO determines that there is an impasse in negotiations, s/he may recommend to the Board that the Board select an alternate bidder for the Named Service Provider.

C. Approval and Execution

~~M.A. Approval and Execution~~

Upon completion of negotiations with a Named Service Provider, the CEO or his/her designee ~~shall~~ will inform the Board of the general contract ~~has terms and conditions that have been executed. Any contract negotiated. Contracts~~ with a Named Service ~~Provider~~ Providers must be executed by the CEO and one other Executive.

D. Contracts Reports

- 1. The CEO will report promptly to the Board any failures by a Named Service Provider to comply with the terms of their contract.
- 2. At least annually, the CEO will provide the Board a schedule of the contracts with Named Service Providers due for ~~Goods and~~ renewal and those whose terms will expire in the coming year.
- 3. The CEO will report regularly and in a timely fashion to the Board on all monitoring efforts involving Named Services Providers, identifying any material issues and actions taken in response.

VI. Contracts with Contract Value of \$100,000 or More

~~All contracting Contracts for contracts over goods or services, excluding contracts with Named Service Providers, for which the Contract Value exceeds \$100,000 shall be carried out in accordance~~ will comply with the requirements of this section.

~~A. Term~~

~~All Contracts of this provision of services shall be for an initial term not to exceed three years and may be renewed by the CEO for no more than a total of three additional years for a total maximum term of six years.~~

C.A. Review and Renewal

- 1. At least six months before the expiration of the term of a contract with a Contract Value over \$100,000 ~~annually~~, the CEO (or his/her designee) ~~shall~~ will assess the continued appropriateness and cost-effectiveness of the ~~contract provider~~ Contractor in question.



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- 2. Upon recommendation of the Responsible Executive (or his/her designee), the CEO ~~shall either will~~: 1) extend the term of the contract up to the maximum total term of six years; 2) direct the Responsible Executive (or his/her designee) to conduct a new search and selection process; or 3) determine that the goods or services provided are no longer necessary.

D.B. Search and Selection Process

- 1. ~~Any time that OCERS plans to enter into a contract exceeding~~Contracts for goods or services for which the Contract Value exceeds \$100,000, the Responsible Executive (or his/her designee) shall conductrequire a competitive search and selection process ~~for an appropriate provider.~~
- 2. Upon completion of a competitive search and selection process, a written report will be provided to the CEO or his/her designee and will include at a minimum:
 - i. Purpose and need for the goods or services being procured;
 - ii. A description of the procurement process and due diligence activities undertaken; and
 - iii. The recommended finalist and analysis concerning the candidates; ;
- 3. Upon the CEO's, or his/her designee's approval of the candidate, the Responsible Executive (or his/her designee) ~~shall will~~ negotiate a final contract, consistent with the terms of the contract solicitation ~~(e.g. IFB or RFP),;~~ this policy, and ~~any other~~ direction from the CEO. If, at any time during the negotiations, the Responsible Executive determines that there is an impasse in negotiations, s/he may recommend to the CEO that the CEO select an alternate candidate.

E.C. Approval and Execution

- 1. ~~Any contract exceeding~~Contracts for goods or services with a Contract Value that exceeds \$100,000 must be executed by the CEO and one other Executive.
- ~~3. Contract approval from Board will be acquired for non-routine expenses.—~~
- 3-2. For contracts relating to Routine ~~expenses and~~ Non-Routine Items, Board approval of the expenditure ~~will may~~ be acquired through either the budgeting process or the annual Business Plan.

VII. Contracts for Goods and Services From with Contract Value Between \$1,000-\$99,999.99

~~All contracting for Agreements having a value of \$1,000 to \$99,999.99 shall be carried out in accordance with this section~~Contracts for goods or services, excluding contracts with Named Service Providers-

B. Term



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All contracts for this provision of services may be for an initial term of not more than three years and may be renewed for, with a term of not more than three years (provided that any such original term or extension may be for a shorter period if the Responsible Executive determines it Contract Value that is appropriate) at least \$1,000 but less than \$100,000 will comply with the requirements of this section.

A. Search and Selection Process

- 1. Any time that OCERS is to enter into Contracts for goods or services, excluding contracts with Named Service Providers, with a Contract for a value greater Value of at least \$1,000 but less than \$50100,000, the Executive Responsible shall direct an RFP or IFB will require a competitive search and selection process. The use of a Contracted Supplier is permitted.
2. If the value of the contract is less than \$50,000, the Executive Responsible may recommend using the Small Purchase Procedure acquisition procedure in order to select the appropriate vendor.
3-2. Upon selection of the candidate, the Responsible Executive (or his/her designee) shall will negotiate a final contract, consistent with the terms of the contract solicitation (e.g. IFB or RFP), this policy, and any other direction from the CEO. If, at any time during the negotiations, the Responsible Executive determines that there is an impasse in negotiations, s/he may select an alternate candidate.

B. Approval and Execution

- 1. Upon completion of negotiations, the Responsible Executive shall will approve the contract.
2. Any contract under this provision must be executed by at least two Responsible Executives.

VIII. Contracts with Contract Value Less than \$1,000

VII. Contracts for goods and Services Less than \$1,000

All contracting for Agreements having a value less than \$1,000 shall be carried out in accordance with this section or services, excluding contracts with Named Service Providers.

A. Term

All contracts for this provision of services may be for an initial term of not more than three years and may be renewed for a term of not more than three years (provided that any such original term or extension may be for a shorter period if, for which the Responsible Executive determines it Contract Value is appropriate) less than \$1,000 will comply with the requirements of this section.

A. Search and Selection Process

Any time that OCERS is to enter into a contract valued less than \$1,000, the Executive The Responsible Executive may enter into a contract with any qualified Contractor that the Executive Responsible Executive determines is in the best interest of OCERS. The Executive Alternatively, the Responsible Executive may also choose to use the Small Purchase Procedures, a Contracted Supplier, or a competitive search and selection process if s/he determines it is in the best interest of OCERS.



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Policy Review and History

- A. The Board ~~of Retirement~~ will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.
- B. The Board ~~of Retirement~~ adopted this policy on Monday, November 18, 2002.
- C. This policy was revised May 19, 2008, March 22, 2010, May 20, 2013, January 20, 2015, ~~and~~ October 15, 2018, and.

Secretary's Certificate

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

OCTOBER 15, 2018

Steve Delaney Secretary of the Board	Date
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OCERS Board Policy

Procurement and Contracting

I. Purpose and Background

A. Purpose

The Procurement and Contracting Policy (policy) establishes the guidelines by which OCERS will procure goods and services. Investment Management Agreements (as defined below) are exempt from this policy, and will instead be governed by the CIO Charter and the Investment Policy Statement.

B. Objectives

The objectives of this policy are to ensure that:

1. Contractual arrangements for the purchase of goods and services are made in a manner consistent with OCERS' fiduciary duty to its members and beneficiaries;
2. The procurement of goods and services is efficient, transparent, economical, fair, and in compliance with all applicable laws;
3. A system of internal controls related to the procurement of goods and services is implemented;
4. All contracting activities are performed by qualified individuals with specifically delegated authority using sound business practices in an ethical manner;
5. The selection of Contractors reflects a level of rigor that is commensurate with the importance and cost of the service or goods in question.

C. Roles and Responsibilities

1. The role of the Board of Retirement (Board) is to:
 - i. Establish appropriate policies to ensure selection decisions are prudent and sound;
 - ii. Oversee compliance with such policies
 - iii. Select and appoint Named Service Providers; and
 - iv. Authorize staff to execute contracts with Named Service Providers.
2. The role of the Chief Executive Officer (CEO) is to:
 - i. Approve the purchase of goods and services for which the CEO is responsible under this policy; and
 - ii. Keep the Board apprised of contract actions as necessary for the Board to carry out its oversight function.
3. The role of the Responsible Executive is to:
 - i. Approve the purchase of goods and services for which s/he is responsible under this policy;
 - ii. Keep the CEO apprised of all significant contract actions for which the Responsible Executive is responsible;



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- iii. Ensure that budget authority exists within the budget line item from which a contract will be paid;
 - iv. Select the appropriate procurement process to be used and participate in the preparation of the solicitation documents for the goods and services being procured.
 - v. Select, or recommend that the CEO select as the case may be, Contractors in the area for which the Responsible Executive is responsible;
 - vi. Negotiate, or delegate to an appropriate staff member who will negotiate terms and conditions of contracts for the purchase of goods and services for which s/he is responsible.
4. The role of the Contract Administrator is to:
- i. Manage the Contractor files and the lifecycle management system, and ensure compliance with best practices for Contractor management;
 - ii. Assemble, manage, and distribute all contract solicitations and other contract acquisition efforts;
 - iii. Maintain appropriate contract and solicitations templates in consultation with the Legal Division;
 - iv. Assist the Responsible Executive with selection of Contractors and negotiation of contractual terms;
 - v. Conduct due diligence for potential Contractors;
 - vi. Review Contractors' certificates of insurance to verify compliance with the contracted requirements for coverage;
 - vii. Serve as the CEO's designee under the Quiet Period Policy;
 - viii. Develop (subject to approval of the Responsible Executive and in consultation with the Legal Division) required and preferred terms and conditions to be included in OCERS contracts;
 - ix. Ensure all solicitations are reflected in the Quiet Period Report to the Board;
 - x. Coordinate and oversee the review of Contractors' performance;
 - xi. Monitor the expiration dates of all contracts to ensure either timely extension of the contract term or timely issuance of contract solicitation; and
 - xii. Report to the Board annually all contracts that exceed a Contract Value of \$100,000.
5. The role of General Counsel or his/her designee is to:
- i. Review contracts before execution for compliance with legal requirements and to provide assessment of risk to the agency;



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- ii. Assist the CEO, Responsible Executive, and Contract Administrator in preparing Requests for Proposals, Invitations to Bid and other solicitations when requested;
- iii. Assist the Responsible Executive and Contract Administrator in negotiation of contractual terms and conditions when requested; and
- iv. Assist the Contract Administrator in developing necessary and preferred terms and conditions and contract templates.

D. Definitions

1. Executive: The CEO, the Assistant CEOs, the Chief Investment Officer, and the General Counsel.
2. Responsible Executive: The Executive who manages the budget line item for the funds being committed under the contract.
3. Contract Value: For the purposes of the dollar thresholds in this policy, the value of a contract is the amount OCERS is obligated to pay for one year under the contract
4. Routine Items: expenses that are regularly budgeted on an annual basis:
 - i. Must have available funds in the approved budget, including any Board approved amendments to the budget.
 - ii. Can be approved by the Executive responsible for the budget item
 - iii. These items include but are not limited to the following:
 - a. Office supplies, postage, furniture, office equipment, subscriptions, temporary services, professional and consulting services engaged to supplement or support staff, and
 - b. General services contracts and agreements such as hearing officers, medical panel reviewers, property management, maintenance and repair of landscaping, building and equipment, printing, Board of Retirement elections, computer consulting, software licenses, messenger services, catering etc.
5. Non-Routine Items: expenses that are not regularly purchased or budgeted on an annual basis. Contracts or purchase orders for non-routine items require:
 - i. Available funds in the approved budget, including any Board approved amendments to the budget designated for the goods or services being procured,
 - ii. Approval by the Executive responsible for the budget in which the goods or services to be paid for expenditures valued at less than \$100,000,
 - iii. Approval by the Board for expenditures valued over \$100,000. The Board may approve of the expenditure either as part of the annual budget, budget amendment, annual Business Plan or a specific Board approval of the contract or purchase order.



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6. Contractors: For purposes of this policy, Contractors include providers of services and vendors of goods.
7. Named Service Providers: Contractors recommended by the CEO and selected and appointed by the Board where such providers are retained primarily to fulfill an independent audit or advisory role for the Board. See also below section V.
8. Time and Material (T&M) Contracts: agreements with Contractors where the value of the contract is variable based on the time and material costs of the Contractor. In these types of contracts, the contract will include a provision stating that the Contract Value is not to exceed a specified dollar amount, or the Contract Value will be limited by the available budget for the goods or services.
9. Investment Management Agreements: agreements of any kind that evidence and/or govern the investment of OCERS' assets in any investment class. Investment Consultant Agreements are not Investment Management Agreements.

II. Provisions Applicable to All Contracts

A. Contracting Philosophy

1. OCERS will consider as broad a universe of qualified Contractors as is practical and reasonable given budgetary, staffing, time and other relevant constraints and considerations.
2. The search, selection, monitoring, and reporting provisions contained in this policy serve as minimum requirements. If more stringent requirements are established under the law or within other policies of OCERS, the law and such other policies will control.
3. Consistent with Title 2, Division 6, Chapter 7 of the California Code of Regulations, §§ 18700-18720, no OCERS Board Member or staff will be directly or indirectly involved in an OCERS contracting decision if the decision will have a material financial effect on an economic interest of the Board Member, staff person, or the immediate family of the Board Member or staff person.
4. OCERS values diversity and inclusion and is committed to fostering diversity in its procurement process through the outreach to small and diverse businesses. In the distribution and publication of solicitations, OCERS will endeavour to reach beyond traditional sources and list opportunities in locations that will notify a diverse audience of Contractors.

B. Authority for Entering Into Contracts.

1. Before entering into any contract for goods or services, OCERS must have available funds in the current year's approved budget, including any Board approved amendments to the budget, to fund the current year's expense or Contract Value.
2. Only the Responsible Executive or his/her designee may bind or commit OCERS for the purchase of goods or services as set forth in this policy, except in emergencies and as may be otherwise authorized by the Board.



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3. An emergency is any circumstance that would interfere with OCERS' ability to meet its fiduciary obligations, threaten the health and safety of its staff, or compromise its legal rights or remedies. If a contract is needed as the result of an emergency, report of the contract will be made to the Responsible Executive or to the Board whose authorization is normally required for such contract as soon as practicable.
4. The CEO may delegate his/her authority to execute documents to an Executive.
5. A Responsible Executive may delegate his/her authority to approve check requests and/or purchase requisitions.
6. All delegations will be documented in writing, identifying the individual to whom the authority is delegated and any dollar restriction or budget account restrictions associated therewith.

C. Contract Term

The term of a contract will not exceed six years.

D. Performance Reviews

1. The Contract Administrator will coordinate the evaluation of all Contractors to determine if Contractors are performing their contractual obligations.
2. The performance of Named Service Providers and Contractors with Contract Values that exceed \$100,000 will be reviewed at least every three years. In addition, at least six months before the expiration of the initial term of a contract with a Named Service Provider and Contract Value over \$100,000, the continued appropriateness and cost-effectiveness of the Contractor will be assessed. For contracts with Named Service Providers, the CEO and the Board or the pertinent committee of the Board will make the performance review and assessment. For Contract Values over \$100,000, the CEO (or his/her designee) will make the performance review and assessment.
3. The results of performance reviews of Named Service Providers will be summarized and reported to the Board.

III. Search and Selection Process

A. Competitive Search and Selection Process

Where a competitive search and selection process is required under this policy, the Responsible Executive will use one of the following procurement methods.

1. Invitation for Bid (IFB):
 - i. This method will be used when multiple bidders are available and willing to bid, and procurement needs can be stated in detail, with precision, or where services or products are standardized.



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- ii. The IFB process requires the evaluation of price, delivery and payment terms, and compliance with technical standards. The bid that provides the best pricing and delivery and payment terms will be selected.
 - iii. The bids may be reviewed by a minimum of three OCERS staff members to identify the bidder who provides the best value to OCERS.
 2. Request for Proposal (RFP)
 - i. This method will be used where the product or service to be acquired cannot be stated with specificity (such as consulting services) or where OCERS may seek to evaluate a number of different types of professional services or products.
 - ii. The proposal that best meets OCERS' needs, with consideration for price, qualifications, and other relevant factors set forth in the RFP, will be selected.
 - iii. This method will be used in most circumstances where the Contract Value exceeds \$100,000. In cases where the Responsible Executive deems an RFP will not be of benefit, the Responsible Executive or designee will provide a report to the CEO detailing the reasons why an RFP is not beneficial. The CEO must approve the exception prior to selecting a Contractor.
 3. Small Purchase Procedure
 - i. Where the Contract Value is at least \$1,000 but less than \$100,000, a minimum of three quotes from qualified sources must be obtained. If three qualified sources cannot be reasonably identified, then the Responsible Executive may authorize the use of a sole source process, as set forth below in Section III.C.
 4. Process for Receiving Bids in Response to an RFP or IFB
 - i. The period for submitting bids in response to an RFP and IFB will be at least fifteen (15) days from the date the RFP or IFB is issued. All RFPs and IFBs will be posted on the OCERS website and distributed to entities that OCERS identifies as likely to be interested.
 - ii. The Contract Administrator or his/her designee will answer questions from any bidder or potential bidder, and all answers provided to any bidder will be made available to all bidders by posting on the OCERS website and by e-mailing all bidders.
 - iii. Best efforts will be made to have at least three OCERS personnel review the bids and recommend finalists. Best efforts will be made to include at least one representative from a department other than the one that has authority over the contract. In the case where external expertise is used to review the bids, at least one reviewer must be an OCERS employee.

B. Contracted Suppliers

Where a Contractor has been selected by OCERS pursuant to a competitive search and selection process or by the County of Orange or other governmental agency pursuant to a competitive search and selection process, the Contractor may be used as a Contracted Supplier under certain circumstances as set forth in this policy. Such Contracted Suppliers may include, by way of example, retail sellers of off the shelf office supplies contracted by the County of Orange or directly by OCERS.



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C. Sole Source

A sole source approach may be permitted under the following circumstances:

1. In cases where a competitive search and selection process will not likely yield a viable alternative to a known service provider; or
2. Where legal services are urgently needed, a competitive search and selection process will not be timely, and a known Contractor exists.

A report describing the unique characteristics of the situation, the known Contractor and sound justification for a sole source approach will be provided to the Executive who will either approve or deny the request to use a sole source approach. Executives who wish to use a sole source approach will provide the report to the CEO, who will either approve or deny the request. When the CEO is the Responsible Executive, the report will be provided to the Board Chair and Vice-Chair who will either approve or deny the request to use a sole source approach.

D. Exclusions

Notwithstanding any other provision in this policy, Contractor back-fill or temporary help for staff augmentation does not require Board approval or compliance with this policy as long as budgetary amounts are available for individual contractor positions.

E. Due Diligence

1. Before awarding a contract, the Contract Administrator will conduct due diligence of any bidder selected to ensure that the bidder:
 - i. Meets all minimum qualifications set forth in the solicitation document; and
 - ii. Meets all other standards which, in the exercise of sound business judgment, are required of the Contractor.
2. If a selected bidder is disqualified as a result of the due diligence process, the reason for the disqualification will be documented and forwarded to the Responsible Executive for confirmation.
3. For certain critical Information Technology Contractors, SOC2 reports will be requested during the due diligence process. These reports will then be requested from the Contractor annually to ensure proper Information Technology and security controls are in place.



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IV. Contract Guidelines Summary

Contract Value	Approver	Signatory	Procurement Requirements
Named Service Provider	Board of Retirement or represented committee	CEO (or CIO on Investment-related contracts) +1 Executive	IFB or RFP
\$100,000 or More	CEO	CEO (or CIO on Investment-related contracts) +1 Executive	IFB or RFP
\$1,000 to \$99,999	Responsible Executive	Responsible Executive + 1 Executive, Director or Manager	IFB, RFP, Small Purchase Procedure, or Contracted Supplier
Under \$1,000	Responsible Executive or designee	Responsible Executive or designee	Contracted Supplier, Small Purchase Procedure, Contracted Supplier
Investment Managers	CEO / CIO	CEO or CIO +1 Executive	In accordance with CIO Charter and IC Charter and IPS

V. Contracts with Named Service Providers

Contracts with Named Service Providers will comply with the requirements of this section.

A. Designation of Named Service Providers

The following service providers are designated as Named Service Providers:

1. Consulting actuary;
2. Actuarial auditor;
3. General investment consultant;
4. Alternative investments consultant;
5. Fiduciary counsel;
6. Securities lending manager;



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7. Financial auditor; and
8. Any additional consultant not named above but which the Board may, from time to time, designate.

B. Search and Selection Process

1. At least six months before the expiration of the final extension of a contract with a Named Service Provider, or upon direction of the Board following the review of the performance of the Named Service Provider, the CEO will conduct a competitive search and selection process for a Named Service Provider.
2. Prior to conducting a search for a Named Service Provider, the CEO or his designee will present a written summary to the Board, which will include:
 - i. The type of service provider being sought and the supporting rationale;
 - ii. The objectives and selection criteria to be met and their relative importance;
 - iii. An estimated timeline for completion of the search process; and
 - iv. A description of the search methodology that is deemed most appropriate and cost effective in the particular circumstances, and that addresses such issues as:
 - a. What method of competitive search and selection process will be used;
 - b. Whether a consultant is to be used to assist with the search process;
 - c. The due diligence efforts to be undertaken, including such efforts as site visits, and reference checks;
 - d. Such other information that the CEO believes may assist the Board in better understanding the search process.
3. The CEO will provide the Board (or a designated committee of the Board) with periodic reports on the status of all search processes involving Named Service Providers.
4. Upon completion of the analysis and due diligence involved in a search process for a Named Service Provider, the CEO will provide the Board (or a designated committee of the Board) with a written report containing, at a minimum:
 - i. A description of the due diligence activities undertaken;
 - ii. The recommended finalist(s) and analysis of the recommendation;
 - iii. Confirmation of compliance with the objectives, selection criteria and search methodology presented to the Board prior to the commencement of the search, or an explanation of any deviations that occurred;
 - iv. A description of performance expectations and the proper time horizon for evaluation of results;
 - v. A bid (pricing) summary with annotations regarding differentiating features; and



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- v. A description of the expected performance monitoring and reporting efforts to be carried out with respect to the Named Service Provider throughout the term of the contract, including the reporting to be provided to the Board.
5. The Board (or a designated committee of the Board) will interview the candidate or candidates recommended for appointment as a Named Service Provider. If a committee reviews the candidates, the committee will recommend to the Board the appointment of the Named Service Provider. If the Board interviews the candidates, the Board itself will decide on the appointment.
6. Upon selection of the candidate, the CEO (or his/her designee) will negotiate a final contract with the selected Named Service Provider, consistent with the terms of the contract solicitation, this policy, and any other direction from the Board. If, at any time during the negotiations, the CEO determines that there is an impasse in negotiations, s/he may recommend to the Board that the Board select an alternate bidder for the Named Service Provider.

C. Approval and Execution

Upon completion of negotiations with a Named Service Provider, the CEO or his/her designee will inform the Board of the general contract terms and conditions that have been negotiated. Contracts with Named Service Providers must be executed by the CEO and one other Executive.

D. Reports

1. The CEO will report promptly to the Board any failures by a Named Service Provider to comply with the terms of their contract.
2. At least annually, the CEO will provide the Board a schedule of the contracts with Named Service Providers due for renewal and those whose terms will expire in the coming year.
3. The CEO will report regularly and in a timely fashion to the Board on all monitoring efforts involving Named Services Providers, identifying any material issues and actions taken in response.

VI. Contracts with Contract Value of \$100,000 or More

Contracts for goods or services, excluding contracts with Named Service Providers, for which the Contract Value exceeds \$100,000 will comply with the requirements of this section.

A. Review and Renewal

1. At least six months before the expiration of the term of a contract with a Contract Value over \$100,000, the CEO (or his/her designee) will assess the continued appropriateness and cost-effectiveness of the Contractor in question.
2. Upon recommendation of the Responsible Executive (or his/her designee), the CEO will: 1) extend the term of the contract up to the maximum total term of six years; 2) direct the Responsible Executive (or his/her designee) to conduct a new search and selection process; or 3) determine that the goods or services are no longer necessary.



OCERS Board Policy

Procurement and Contracting

B. Search and Selection Process

1. Contracts for goods or services for which the Contract Value exceeds \$100,000, require a competitive search and selection process.
2. Upon completion of a competitive search and selection process, a written report will be provided to the CEO or his/her designee and will include at a minimum:
 - i. Purpose and need for the goods or services being procured;
 - ii. A description of the procurement process and due diligence activities undertaken; and
 - iii. The recommended finalist and analysis concerning the candidates.
3. Upon the CEO's, or his/her designee's approval of the candidate, the Responsible Executive (or his/her designee) will negotiate a final contract, consistent with the terms of the contract solicitation, this policy, and direction from the CEO. If, at any time during the negotiations, the Responsible Executive determines that there is an impasse in negotiations, s/he may recommend to the CEO that the CEO select an alternate candidate.

C. Approval and Execution

1. Contracts for goods or services with a Contract Value that exceeds \$100,000 must be executed by the CEO and one other Executive.
2. For contracts relating to Routine and Non-Routine Items, Board approval of the expenditure may be acquired through either the budgeting process or the annual Business Plan.

VII. Contracts with Contract Value Between \$1,000-\$99,999.99

Contracts for goods or services, excluding contracts with Named Service Providers, with a Contract Value that is at least \$1,000 but less than \$100,000 will comply with the requirements of this section.

A. Search and Selection Process

1. Contracts for goods or services, excluding contracts with Named Service Providers, with a Contract Value of at least \$1,000 but less than \$100,000, the Executive Responsible will require a competitive search and selection process. The use of a Contracted Supplier is permitted.
2. Upon selection of the candidate, the Responsible Executive (or his/her designee) will negotiate a final contract consistent with the terms of the contract solicitation, this policy, and direction from the CEO. If, at any time during the negotiations, the Responsible Executive determines that there is an impasse in negotiations, s/he may select an alternate candidate.

B. Approval and Execution

1. Upon completion of negotiations, the Responsible Executive will approve the contract.



OCERS Board Policy

Procurement and Contracting

- 2. Any contract under this provision must be executed by at least two Executives.

VIII. Contracts with Contract Value Less than \$1,000

Contracts for goods or services, excluding contracts with Named Service Providers, for which the Contract Value is less than \$1,000 will comply with the requirements of this section.

A. Search and Selection Process

The Responsible Executive may enter into a contract with any qualified Contractor that the Responsible Executive determines is in the best interest of OCERS. Alternatively, the Responsible Executive may choose to use a competitive search and selection process if s/he determines it is in the best interest of OCERS.

Policy Review and History

- A. The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.
- B. The Board adopted this policy on Monday, November 18, 2002.
- C. This policy was revised May 19, 2008, March 22, 2010, May 20, 2013, January 20, 2015, October 15, 2018, and .

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
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OCERS Board Policy Write Off Policy

Purpose

1. The Orange County Employees Retirement System (OCERS or System) 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. The purpose of this Write Off Policy is 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 or their beneficiaries.

Principles

2. Considerations of cost effectiveness make it prudent and reasonable to establish a threshold under which (a) OCERS will not be required to seek to recover amounts overpaid by or owed to OCERS; and (b) OCERS will not be required to make corrective distributions to OCERS members and their beneficiaries.

Roles

3. The Chief Executive Officer (CEO) shall be responsible for implementing and monitoring compliance with this Policy and shall annually report to the Board the write offs that have been made pursuant to this Policy.

Policy Guidelines

4. Whenever the cumulative total amount overpaid by OCERS to an OCERS member or beneficiary is less than ~~\$10250 including interest, or the total amount owed by any party to OCERS is less than \$100 including interest~~, OCERS is authorized to forgo recovery of such amount provided that in the case of ongoing payments by OCERS, the payment amount is promptly adjusted (decreased) prospectively.
5. Whenever the total amount underpaid by OCERS to a member or beneficiary, ~~including interest~~, is \$75 or less, OCERS is not required to make the corrective distribution provided that, in the case of ongoing payments by OCERS, the payment amount is promptly adjusted (increased) prospectively, and further provided that, in the judgment of the CEO in consultation with legal counsel, the reasonable direct costs of processing and delivering the distribution to the member or beneficiary would exceed the amount of the distribution.
- ~~5.6.~~ In the event of any inconsistency between applicable law (including IRS rules and guidance) and this Policy, the law shall govern. In the event of an inconsistency between this Policy and the Overpaid and Underpaid Plan Benefits Policy, the latter will govern.

Policy Review

- ~~6.7.~~ The Board of Retirement will review this Policy at least once every three years to ensure that it remains relevant and appropriate.



OCERS Board Policy Write Off Policy

Policy History

~~7.8.~~ The Board of Retirement adopted this policy on November 19, 2018, and amended on _____,
2021.



OCERS Board Policy Write Off 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".

11/19/18

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy Write Off Policy

Purpose

1. The Orange County Employees Retirement System (OCERS or System) 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. The purpose of this Write Off Policy is 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 or their beneficiaries.

Principles

2. Considerations of cost effectiveness make it prudent and reasonable to establish a threshold under which (a) OCERS will not be required to seek to recover amounts overpaid by or owed to OCERS; and (b) OCERS will not be required to make corrective distributions to OCERS members and their beneficiaries.

Roles

3. The Chief Executive Officer (CEO) shall be responsible for implementing and monitoring compliance with this Policy and shall annually report to the Board the write offs that have been made pursuant to this Policy.

Policy Guidelines

4. Whenever the cumulative total amount overpaid by OCERS to an OCERS member or beneficiary is less than \$250, OCERS is authorized to forgo recovery of such amount provided that in the case of ongoing payments by OCERS, the payment amount is promptly adjusted (decreased) prospectively.
5. Whenever the total amount underpaid by OCERS to a member or beneficiary is \$75 or less, OCERS is not required to make the corrective distribution provided that, in the case of ongoing payments by OCERS, the payment amount is promptly adjusted (increased) prospectively, and further provided that, in the judgment of the CEO in consultation with legal counsel, the reasonable direct costs of processing and delivering the distribution to the member or beneficiary would exceed the amount of the distribution.
6. In the event of any inconsistency between applicable law (including IRS rules and guidance) and this Policy, the law shall govern. In the event of an inconsistency between this Policy and the Overpaid and Underpaid Plan Benefits Policy, the latter will govern.

Policy Review

7. The Board of Retirement will review this Policy at least once every three years to ensure that it remains relevant and appropriate.



OCERS Board Policy Write Off Policy

Policy History

8. The Board of Retirement adopted this policy on November 19, 2018, and amended on _____, 2021.



OCERS Board Policy Write Off 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



OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

Purpose and Background

1. The purpose of the Orange County Employees Retirement System ("OCERS," "System," or "Plan") *Overpaid and Underpaid Plan Benefits Policy* ("policy") is to provide a framework that the System can use as a basis for resolving erroneous payments of Plan benefits to members and their beneficiaries. In the event that an overpayment is the result of a felony conviction OCERS Administrative Procedure (OAP) *Felony Forfeitures* shall be used as a basis for resolution. 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 in a prudent manner. The Internal Revenue Service requires that operational failures be corrected in a prompt, reasonable, and consistent manner that attempts to place the retirement system in the position it would have been in had the erroneous payment not occurred.

Policy Objectives

2. Members and their beneficiaries (herein referred to as "members") have a right to accurate pension benefit payments. No member has the right to receive or retain retirement benefit payments that exceed the amounts to which a member is entitled, and no member may be deprived of any benefit payments that he or she is entitled to receive. Subject to all applicable laws and consistent with this policy and the procedures established by the Board, it shall be OCERS' policy to make every reasonable effort to recover from a member the amount of any overpaid Plan benefits, and remit to a member the amount of any underpaid Plan benefits.

Policy Guidelines

3. After discovery of overpaid or underpaid benefits, and within a reasonable period of time after written notification to the affected member, OCERS will correct the benefit payment amount prospectively and/or pay to the member, or collect from the member, through lump sum or installment payments the amounts to which the member or the Plan is entitled in accordance with this policy and applicable law.
4. These policies and procedures are designed for use when calculation and other errors affect an individual member's retirement benefits. In the event of a system-wide error that affects multiple members' benefits, 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.



OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

Policy Procedures for Overpaid Benefits

6. *Appropriate Interest*.—When an overpayment of Plan benefits is discovered more than ninety (90) days after the member/payee’s initial benefit payment, OCERS will first adjust the benefit payment prospectively to reflect the correct benefit amount and prevent additional overpayments. OCERS will also make a prospective adjustment to the member’s benefit and take all reasonable steps to recover the full amount of all overpayments, going back to the inception of the error, and recouping charging “appropriate interest,” as defined in section 7 below, compounded annually during the period in which the benefit overpayments were made and also during any repayment period (*i.e.*, applied to the outstanding amount due until fully repaid).
- ~~*g.a.* In cases where there is evidence that the benefit overpayment resulted from fraud or dishonest conduct by the member/payee or because the member/payee provided, or caused to be provided, inaccurate information to OCERS or the member’s employer, then “appropriate interest” shall be determined using the System’s actuarially assumed rate of return as of the date OCERS sets for commencing repayment, and charged to the member/payee.~~
- ~~*h.a.* If the benefit overpayment was solely the result of an error by OCERS and/or the member’s employer, then “appropriate interest” shall be equal to the System’s actuarial assumed rate of return as of the date OCERS sets for commencing repayment, and charged to the member’s employer as an administrative expense, without amortization.~~
- ~~*i.a.* Notwithstanding the above, any reduction in the member/payee’s ongoing monthly benefit will be limited to a maximum of 15% of the gross monthly benefit. The balance due will be paid over time, subject to this limitation.~~

7. *Appropriate Interest*

- a.* “*Appropriate Interest*” means an interest amount determined using the System’s actuarially assumed rate of return as of the date OCERS sets for commencing repayment.
- b.* In cases where there is evidence that the benefit overpayment resulted from fraud or dishonest conduct by the member/payee or because the member/payee provided, or caused to be provided, inaccurate information to OCERS or the member’s employer, then “appropriate interest” shall be determined using the System’s actuarially assumed rate of return as of the date OCERS sets for commencing repayment, and charged to the member/payee.
- c.* In cases other than those described above in Section 7.b, “appropriate interest” shall be recouped from the member’s employer.
- ~~If the benefit overpayment was solely the result of an error by OCERS and/or the member’s employer, then “appropriate interest” shall be equal to the System’s actuarial assumed rate of return as of the date OCERS sets for commencing repayment, and charged to the member’s employer as an administrative expense, without amortization.~~

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OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

~~Notwithstanding the above, any reduction in the member/payee's ongoing monthly benefit will be limited to a maximum of 15% of the gross monthly benefit. The balance due will be paid over time, subject to this limitation.~~

~~a.~~

~~10.8.~~ The Board believes that considerations of cost effectiveness make it prudent and reasonable to pursue recovery of overpaid benefits only where the cumulative total amount of overpaid benefits is ~~\$100,250~~ or more. Accordingly, OCERS is authorized to not seek recovery of any such overpaid benefits where the total amount overpaid to the member less than ~~\$100,250~~.

~~11.9.~~ *Time Period for Installment Payments.* When recovering benefit overpayments, the following

~~a.~~ *Director of Member Services:* When the total amount of such overpaid benefits, not including interest, is \$10,000 or less, the Director of Member Services shall have authority to agree to extend the time period for the member's installment payments to a period not exceeding the expected lifetime of the member as determined by the actuary.

~~b.~~ *CEO:* ~~Regardless of the amount of the Plan's claim against the member, the CEO shall have the authority to agree to extend the time period for the member's installment payments to a period not exceeding the expected lifetime of the member as determined by the actuary.~~

~~a.~~

~~CEO:~~ ~~Regardless of the amount of the Plan's claim against the member, the CEO shall have the authority to agree to extend the time period for the member's installment payments to a period not exceeding the expected lifetime of the member as determined by the actuary.~~

~~b.~~

~~i.~~ ~~Regardless of the amount of the Plan's claim against the member, the CEO shall have the authority to agree to extend the time period for the member's installment payments to a period not exceeding the expected lifetime of the member as determined by the actuary.~~

~~ii.~~ ~~In addition, 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.~~

~~c.~~ *Board:* ~~Only the Board may compromise claims in which the total amount of such overpaid benefits, not including interest, is greater than \$1,000.~~

~~d.~~ *Compromising claims:* ~~The amount of the Plan's claim for overpaid benefits is the difference between the amounts actually paid to 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.~~

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OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

~~e.a. Reporting: Every year, for cases involving benefit overpayments the Director of Member Services shall provide a report to the Board.~~

~~i. In addition, 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.~~

~~c. Board: Only the Board may compromise claims in which the total amount of such overpaid benefits, not including interest, is greater than \$1,000.~~

10. Compromising claims: The amount of the Plan's claim for overpaid benefits is the difference between the amounts actually paid to 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.

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 overpaid benefits, not including interest, is greater than \$1,000.

~~Reporting: Every year, for cases involving benefit overpayments the Director of Member Services shall provide a report to the Board.~~

12.11. The Board adopts the following procedures for accomplishing the recovery of overpaid Plan benefits:

- a. Upon discovery of the benefit overpayment, OCERS will send a letter by certified mail, return receipt requested, or by express delivery service, to the member. Subject to the provisions of this Policy, the letter will provide the following information to the member regarding the overpaid benefits:
 - i. Provide notice of the prospective adjustment to the member's benefit payment (to reflect the correct amount);
 - ii. Request payment to OCERS of the amount of overpaid benefits with appropriate interest as defined in section 7, above; and
 - iii. Unless otherwise determined by the Board, the CEO, or the Director of Member Services (see sections 98.a. and 98.b., above) or, if a repayment plan for a longer period is needed due to the limitation described section 6.b.ii., above, the letter will set a repayment plan with two options:
 - *Option 1* – equal installments deducted from the member's monthly benefit over the same length of time that the overpaid benefits occurred, with "appropriate interest"

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OCERS Board Policy

Overpaid and Underpaid Plan Benefits Policy

(as that phrase is defined in section 76 above) applied during the ~~overpayment period and during the~~ repayment period; and

- *Option 2* – lump sum payment to the Plan for the full amount overpaid, with “appropriate interest” (as that phrase is defined in section 67 above) applied during the overpayment period.
- b. Notwithstanding the above, any reduction in the member/payee’s ongoing monthly benefit to recover overpayments will be limited to a maximum of 15% of the corrected gross monthly benefit unless the member/payee requests a higher reduction. The balance due will be paid over time, subject to this limitation.
- b.c. OCERS may pursue all legal remedies to collect such overpaid Plan benefits, including making a claim on an 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.
- d. OCERS will maintain a permanent record of all amounts of such overpaid Plan benefits and the repayment to OCERS of those overpaid benefits. Every year, for cases involving benefit overpayments, the Director of Member Services shall provide a report to the Board.
- e.e. To the extent OCERS is unable to recoup overpaid Plan benefits from the member/payee, any shortfall will be recouped from the employer as part of the annual actuarial valuation process.

Policy Procedures for Underpaid Benefits

- 13.12. When the Plan has underpaid benefits to the member, and the underpayment is discovered more than 90 days after the member/payee’s initial benefit payment, the member shall be entitled to a prospective adjustment to his or her retirement benefits to correct the benefit amount, necessary to correct the error; In addition, except as provided in Section 14, below, the member will be entitled to as well as a lump sum payment for all past amounts owed as a result of the error, with interest compounded annually at the rate of 3%. ~~Interest shall accrue on the amounts owed from the date of each underpaid benefit to the date of the lump sum corrective payment. The payment shall be made within forty-five (45) days of discovery and receipt of all information needed to correct the account. The payment shall be made as soon as administratively feasible.~~
- 14.13. If a member who was underpaid benefits has died prior to payment of the lump sum amount due, the payment, including interest, 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 and applicable IRS guidance, Plan staff has not been 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



OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

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 underpaid benefits and any amounts that have been transferred into the pension reserve fund.

~~15-14.~~ If the total amount that the Plan owes to the member is \$75 or less, the Plan is not required to make the corrective distribution if in the judgment of the CEO in consultation with legal counsel, the reasonable direct costs of processing and delivering the distribution to the member would exceed the amount of the distribution.

Member Appeal Rights Administrative Review

~~16-15.~~ A member/payee shall have the right to appeal-request review of any decision regarding corrective actions that the Plan takes with respect to recovering and/or returning over and underpayments of Plan benefits.

~~17.~~ The appeal-review process will generally follow the same pattern as the review process for benefit appeals determinations pursuant to the Board's Administrative Review and Hearings Policy.

- ~~a.~~ The member will first appeal a staff decision regarding an erroneous payment to the Director of Member Services. The Director of Member Services shall respond to the member in writing.
- ~~b.~~ If the member does not agree with the decision of the Director of Member Services, the member may appeal that decision, in writing and within forty five (45) days of mailing of the decision by the Director of Member Services, to the CEO. The CEO shall respond to the member in writing.
- ~~c.~~ If the member does not agree with the decision of the CEO, the member may appeal the matter, in writing and within forty five (45) days of mailing of the decision by the CEO, to the Board.
- ~~d.~~ The Board will hear the matter at a regularly scheduled meeting giving reasonable notice to the member so the member may appear at the meeting. Staff will provide background information and documentation to the Board to assist it in making its decision. After due consideration, the Board shall vote on the matter and instruct Member Services staff to notify the member in writing of the Board's determination.
- ~~e.~~ If the member disagrees with the determination of the Board, the member may request, in writing and within forty five (45) days of the date of mailing of the Board's decision, an administrative hearing of the matter.
- ~~f.~~ The matter will then be scheduled for administrative hearing pursuant to OCERS' Board of Retirement Policy for Administrative Hearings.
- ~~g.~~ The findings and recommendations of the hearing officer shall be reviewed by staff, and staff shall make a recommendation to the Board to take action pursuant to Government Code Section 31534. If the Board adopts the recommendation of the hearing officer, that decision of

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OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

~~the Board shall be final, and Member Services staff will inform the member of the Board's decision in writing with a proof of service attached. Notice to the member of the Board's final decision shall signify exhaustion of the member's administrative remedies.~~

~~h. This process may be adjusted in cases where the initial determination is made by the CEO.~~

~~i.a. Offsets and other Overpayment~~ collection efforts will be stayed, but benefits will be prospectively adjusted to prevent additional overpayments, during the pendency of the ~~above outlined appeals administrative review~~ 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 administrative review~~ process and litigation.

Policy Review

~~18.16.~~ The Board will review this policy at least every three (3) years to ensure that it remains relevant and appropriate.

Policy History

~~19.17.~~ This policy was adopted by the Board of Retirement on May 16, 2016 and amended on October 21, 2019 and 2021.

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

10/21/19

Date



OCERS Board Policy

Overpaid and Underpaid Plan Benefits Policy

Purpose and Background

1. The purpose of the Orange County Employees Retirement System (“OCERS,” “System,” or “Plan”) *Overpaid and Underpaid Plan Benefits Policy* (“policy”) is to provide a framework that the System can use as a basis for resolving erroneous payments of Plan benefits to members and their beneficiaries. In the event that an overpayment is the result of a felony conviction OCERS Administrative Procedure (OAP) *Felony Forfeitures* shall be used as a basis for resolution. 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 in a prudent manner. The Internal Revenue Service (“IRS”) requires that operational failures be corrected in a prompt, reasonable, and consistent manner that attempts to place the retirement system in the position it would have been in had the erroneous payment not occurred.

Policy Objectives

2. Members and their beneficiaries (herein referred to as “members”) have a right to accurate retirement benefit payments. No member has the right to receive or retain retirement benefit payments that exceed the amounts to which a member is entitled, and no member may be deprived of any benefit payments that he or she is entitled to receive. Subject to all applicable laws and consistent with this policy and the procedures established by the Board, it shall be OCERS’ policy to make every reasonable effort to recover from a member the amount of any overpaid Plan benefits, and remit to a member the amount of any underpaid Plan benefits.

Policy Guidelines

3. After discovery of overpaid or underpaid benefits, and within a reasonable period of time after written notification to the affected member, OCERS will correct the benefit payment amount prospectively to prevent additional overpayments or underpayments, and will pay to the member in a lump sum, or collect from the member through lump sum or installment payments, the amounts to which the member or the Plan is entitled in accordance with this policy and applicable law.
4. These policies and procedures are designed for use when calculation and other errors affect an individual member’s retirement benefits. In the event of a system-wide error that affects multiple members’ benefits, 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 guidance) and these policies and procedures, the law shall govern.



OCERS Board Policy

Overpaid and Underpaid Plan Benefits Policy

Policy Procedures for Overpaid Benefits

6. When an overpayment of Plan benefits is discovered more than ninety (90) days after the member/payee's initial benefit payment, OCERS will first adjust the benefit payment prospectively to reflect the correct benefit amount and to prevent additional overpayments. OCERS will also take all reasonable steps to recover the full amount of all overpayments, going back to the inception of the error, and recouping "appropriate interest," as defined in section 7 below, during the period in which the benefit overpayments were made and also during any repayment period (*i.e.*, applied to the outstanding amount due until fully repaid).
7. *Appropriate Interest*
 - a. "Appropriate interest" means an interest amount determined using the System's actuarially assumed rate of return as of the date OCERS sets for commencing repayment.
 - b. In cases where there is evidence that the benefit overpayment resulted from fraud or dishonest conduct by the member/payee or because the member/payee provided, or caused to be provided, inaccurate information to OCERS or the member's employer, then "appropriate interest" shall be recouped from the member/payee.
 - c. In cases other than those described above in Section 7.b, "appropriate interest" shall be recouped from the member's employer.
8. The Board believes that considerations of cost effectiveness make it prudent and reasonable to pursue recovery of overpaid benefits only where the cumulative total amount of overpaid benefits is \$250 or more. Accordingly, OCERS is authorized to not seek recovery of any such overpaid benefits where the total amount overpaid to the member is less than \$250.
9. *Time Period for Installment Payments.* When recovering benefit overpayments, the following apply:
 - a. *Director of Member Services:* When the total amount of such overpaid benefits, not including interest, is \$10,000 or less, the Director of Member Services shall have authority to agree to extend the time period for the member's installment payments to a period not exceeding the expected lifetime of the member as determined by the actuary.
 - b. *CEO:* Regardless of the amount of the Plan's claim against the member, the CEO shall have the authority to agree to extend the time period for the member's installment payments to a period not exceeding the expected lifetime of the member as determined by the actuary.
10. *Compromising claims:* The amount of the Plan's claim for overpaid benefits is the difference between the amounts actually paid to the member during the overpayment period and the amounts that should have been paid, together with "appropriate interest" from the dates of the actual overpayments 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



OCERS Board Policy

Overpaid and Underpaid Plan Benefits Policy

by this Policy and/or forgiveness or partial forgiveness of principal and/or interest, subject to applicable IRS rules and guidance.

- 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 overpaid benefits, not including interest, is greater than \$1,000.

11. The Board adopts the following procedures for accomplishing the recovery of overpaid Plan benefits:

- a. Upon discovery of the benefit overpayment, OCERS will send a letter by certified mail, return receipt requested, or by express delivery service, to the member/payee. Subject to the provisions of this Policy, the letter will provide the following information to the member/payee regarding the overpaid benefits:
 - i. Provide notice of the prospective adjustment to the benefit payment (to reflect the correct amount);
 - ii. Request payment to OCERS of the amount of overpaid benefits with appropriate interest as defined in section 7, above; and
 - iii. Unless otherwise determined by the Board, the CEO, or the Director of Member Services (see sections 9.a. and 9.b., above) or, if a repayment plan for a longer period is needed due to the limitation described in section 6, above, the letter will set a repayment plan with two options:
 - *Option 1* – equal installments deducted from the member/payee's monthly benefit over the same length of time that the overpaid benefits occurred, with "appropriate interest" (as that phrase is defined in section 7, above) applied during the repayment period; and
 - *Option 2* – lump sum payment to the Plan for the full amount overpaid, with "appropriate interest" (as that phrase is defined in section 7, above) applied during the overpayment period.
- b. Notwithstanding the above, any reduction in the member/payee's ongoing monthly benefit to recover overpayments will be limited to a maximum of 15% of the corrected gross monthly benefit unless the member/payee requests a higher reduction. The balance due will be paid over time, subject to this limitation.
- c. OCERS may pursue all legal remedies to collect such overpaid Plan benefits, including making a claim on an 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.



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- d. OCERS will maintain a permanent record of all amounts of such overpaid Plan benefits and the repayment to OCERS of those overpaid benefits. Every year, for cases involving benefit overpayments, the Director of Member Services shall provide a report to the Board.
- e. To the extent OCERS is unable to recoup overpaid Plan benefits from the member/payee, any shortfall will be recouped from the employer as part of the annual actuarial valuation process.

Policy Procedures for Underpaid Benefits

12. When the Plan has underpaid benefits to the member, and the underpayment is discovered more than 90 days after the member/payee's initial benefit payment, the member shall be entitled to a prospective adjustment to his or her retirement benefits to reflect the correct benefit amount. In addition, except as provided in Section 14, below, the member will be entitled to a lump sum payment for all past amounts owed as a result of the error, with interest compounded annually at the rate of 3%. The payment shall be made as soon as administratively feasible.

13. If a member who was underpaid benefits has died prior to payment of the lump sum amount due, the payment, including interest, 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 and applicable IRS guidance, Plan staff has not been able to 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 underpaid benefits and any amounts that have been transferred into the pension reserve fund.

14. If the total amount that the Plan owes to the member, is \$75 or less, the Plan is not required to make the corrective distribution if, in the judgment of the CEO in consultation with legal counsel, the reasonable direct costs of processing and delivering the distribution to the member would exceed the amount of the distribution.

Administrative Review

15. A member/payee may request administrative review of any decision regarding corrective actions that the Plan takes with respect to recovering and/or returning over and underpayments of plan benefits.

The review process will generally follow the same pattern as the review process for benefit determinations pursuant to the Board's Administrative Review and Hearings Policy.

- a. Overpayment collection efforts will be stayed, but benefits will be prospectively adjusted to prevent additional overpayments, during the pendency of the administrative review process; provided, however, that the Board shall have the discretion to suspend implementing its



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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 administrative review 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 May 16, 2016 and amended on October 21, 2019 and _____, 2021.

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



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 contributions made on behalf of an individual member's ~~plan contributions~~. In the event of a system-wide error that affects contributions made on behalf of 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 guidelines) 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



OCERS Board Policy Overpaid and Underpaid Plan Contributions Policy

- 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.

Interest on the underpaid contributions shall be charged to and paid by the employer at the System's actuarially assumed rate of return. For purposes of this policy, underpaid employer contributions shall include any portion of underpaid member contributions, to the extent the employer elected to pay such portion on behalf of a member pursuant to Government Code section 31581.1. Such amounts shall be recovered from the employer under this Section 6, and not from the member under Section 7.

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 to reflect the correct amount of member contributions to the Plan in order to prevent additional underpaid contributions; 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



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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:
- *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.

~~The Board believes that considerations of cost effectiveness make it prudent and reasonable to pursue recovery of underpaid member contributions only where the cumulative total amount of underpaid contributions benefits, including interest, is \$100 or more. Accordingly, OCERS is authorized to not seek recovery of any such underpaid contributions where the total amount underpaid by the member less than \$100 including interest.~~

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 ~~during the overcontribution for the recovery period~~ and the amounts that should have been paid, together with “appropriate interest” from the dates of the actual ~~payments contributions~~ 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



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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, subject to applicable IRS rules and guidance.

d. To the extent OCERS is unable to recoup all underpaid contributions and interest from the member, any shortfall will be recouped from the employer as part of the annual actuarial valuation process.

Procedures for Overpaid Contributions

Employers

11. When an employer has overpaid contributions to the Plan, including overpaid member contributions that were paid by the employer on behalf of the member pursuant to Government Code section 31581.1, 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) except as provided in Section 14 below, retired and deferred members will be entitled to a lump sum payment as soon as practical of 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, including interest, 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 and applicable IRS guidance, Plan staff is not able to 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.
14. If the total amount that the Plan owes a retired or deferred member under Section 12(ii) above \$75 or less, the Plan is not required to make the lump sum payment to the member if, in the judgment of the CEO in consultation with legal counsel, the reasonable direct costs of processing and delivering the distribution to the member would exceed the amount of the distribution.
 - b.

Member Appeal Rights Administrative Review

14. A member ~~shall have the right to appeal~~ request administrative review of 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-review~~ process will generally follow the same pattern ~~as the review process for benefit appeals determinations as set forth in pursuant to the Board's Adjudication and Administrative Review and Hearing Rules (Disability and Non-Disability Benefits) Policy. Efforts to collect underpaid contributions Offsets and other collection efforts will be stayed, but contribution rates will be prospectively adjusted to prevent additional underpaid contributions,~~ during the pendency of the ~~appeals-review~~ 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.



OCERS Board Policy
Overpaid and Underpaid
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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 January 16, 2019 and revised on _____, 2021.

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

01/16/19

Date



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 contributions made on behalf of an individual member. In the event of a system-wide error that affects contributions made on behalf of multiple members, 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 guidelines) 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. For purposes of this policy, underpaid employer contributions shall include any portion of underpaid member contributions, to the extent the employer elected to pay such portion on behalf of a member pursuant to Government Code section 31581.1. Such amounts shall be recovered from the employer under this Section 6, and not from the member under Section 7.

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 to reflect the correct amount of member contributions to the Plan in order to prevent additional underpaid contributions; 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 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



OCERS Board Policy

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- *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:
 - *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 during the overcontribution and the amounts that should have been paid, together with “appropriate interest” from the dates of the actual contributions 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, subject to applicable IRS rules and guidance.
 - d. To the extent OCERS is unable to recoup all underpaid contributions and interest from the member, any shortfall will be recouped from the employer as part of the annual actuarial valuation process.



OCERS Board Policy

Overpaid and Underpaid Plan Contributions Policy

Procedures for Overpaid Contributions

Employers

11. When an employer has overpaid contributions to the Plan, including overpaid member contributions that were paid by the employer on behalf of the member pursuant to Government Code section 31581.1, 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.

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) except as provided in Section 14 below, retired and deferred members will be entitled to a lump sum payment as soon as practical 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, including interest, 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 and applicable IRS guidance, Plan staff is not able to 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.
14. If the total amount that the Plan owes a retired or deferred member under Section 12(ii) above is \$75 or less, the Plan is not required to make the lump sum payment to the member if, in the judgment of the CEO in consultation with legal counsel, the reasonable direct costs of processing and delivering the distribution to the member would exceed the amount of the distribution.

Administrative Review

15. A member request administrative review of any decision regarding corrective actions that the Plan takes with respect to recovering and/or returning over and underpayments of Plan contributions.
16. The review process will generally follow the same pattern as the review process for benefit determinations pursuant to the Board's Administrative Review and Hearing Policy. Efforts to



OCERS Board Policy **Overpaid and Underpaid Plan Contributions Policy**

collect underpaid contributions will be stayed, but contribution rates will be prospectively adjusted to prevent additional underpaid contributions, during the pendency of the review 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

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

Policy History

18. This policy was adopted by the Board of Retirement on January 16, 2019 and revised on _____, 2021.

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



PROPOSED OCERS Board Policy Records Management Policy

Authority and Purpose

The OCERS Board of Retirement (Board) has authority to establish efficient records management procedures and to provide for the maintenance and disposal of records within its jurisdiction (Gov. Code § 31537). In addition (per Gov. Code § 12236), the Secretary of State is to establish guidelines for local government record retention. OCERS has leveraged those guidelines in drafting this policy.

This Records Management Policy establishes timeframes for the retention and destruction of OCERS’ records in a manner compliant with binding statutes and regulations. This policy recognizes that effective records management ensures that records are kept only as long as they have administrative, fiscal, or legal value.

An up-to-date record retention schedule ensures that OCERS' obsolete records are properly and timely destroyed and enables efficient responses to public record requests. Retaining expired records is costly and makes it more difficult to find the records needed to OCERS business.

Policy Objectives

The objectives of the policy are to ensure that:

- OCERS maintains its records for the necessary time period;
- OCERS properly disposes of records once the retention period has passed; and
- OCERS’ staff is informed of the requisite retention periods for agency records.

Definitions

For purposes of this policy, the following definitions apply:

1. **Records** – Documents and files created, received, owned, or used by OCERS regardless of physical form or the manner in which the record has been stored. For records created by OCERS, this policy only applies to records in their final form, that is, records that have been finalized or approved for the OCERS’ activity related to the content of the record.
2. **Non-Records** - Material not included within the definition of Records, such as documents or files kept only for convenience or reference. For example:
 - Informal notes, working papers, and calculations.
 - Library and reference material.
 - Rough drafts.
3. **Records Retention Schedule or Retention Schedule** – The table set forth below that designates the period of time that each record must be retained, after which time each record is to be disposed of. Records are listed by Division and category.



PROPOSED OCERS Board Policy

Records Management Policy

4. **Retention Period** – The length of time a record must be retained to fulfill its administrative, fiscal, or legal function. The required retention period is listed in the Retention Schedule.
5. **Drafts** – Drafts consist of works in progress, preliminary drafts, and copies of notes that have either not been finalized or approved. Preliminary drafts and notes are to be disposed of once the document or file they apply to has been finalized. The Retention Schedule does not apply to draft documents and files. It is OCERS' policy that such preliminary drafts and notes are not to be retained.

Retention and Disposition of Records

The Board's policy is that records should be retained only as long as they serve the administrative, legal, or fiscal purposes for which they were created, after which they should be disposed of as soon as practicable and in a secure manner.

Records have administrative value when they are created to help accomplish the functions for which OCERS is responsible, and have administrative value only as long as they assist OCERS in performing current or future work. Their administrative use is exhausted when the transactions to which the records relate are complete.

Records have legal value when they contain evidence of OCERS' legally enforceable rights or obligations. Examples are records that provide the basis for action, such as legal recommendations and opinions; documents representing transactions and agreements, such as leases, titles, and contracts; and records evidencing action in particular cases, such as claim forms, filings, and pleadings.

Fiscal records pertain to OCERS' financial transactions, for example, budgets, ledgers, financial statements, and payrolls. After some fiscal records have served their function, additional retention may be necessary to protect OCERS against court action, to support audits, or to comply with IRS rules.

Proper disposal of outdated records is an essential part of a records management program in order to protect any confidential information included in the records. Additionally, if records were never destroyed, the agency's file cabinets and computer networks would fill up with obsolete records that are no longer useful or necessary to the conduct of OCERS' business. The volume of such records would make it more and more challenging to search for and find the records that are still valuable and necessary to OCERS' operations or that are responsive to discovery and public record requests.

The Retention Schedule specifies the time period that at least one version of a designated record must be retained. For example, paper records may be disposed of at any time after they are saved in a digital format or are transferred to an electronic recordkeeping system. Once the retention period has passed, all copies of the record should be disposed of as soon as practicable or, at the



PROPOSED **OCERS Board Policy**
Records Management Policy

latest, by the end of that calendar year. Copies of the record should be disposed of regardless of format or location, i.e., paper and digital versions, located on- or off-site. Records will be disposed of as follows:

- All paper records will be destroyed by placing them in the secure shredding bins located in the OCERS' office.
- All electronic records will be purged from OCERS' systems manually by the user or automatically by the system configured to automatically purge/delete the records in accordance with the established retention period.

Electronic Mail

Unless otherwise required by law, a litigation hold, or Board Policy, email communications will not be retained for more than two years. OCERS' email database will archive all email that is older than one year and then automatically delete email older than two years.

Exceptions to the Retention Schedule

CEO Approval

The Chief Executive Officer ("CEO") may authorize retention of a record beyond the period shown on the Retention Schedule by designating the record as an archival record and providing a revised disposal date. Requests to depart from the Retention Schedule must be approved in writing by the CEO or their designee.

Litigation Holds

Whenever a division within OCERS learns that litigation against OCERS is reasonably anticipated, threatened, or pending, the division must notify the Legal Division. The Legal Division will analyze the potential for litigation and, as needed, issue a litigation hold letter to the appropriate parties. OCERS' staff must comply with the directives of the Legal Division for the retention of records pursuant to a litigation hold letter even if those directives require retention of a record beyond the period stated in the Retention Schedule.

Compliance

It is the responsibility of the Director of each Department (or Senior Executive where there is no Director within the applicable Division) to:

- ensure this policy is communicated to every team member in the Department/Division;
- ensure the Department/Division is initially brought into full compliance with this policy;
- institute a periodic reminder system and process for ensuring the Department/Division remains in full compliance with this policy;
- require each team member in the Department/Division to certify to the Director on an annual basis that the Department/Division is in full compliance with this policy; and



PROPOSED **OCERS Board Policy**
Records Management Policy

- review the record categories listed in the Retention Schedule on at least an annual basis to confirm that the record categories continue to be accurate and reflective of the types of records maintained by the related Department/Division and promptly inform the Legal Division if any modifications are necessary.

Record Retention Schedule

Board of Retirement

Record Category	Description/Citations	Retention Period
Board Meeting agendas, materials, and minutes	Materials for any meeting of the Board or Board Committee.	Permanent
Digital Recordings of Board Meetings	Gov. Code § 54953.5(b) allows for destruction of recordings 30 days after the recording is made. However, the board voted on October 21, 2013 to change the retention period to permanent.	Permanent
Board Policies and Charters		Permanent
Board Resolutions		Permanent
Employer Sponsor Agreements and MOUs		Permanent
Board of Supervisors Resolutions		Permanent
Actuarial Reports		Permanent

Executive Division

Record Category	Description/Citations	Retention Period
OCERS' Business Plan		Active + 5 years
OCERS' Strategic Plan		Active + 5 years
Executive Charters		Permanent
Evolution of the UAAL		Permanent
Annual Employer Report		Permanent



PROPOSED OCERS Board Policy
Records Management Policy

Investments

Record Category	Description/Citations	Retention Period
Capital Call Letters/Wire Transfers	Redundant with Finance Dept and State Street	Active + 5 years
Investment Performance Reports		7 years
Investment Manager, Custodian, and Consultant Correspondence; Portfolio Reviews	Correspondence includes work paper, pacing studies from Investment Consultants and Investment Manager Search Materials from Consultants	7 years
Form ADV	Uniform Application for Investment Adviser Registration and Report by Exempt Reporting Adviser	7 years
Investment Manager Contracts	Including separately managed accounts, limited partnerships, mutual funds, and collective trust funds.	Active + 5 years

Administrative Services

Record Category	Description/Citations	Retention Period
Employee Personnel Files	Including, e.g., performance evaluations, disciplinary actions and family leave records. Civil Rights Act of 1964 (Title VII) Americans with Disabilities Act (ADA) GINA, FMLA 29 CFR §§ 1602.14, 1627.3 Cal Labor Code § 1198.5, CCP §337	Termination + 4 years "Termination" refers to date employee is no longer employed by OCERS for any reason.
Payroll Records	Including time keeping records and wage attachment or garnishment records Cal Labor Code § 1174, CCP §337 29 CFR §§ 1602.31, 1620.33(b), 1627.3	Termination + 4 years



PROPOSED **OCERS Board Policy**
Records Management Policy

Record Category	Description/Citations	Retention Period
Recruitment Process Records	Including job postings, résumés, applications, and any scored components. Age Discrimination in Employment Act (ADEA) ADA Title VII	Termination + 4 years For non-hires: 1 year from no-hire decision.
Background Checks	Title VII	1 year
Form I-9	8 CFR § 274a.2	Later of date of hire + 3 years or Termination + 1 year
Employment Benefits	Including plan descriptions, reports, and amendments. Employee Retirement Income Security Act (ERISA)	Active + 6 years
OSHA and CAL/OSHA Forms and Records	Occupational Safety and Health Administration (OSHA), e.g., 29 CFR §§1904.2, 1904.33. CAL/OSHA: Cal Labor Code § 6300, 8 CCR 14300.33	5 years
Disability Records and Employee Medical Files	ADA, GINA, FMLA	Termination + 4 year
Workers' Comp Records		Termination + 4 years

Operational Support Services

Record Category	Description/Citations	Retention Period
Contracts and Agreements (including OCERS' RFP and the successful bidder's RFP Response)	Agency-wide contracts other than those for investment managers and for the purchase of real estate. E.g., hardware and software licenses and agreements, medical provider contracts, professional services agreements, etc. CCP §337	Active + 4 years
Unfilled RFPs and RFP Responses of unsuccessful bidders		4 years
Real Estate Contracts	Contracts for the purchase of real property.	Duration of ownership + 10 years
Insurance Policies		Active +7 years



PROPOSED **OCERS Board Policy**
Records Management Policy

Finance

Record Category	Description/Citations	Retention Period
Accounts Payable Ledgers and Schedules, including Vendor Files, Invoices from Vendors, Employee/Board Member Expense Reports and 1099s		7 years
Accounts Receivable Ledgers and Schedules, including invoices to customers, employees, employers, and members		7 years
Actuarial Reports Accounting Support	Consists of accounting schedules provided to Actuary in support of preparing the valuation, including financial statements, reserve schedule, contributions and benefit payments by rate group, and covered payroll. Guidelines for retention of Final Actuarial Report can be found under Board section of the Retention Schedule.	7 years
Agency Administrative Budget, including department budget templates, presentation materials, and other supporting documentation	Final budget will be included in retention guidelines for Board materials under the Board section of the Retention Schedule.	5 years
Audited Financial Statements/Annual Report		Permanent
Bank Statements/Reconciliations, Cancelled Checks, and Deposit Slips		7 years
Cash Disbursements Journal		Permanent
Cash Receipts Journal		Permanent



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Records Management Policy

Contribution Accounting Records for EE & ER Retirement Contributions	Finance is responsible for the accounting activity of EE & ER contributions, but retention of permanent and other EE/ER records (transmittals, contribution rates, etc.) is maintained in the Pension Administration Software and the responsibility of Member Services.	7 years
Fixed Assets and Depreciation Schedules	26 USC §168(e) (IRS depreciation rules)	Permanent
General Ledger and General Journal		Permanent
Chart of Accounts		Permanent

Member Services

Record Category	Description/Citations	Retention Period
Member File	<p>The Member account in the pension administration system application.</p> <p>Including:</p> <ul style="list-style-type: none"> • 1099's • Support Orders and Tax Levies • Dissolution documents • Member identification documents • Death Certificates • Transaction requests <p>CCP §§ 704.110, 706.031; 26 USC §§ 6322, 6333; ERISA §§ 107, 209; Gov. Code § 31532 CCP § 338</p>	Permanent
Member Services Actuarial Reports	Including member specific documents provided by actuaries regarding 415 calculations or option 4 calculations.	Permanent
Employer Records	Including microfiche and payroll records ERISA §§ 107, 209; CCP § 338; Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77; Gov. Code § 31532	Permanent



PROPOSED **OCERS Board Policy**
Records Management Policy

Disability

Record Category	Description/Citations	Retention Period
Disability Files	Disability Files consist of all records relating to a member's disability application, including: <ul style="list-style-type: none"> • Disability application packet • Medical records and reports • Workers' Compensation file documents • Investigator Reports • Employer File documents • Correspondence regarding the disability application ERISA §§107, 209	Active + 6 years* Disability files are considered "Active" until all administrative proceedings have concluded and the Board has made a final decision. * Certain Disability File records are scanned into the pension administration system and retained permanently in the member file, including: <ul style="list-style-type: none"> ▪ Disability Application ▪ Employee and Employer statements ▪ Employer accommodation document ▪ Physician's statement of disability ▪ Attorney designation form ▪ Workers' Compensation statement ▪ Supervisor's statement ▪ IME reports ▪ Disability correspondence between OCERS and member, including earlier effective date requests ▪ Board release



PROPOSED **OCERS Board Policy**
Records Management Policy

Legal

Record Category	Description/Citations	Retention Period
Legal Memoranda and other Attorney Work Product		Indefinitely, i.e., retained for the period of time they are deemed useful by the General Counsel and then destroyed.
Administrative Record and related filings for hearings, appeals, and writs of both member and non-member actions	Cases are considered “Active” until all writs and appeals have been fully adjudicated.	Active + 5 years
Securities Litigation Reports from Outside Counsel		7 years

Communications

Record Category	Description/Citations	Retention Period
At Your Service magazines	Including historical SPD publications.	Indefinitely, i.e., retained for the period of time they are deemed useful by the CEO and then destroyed.
Media releases, Board commendations, and Board member biographical info		Indefinitely
OCERS Today newsletters	This includes all employee newsletters created by Communications.	Indefinitely
Informational Videos	This includes video tutorials and FAQs created by Communications.	Active
OCERS by the Numbers publications		Indefinitely



PROPOSED **OCERS Board Policy**
Records Management Policy

Internal Audit

Record Category	Description/Citations	Retention Period
Audit Reports and Work Papers	PCAOB – Auditing Standard No. 3. Securities and Exchange Commission, RIN 3235-A174, Retention of Records Relevant to Audits and Reviews.	7 years
Hotline Case Reports		7 years

Information Technology

Record Category	Description/Citations	Retention Period
IT Asset Inventory		Life of Asset
Agency Reports generated by IT		1 year
IT Programming/Operations Requests		1 year
Hardware and Software Reference Material and User Guides	To include design specification documents	Active
IT Audit and Assessment Reports		7 years
Hardware and Software Serial Numbers and Activation Keys		Life of Product
IT Project Documentation		Project life + 1 year
Server Data Backups		1 year

Information Security

Record Category	Description/Citations	Retention Period
Information Security Advisory and Audit Committee Material		3 years
IS Audit and Assessment Reports		7 years
Information Security Event Notifications		1 year
Security Incident Reports	Including supporting documentation	5 years
System Summary Reports	E.g., email security, and Rapid 7	3 years
Business Continuity Program Documentation	Including meeting materials, recovery documents, plan documents, and summary reports.	5 years



PROPOSED **OCERS Board Policy**
Records Management Policy

Policy Review

The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

Policy History

This policy was adopted by the Board on November 15, 2021. It replaces the Record Retention Policy and Guidelines adopted by the Board on October 23, 2003.

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



OCERS Board Policy

Record Retention Policy and Guidelines

Authority and Purpose

1. The board may establish efficient records management procedures, which may include, but need not be limited to, maintenance and, when determined by the board to be necessary, disposal of records in its jurisdiction. (Gov. Code § 31537)
2. The Records Retention Policy and Guidelines are intended to establish timeframes for the retention and destruction of retirement system records in compliance with legal and regulatory authority.

Policy Objectives

3. The objectives of the policy are to ensure that:
 - a. OCERS properly maintains its business records for the appropriate time period; and
 - b. OCERS assigns proper levels of confidentiality to records; and
 - c. OCERS properly destroys records once the appropriate time period has passed; and
 - d. OCERS staff is apprised of the retention periods and destruction method for the records entrusted to their care.

Policy Review

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

Policy History

5. The Board of Retirement adopted the Records Retention Policy and Guidelines on October 23, 2003. The Policy and Guidelines were amended on June 18, 2007; reviewed on June 21, 2010; and reviewed and amended on November 19, 2012, October 21, 2013, January 21, 2014, December 19, 2016 and April 17, 2017.

Secretary’s Certificate

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

04/17/17

Steve Delaney
Secretary of the Board

Date



OCERS Board Policy

Record Retention Guidelines

Authority

1. The board may establish efficient records management procedures, which may include, but need not be limited to, maintenance and, when determined by the board to be necessary, disposal of records in its jurisdiction. (Gov. Code § 31537)

Record Definition

2. Record is defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by a state or local agency regardless of physical form or characteristics.” (Gov. Code § 6252 (e))
3. Writing is defined to include “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.”

All electronic mail and other electronically stored documents shall be subject to the same retention guidelines as paper documents containing the same or similar subject matter. Gov. Code § 6252 (g))

Confidentiality

4. OCERS has identified four general levels of confidentiality for its records. Confidentiality levels identify the availability of documents to the public and OCERS staff, and provide guidance regarding record destruction methods. Employees should use discretion in handling and destroying all records in order to protect OCERS’ data.

Special handling of particular documents types will be noted in the “Confidentiality” column.

- a. Public – generally available to the public via OCERS publications or website. No special destruction method.
- b. Protected – available by specific written request under the Public Records Act. Destroy in secure shredding bins.
- c. Staff Only – readily available to staff but will not be disclosed to the public except by court order. Destroy in secure shredding bins.
- d. Highly Confidential – limited staff access, not discloseable to the public except by court order. Destroy in secure shredding bins.



Record Retention Guidelines

Litigation Holds

- 5. Whenever a department within OCERS learns that litigation against OCERS is reasonably anticipated, threatened or pending, the department manager shall notify the Legal Department. The Legal Department will inform managers of the appropriate department which documents should be held.

The litigation hold applies to electronic and hard copy documents including email correspondence, work drafts, notes, memoranda, correspondence, photographs, videotape recordings and other documents pertaining to the litigation as determined by the Legal Department and / or outside counsel if appropriate. All documents pertaining to the litigation in the possession of the department must be preserved until the later of (i) the applicable time period set forth for preservation of the record under these guidelines, or (ii) the date the Legal Department informs the department manager that the litigation hold is no longer in effect. (CCP §§ 2035.010 *et. seq.*; *Zubulake v. UBS Warburg* (S.D.N.Y. 2003) 220 F.R.D. 212, 216.)

Trade Secrets

- 6. Consultants, investment managers, and other vendors used by OCERS may provide information and documents to OCERS that contain trade secrets. Generally, a trade secret is information, including programs, methods, technology, and processes, that has independent economic value from not being generally known to the public or others who can obtain value from disclosure and which the owner has taken reasonable steps to protect.

Prior to disclosure of any documents or information supplied by a consultant, manager, or vendor, the manager of the department that possesses the document or information shall consult the Legal Department for an opinion regarding whether the material to be disclosed is a trade secret. The Legal Department will then contact the consultant, manager, or vendor to determine whether the document or information contains trade secrets. If a document contains trade secrets, the Legal Department will request that the consultant, manager, vendor redact the document prior to disclosure.



OCERS Board Policy

Record Retention Guidelines

Department Record Retention

Board/Executive

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Board Agendas (with materials presented) Regular Meetings Committee Meetings Portfolio Reviews Special Meetings	Permanent	Public	Cal. const. Art. XVI, § 17 Gov. Code §54957.5 ERISA §209 ¹ 1 Hard Copy and Electronic
Board Minutes Regular Meetings Committee Meetings Portfolio Reviews Special Meetings	Permanent	Public	Cal. Const. Art. XVI, § 17 Gov. Code § 54957.5 ERISA §209 1 Hard Copy and Electronic
Digital Recordings of Board Meetings	Permanent	Public	Gov. Code § 54953.5(b) allows for destruction of recordings 30 days after the recording is made. Board voted on October 21, 2013 to change retention to permanent.
Applications and Notices	Permanent	Public	Cal. Const. Art. XVI, § 17 Gov. Code § 54957.5 ERISA §209 1 Hard Copy and Electronic
Board Policy	Permanent	Public	Cal. Const. Art. XVI, § 17 Gov. Code § 54957.5 ERISA §209 1 Hard Copy and Electronic



OCERS Board Policy

Record Retention Guidelines

Board Resolutions	Permanent	Public	Cal. Const. Art. XVI, § 17 Gov. Code § 54957.5 ERISA §209 1 Hard Copy and Electronic
Plan Sponsor Agreements Correspondence Resolutions BOS AIT Early Retirement Incentive ARBA Agreement (w/MOUs) RMBR Agreement	Permanent	Public	Cal. Const. Art. XVI, § 17 Gov. Code § 54957.5 ERISA §209 1 Hard Copy and Electronic
Actuary Correspondence Reports	Permanent	Public	Cal. Const. Art. XVI, § 17 Gov. Code § 54957.5 ERISA §209 1 Hard Copy and Electronic



OCERS Board Policy

Record Retention Guidelines

Investments

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Capital Call Letters Wire Transfers	Active + 5 years	Protected	CCP §337 Gov.Code. §§26202, 26907, 26907.2 (advisory only - apply to county auditor and other officers)
Real Estate Contracts	Active + 10 years	Protected	CCP §§337, 337.1(a), 337.15, Gov. Code §§26202, 26907, 26907.2
Portfolio Reviews	7 years	Public	ERISA §§107, 209
Financial Reports – Investments Only	7 years	Protected	ERISA §§107, 209
Correspondence from Investment Managers, Custodian, Consultants	7 years	Protected	CCP §§ 337, 338 ERISA §§107, 209
Form ADV	7 years	Protected	CCP §§ 337, 338 ERISA §§107, 209
Work papers and pacing studies from Investment Consultants	7 years	Highly Confidential	CCP §§ 337, 338 ERISA §§107, 209
Manager Search Materials from Consultants	7 years	Highly Confidential	CCP §§ 337, 338 ERISA §§107, 209
Investment Manager Contracts (including RFP for successful applicant)	Active + 6 years	Protected	CCP §336a, 337, 338 Check all contracts and RFP responses for Trade Secret information prior to disclosure
Investment RFP (Unsuccessful Applicants)	5 years	Protected	CCP §§ 337, 338 Check all RFP responses for Trade Secret information



OCERS Board Policy Record Retention Guidelines

Administrative Services

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Agreements/Contracts (including OCERS RFP and the successful bidder's RFP Response)	Active + 4 years	Protected	CCP §337 Check all contracts for Trade Secret information prior to disclosure
Unfilled RFPs and RFP Responses of unsuccessful bidders	Active + 4 years	Protected	CCP §337 Check all contracts for Trade Secret information prior to disclosure
Employee Personnel Files Including: <ul style="list-style-type: none"> ▶ Merit ▶ Probation ▶ Annual Review 	Active + 4 years	Highly Confidential	CCP §§313, 335.1, 339, 340, 340.2, 343 Civ.Code §§1798.3, 1798.21, 1798.24, 1798.27, 1798.77 Gov. Code. §§911.2, 911.4, 29 CFR §§516.5, 1602.14, 1627.3 29 USC §§ 211, 626 42 USC §2000e(EEO)
Payroll & Attendance Reports/Timesheets	Current + 4 years	Highly Confidential	Unemp. Ins. Code §1085 22 CCR §1085-2 29 USC §§211, 626 29 CFR §1627.3 Lab.Code §§1174, 1197.5 Civ.Code §§1798.3, 1798.21, 1798.24, 1798.27, 1798.77



OCERS Board Policy

Record Retention Guidelines

Personnel Requisitions & Interview Notes	Current + 3 years	Highly Confidential	CCP §338 42 USC §§2000e-5 to 2000e-17 29 USC §§626 Civ.Code §§1798.3, 1798.21, 1798.24, 1798.27, 1798.77
Form I-9 Employment eligibility/Verification for Employees Hired After 1/6/86 [should be kept in a file separate from other personnel records]	Whichever is later: Date of Hire + 3 years Termination +1 year	Highly Confidential	8 USC 1324a, et. seq. (Immigration Reform & Control Act)
Printing Requisitions	Active + 4 years	Protected	CCP §337
Purchasing Requisitions	Active + 4 years	Protected	CCP §337
Employee Training Records	Active +3 years	Protected. Redact all personal information such as SSN, address, etc. prior to disclosure	42 USC §§2000e-5 to 2000e-17 29 USC §§626 Lab.Code §1197.5
Wage Attachment or Garnishment Records	Active + 6 years	Highly Confidential	Civ.Code §§1798.3, 1798.21, 1798.27, 1798.27, 1798.77
Emergency Evacuation Plans	Current + 2 years	Protected	Gov.Code. §26202
OSHA and CAL/OSHA Records including injury logs and employer Workers' Compensation Records	Injury date + 5 years	Protected	Lab. Code § 6401.7 29 USC § 657 29 CFR §§1904.2, 1904.4, 1904.33, 1904.41, 1904.42 CCR Title 8 Civ.Code §§1798.3, 1798.21, 1798.24 1798.27, 1798.77



OCERS Board Policy Record Retention Guidelines

OSHA Records – Hazardous Condition Reports/Exposures	Active + 3 years	Protected	29 USC §657 29 CFR §§1904.2, 1904.4, 1904.33, 1904.41, 1904.42 CCR Title 8 Civ.Code §§1798.3, 1798.21, 1798.27, 1798.77
County Executive Office (not otherwise specified)	Current + 2 years	Protected	Gov.Code §§26202
Employee Medical File Including: <ul style="list-style-type: none"> ▶ Family Leave Requests & Records ▶ Employee Workers’ Comp/Industrial Injury Reports & Records 	<p>Date of Request + 3 years</p> <p>Active + 5 years</p>	Highly Confidential	<p>29 CFR § 825.500 (FMLA)</p> <p>29 USC § 2616</p> <p>Gov. Code §§ 12945, 12945.2</p> <p>Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77</p> <p>Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77</p>



OCERS Board Policy

Record Retention Guidelines

Employee Relations File	Active + 4 years	Highly Confidential	CCP §§ 313, 335.1, 339, 340, 340.2, 343 Civ. Code §§1798.3, 1798.21, 1798.24, 1798.27, 1798.77 Gov. Code §§911.2, 911.4, 29 CFR §§ 516.5, 1602.14, 1627.3 29 USC §§ 211, 626 42 USC §2000e (EEO)
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Finance

Retirement Payroll Records (all)	15 years	Highly Confidential	ERISA § 107 26 USC §6502(a) (IRS Levy limitation period)
Budgets	Active + 4 years	Public	CCP §§337, 338, 343 Permanently archived as Board material when attached to Board agendas and minutes
Contribution Reports 1. OCERS Employee Contribution Reports 2. Contribution Balancing Reports 3. Reserve Interest Report	1 and 3: Permanent Electronic copy in Pension Gold and V3 Hard Copies: 1. Active + 2 years 2. Active + 2 years 3. Active + 2 years	Protected Hard copies to be destroyed in bins.)	1 and 3 (Permanent electronic copy) Cal. Const. Art. XVI, § 17 ERISA §209 1-3 (Hard Copies): Professional Standards
Journal Vouchers ▶ Batch books ▶ Batch control reports Bank Reconciliations	5 years	Protected	General accounting principles CCP §§337, 338, 343



OCERS Board Policy Record Retention Guidelines

<p>Investments</p> <ul style="list-style-type: none"> ▶ Form S-Fed Reserve; Bank of New York ▶ Security on loan ▶ Investment Distribution Report ▶ Dom. & Int'l Equities; Fixed income managers recon. ▶ Investment transfers - capital calls and reconciliation ▶ Joint Venture investment activities ▶ State Street and Treasurer cash analysis ▶ Contribution transfer reports ▶ Quarterly performance report ▶ Annual performance report ▶ 401 (h)/115 Medical Trust Statements ▶ Quarterly County ▶ Investment Accounting Report 	<p>7 years</p>	<p>Protected</p>	<p>ERISA §107</p>
<p>Accounts Payable</p> <ul style="list-style-type: none"> ▶ Accounts payable (hard copy and scanned copy) ▶ Batch control reports ▶ Detail vendor files ▶ 1099 files <p>Cash Receipts Retirees Journalized Report</p>	<p>Active + 6 years (AP hard copy – 2 years)</p>	<p>Protected</p>	<p>CCP §337, 338, 343 ERISA §107 General accounting principles</p>



OCERS Board Policy

Record Retention Guidelines

Miscellaneous ▶ Reserve Analysis ▶ U.S. Census Qtr. and Annual survey ▶ Reimbursement payments (Board and Staff)	Active + 4 years	Protected	CCP §§ 338, 343 ERISA §107
Actuarial Reports	Permanent	Public	Cal. Const. Art. XVI, § 17 ERISA §§ 209 1 Hard Copy and Electronic
Financial Statements Audited Reports/CAFR	Permanent	Public	Cal. Const. Art. XVI, § 17 ERISA §§ 209 1 Hard Copy and Electronic
Fixed Asset Inventory	5 years + Professional Judgment	Protected	26 USC §168(e) (IRS depreciation rules)

Member Services

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Member File	Permanent All Members: Member file is electronically imaged and maintained permanently upon destruction of hard copy.	Staff Only Subpoenas or other court orders for production of member information should be routed to the Legal department for review	Gov. Code § 31532 ERISA §§ 107, 209 CCP § 338 Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77 Hard Copies: Active Members: Until right to payment of benefits to member and any beneficiaries ceases + 5 years Deferred/Inactive Members: 1. Elected Deferred Status: Same as for



OCERS Board Policy Record Retention Guidelines

Record Category	Retention Period	Confidentiality Level	Authority/Comments
			Active Members 2. Inactive Status: Members who have not elected deferred status but whose contributions remain on file: Same as for Elected Deferred until contributions refunded, then scan and destroy 3. Termination & Withdrawn Contributions: scan and destroy
Dissolution Matters ▶ Joinder ▶ Conformed DRO ▶ Final Judgment	Permanent in Member File Hard copy in Legal – 5 years from termination of all benefits	Staff Only	Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77 Gov. Code § 31532 ERISA §§ 107, 209
Support Orders and Tax Levies	Permanent in Member File Hard copy in Legal – 5 years from termination of order	Staff Only	CCP §§ 704.110, 706.031 (Support Orders) Gov. Code § 31532 26 USC §§ 6322, 6333 (IRS Levies) ERISA §§ 107, 209
1099's	Permanent – Archived after 2 years (Electronic Form Only)	Staff Only	ERISA §§ 107, 209 Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77 Gov. Code § 31532
Death Certificates	Permanent- Archived in Member File	Public	California Office of Vital records



OCERS Board Policy
Record Retention Guidelines

Microfiche/misc payroll records	Permanent	Staff Only	ERISA §§ 107, 209 CCP § 338 Civ. Code §§ 1798.3, 1798.21, 1798.24, 1798.27, 1798.77 Gov. Code § 31532
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OCERS Board Policy

Record Retention Guidelines

Disability

<p>Disability File Medical records and Reports Correspondence Workers' Compensation Reports Related materials Investigator Reports</p>	<p>Active + 6 years*</p>	<p>Highly Confidential</p>	<p>Gov. Code § 911.2, 911.4, 31532 CCP §§ 338, 1094.6ERISA §§107, 209</p> <p>For Disability, cases are considered "Active" until all administrative proceedings have concluded and the Board has made a final decision.</p> <p>*Cannot destroy if member has a <i>pending</i> request for records prior to destruction</p> <p>*In conjunction with Legal Department's requirement for a 5 year retention period</p> <p>Some documents in the disability file are scanned into Liberty and retained permanently in the member file.</p> <ul style="list-style-type: none"> ▶ Employee application ▶ Employer statement ▶ Physician's statement ▶ Attorney designation form (if applicable) ▶ Workers' Compensation statement ▶ Supervisor's statement ▶ Board Ordered Examination reports ▶ Earlier effective date request (if applicable) ▶ Employer accommodation letter (if applicable) ▶ Misc. correspondence
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OCERS Board Policy Record Retention Guidelines

Medical Provider Information Contracts CVs Fee Schedules	Active + 4 years	Protected	CCP §337
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Legal

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Research Memoranda	Various	Staff Only	Research material and memoranda shall follow the retention period applicable to the subject matter (i.e. contract reviews and notes – Active + 4 years under Admin. Services retention guidelines). Attorney notes and memoranda should be reviewed for privilege prior to disclosure.
Disability Hearings, Writs, and Appeals <ul style="list-style-type: none"> ▶ Administrative Record Correspondence Briefs ▶ Hearing Transcripts Finding and Objections Petitions ▶ Motions 	Active + 5 years	Highly Confidential	CCP §§ 337, 338, 1094.6 Gov. Code §§ 911.2, 911.4, 31532 ERISA §§ 107, 209 *In Conjunction with disability Record Retention For Legal, cases are considered “Active” until all writs and appeals have been fully adjudicated.
Securities Litigation Reports	7 years	Highly Confidential	CCP § 336a

Communications

Comprehensive Annual Financial Report	Permanent Reports dating back to 1999 available online	Public	Best practices. Also retained permanently by Finance Department pursuant to Cal. const. Art. XVI § 17 and ERISA §§ 107, 209
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OCERS Board Policy Record Retention Guidelines

At Your Service magazine	Indefinitely Archived electronically	Public	Best Practices
OCERS Extra eZine	Indefinitely Archived electronically	Public	Best Practices
Media releases	Indefinitely Archived electronically	Public	Best Practices
OCERS Today	Indefinitely Archived electronically	Public	Best Practices
Video FAQ's	YouTube removes old versions when updates received	Public	You Tube platform rules
OCERS by the Numbers	Indefinitely Archived electronically	Public	Best Practices



OCERS Board Policy Record Retention Guidelines

Internal Audit

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Audit Work Papers, including but not limited to: <ul style="list-style-type: none"> ▶ Planning Memo ▶ Audit Program ▶ Statement of Independence ▶ Consideration of Fraud ▶ Entrance Conference Sign-in Sheet ▶ Entrance Conference Notes ▶ Interview Notes ▶ Process Descriptions ▶ Testwork ▶ Analyses ▶ Memoranda ▶ Letters of Confirmation ▶ Letters of Representation ▶ Abstracts of Company Documents ▶ Schedules ▶ Commentaries Prepared or Obtained ▶ Exit Conference Sign-in Sheet ▶ Exit Conference Notes 	7 years	Highly Confidential	PCAOB – Auditing Standard No. 3. Securities and Exchange Commission, RIN 3235-AI74, Retention of Records Relevant to Audits and Reviews.



OCERS Board Policy Record Retention Guidelines

Record Category	Retention Period	Confidentiality Level	Authority/Comments
<ul style="list-style-type: none"> ▶ Management Representation Letter ▶ Draft Report ▶ Final Report ▶ Management Response Follow-up on Recommendations			



OCERS Board Policy

Record Retention Guidelines

Information Technology

Record Category	Retention Period	Confidentiality Level	Authority/Comments
Contracts (including Service Level Agreements)	Active + 4 years	Protected	CCP §337 Check all contracts for Trade Secret information prior to disclosure
Software Licenses, End User License Agreements, Software Serial Numbers	Life of Product + 4 years	Protected	CCP §337
Hardware Licenses, End User License Agreements, Hardware Serial Numbers	Life of Product + 4 years	Protected	CCP §337
Activation Keys	Life of Product	Highly Confidential	Gov. Code § 6254.19
Project Status Reports	Life of Product + 4 years	Highly Confidential	CCP § 337
Deliverable Reports	Life of Product + 4 years	Highly Confidential	CCP § 337
Configuration Reports	Life of Product + 4 years	Highly Confidential	CCP § 337
Requests for Proposals and Vendor Submissions	5 years	Protected	CCP §337 Check all RFPs for Trade Secret information prior to disclosure
Quotations	4 years	Protected	CCP § 337
Purchase Orders	5 years	Protected	CCP § 337
Invoices	5 years	Protected	CCP § 337
Data Backups (Tape Backups)	1 year	Highly Confidential	Best practices. Tape backups may contain privileged and / or confidential information and documents. Tape backups should not be relied upon in lieu of regular document preservation.



OCERS Administrative Procedure (OAP) Years of Service Credit Calculation

I. Purpose

The purpose of this procedure is to delineate the method OCERS uses for determining Years of Service Credit in the process of calculating a member's retirement allowance.

II. Authority

This OAP is established pursuant the Chief Executive Officer (CEO) Charter, section 8.f., which directs the CEO to develop staff policies and procedures to ensure effective and efficient administration of member benefits. The OAP is in conformance with Board Policy, the County Employees Retirement Law (California Government Code section 31450, et seq.) (CERL), and the Public Employees' Pension Reform Act (Government Code, sections 7522 - 7522.74) (PEPRA).

III. Definition

Years of Service Credit is one of the four factors used to calculate a member's monthly retirement allowance, along with the plan's formula factor, age at retirement, and final average salary.¹

"Years of Service Credit" (or "Service Credit") refers to the credit an OCERS' member earns from the period of time that deductions are taken from their compensation while in "service" (i.e., employed).² Generally, it is only a member's uninterrupted employment that provides Service Credit. However, some interruptions in employment do not break the necessary continuity of

¹ Final average salary is a measure of your earnings based on your average salary for a specified period. It includes your base salary and may also include, for example, other pensionable pay items such as uniform allowance, shift differentials, and bilingual pay. For Legacy Members, the eligible compensation is termed "compensation earnable" and is defined at Gov. Code, §§ 31461 - 31461.6. Under PEPRA, the term "pensionable compensation" is used, and is defined at Gov. Code, § 7522.34.

² Service is defined at Gov. Code, § 31641.



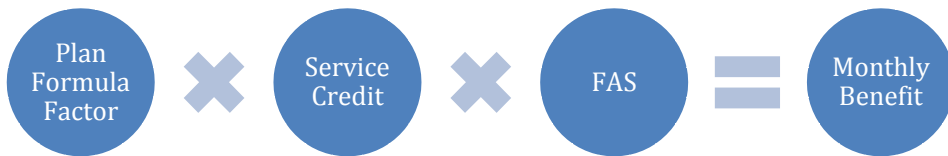
OCERS Administrative Procedure (OAP) Years of Service Credit Calculation

service.³ One example is when a member goes on a leave of absence and is then reinstated or re-employed within one year from the end of the leave.

To measure Service Credit, OCERS converts the hours worked and those paid via paid time-off (with associated contributions) into years. For example, one year of Service Credit is earned for each 2,080 hours paid in a year, i.e., 40 hours per week x 52 weeks in a year. Working on a part-time basis results in a proportionate amount of Service Credit. Thus, a member working 20 hours per week for a year would receive one half year of Service Credit. The amount of Service Credit cannot exceed one year in a 12-month period.

IV. Application

The retirement formula to determine the amount of a monthly benefit is based on a calculation of the percentage tied to the member's age at retirement known as the plan formula factor (e.g., 3% at age 50 or 2.7% at age 55), multiplied by Service Credit years, multiplied by the final average salary per pay period (FAS).



OCERS computes the number of Service Credit years using the total of the eligible hours worked (and those paid via paid time-off) for all pay periods whose last day ends in the same calendar year. However, most of the time, pay periods do not align with the calendar, so a pay period may straddle the end of December and the beginning of January. For example, if a two-week pay period runs from December 20, 2019, through January 2, 2020, that pay period is deemed to occur in 2020, even though most of the days worked fell in 2019.

³ See Gov. Code § 31642. "Continuity of service; designation of matters not breaking continuity"



OCERS Administrative Procedure (OAP) Years of Service Credit Calculation

The majority of OCERS employers utilize a bi-weekly payroll system, usually with 26 pay periods of 80 hours each, adding up to 2,080 hours in a year. One full pay period then is 1/26th of a year or .03846 years. In that case, a member who works 26 consecutive pay periods is deemed to have earned one year of Service Credit ($26 \times .03846=1$) (rounded to four decimals).

Occasionally, a calendar year will be made up of 27 pay periods instead of 26. That is because there are 365 days in a calendar year (or 366 during a leap year), and 26 fourteen-day pay periods add up to only 364 days. 27 pay periods of 80 hours each equals 2,160 hours, rather than the 2,080 hours in 26.

To adjust for a year with 27 pay periods, OCERS applies the fraction of 1/27th of a year or .03704 (rounded to four decimals) years for each of those periods rather than the 1/26th or .03846 years for those with 26 pay periods. Thus, a member will receive credit for either 1/26th or 1/27th of a year per pay period, depending on the year, with either resulting in no more than one year of Service Credit.⁴

The importance of the different fractions used in the calculation comes into play when a member's employment includes less than one full calendar year. For partial years, each pay period is multiplied by the appropriate fraction, .03846 or .03704 (1/26th or 1/27th) and converted to a 5-decimal value on a per pay period basis (the annual and cumulative total are then rounded to 4 decimals). A hypothetical example of the process is as follows:

Member X retires at age 55 with 25 full calendar years of service. In addition, Member X worked for two partial years. The member started on July 1st of the initial year when they were hired and retired on January 31st of their last year. The initial year had 26 pay periods and the last year had 27 pay periods.

Member X's retirement formula is 2.7% at age 55, and their final average monthly salary was \$6,000.00.

⁴ Special calculations are made for pay periods in which the member did not receive compensation for the full period. Also, note that the calculation for Years of Service Credit does not change for leap years.



OCERS Administrative Procedure (OAP)

Years of Service Credit Calculation

- For the initial year with 26 pay periods, the member will be credited for 13 pay periods: $13 \text{ pay periods} \times .03846 \text{ years (1/26}^{\text{th}}) = .5000 \text{ years of Service}$. For the last year with 27 pay periods, the member will be credited for 2 pay periods: $2 \text{ pay periods} \times .03704 \text{ years (1/27}^{\text{th}}) = .0741 \text{ years of Service}$.
- Member X's total years of Service Credit will thus be $25 \text{ years} + .5000 \text{ years} + .0741 \text{ years} = 25.5741 \text{ years}$.

Now we can perform the calculation: $\text{plan formula factor} \times \text{Service Credit} \times \text{FAS} = \text{retirement allowance}$.

- $.027 \text{ (2.7\% Formula)} \times 25.5741 \text{ years of Service Credit} = .6905 \text{ (69.05\%)} \times \$6,000 \text{ (FAS)} = \$4,143.00 \text{ (Member X's monthly retirement allowance)}$.



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: **2021 MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN OCERS AND THE COUNTY OF ORANGE REGARDING INTERNAL REVENUE CODE SECTION 415(M) REPLACEMENT BENEFIT PLAN**

Recommendation

Adopt an updated Memorandum of Understanding between OCERS and the County of Orange governing the County Replacement Benefit Plan applicable to OCERS members/payees that are otherwise capped by Internal Revenue Code section 415(b).

Background

Internal Revenue Code (IRC) section 415(b) (Section 415(b)) imposes a cap on the amount of retirement benefits that can be paid to governmental plan retirees (the 415(b) Limit); and the cap in some instances is lower than the amount of the benefit that would otherwise be paid under the applicable retirement formula. However, IRC section 415(m) permits governmental employers, including employers participating in OCERS, to establish excess benefit arrangements (generally referred to as replacement benefit plans) to make up the difference between the 415(b) Limit and what System retirees would otherwise be entitled to receive.

Chapter 3.9 (Sections 31899 through 31899.9) was added to the CERL in 1990 to reflect the provisions of Section 415(b) and to ensure compliance with federal tax laws. (A copy of Chapter 3.9 is attached.) Subsequently, Section 31899.4 was added effective January 1, 2004, to mandate that every CERL system employer establish a replacement benefit program as permitted by IRC section 415(m). Specifically, subdivision (e) of Section 31899.4 provides that, "[t]he county, and any district that establishes and administers its own program, shall enact an ordinance or prescribe regulations or other written documentation setting forth the terms of its replacement benefits program."

In 2005, the County of Orange and OCERS formally adopted a written replacement benefit Memorandum of Understanding (MOU) reflecting the roles and responsibilities of administration of the program. In addition, OCERS established a 415(b) policy to reflect the processes OCERS would undertake to ensure compliance with the law.

Under the 415(b) Policy, OCERS regularly monitors retiree benefit levels and notifies the County when any of their retirees' anticipated benefit amounts are within 85% of the 415(b) Limit. In those situations, OCERS' actuaries then conduct a more detailed analysis of the retiree's benefit calculations; and OCERS staff coordinates communications with both the employer and the retiree regarding the status of the 415(b) limit and establishes the schedule of when the County will begin making such replacement plan payments and their amounts.

In 2020 OCERS staff met with the County and determined that updates to the process of administering the County replacement benefits plan and MOU were needed. Representatives from OCERS, County of Orange Human Resources Services as well as County Counsel office were involved in the discussion and contributed to

the revised MOU before the Board today. The most significant change to the process is that the County is now paying the Replacement Plan benefits directly to the member/payees from their payroll system and communicating those amounts through a self-service portal. OCERS process of notifying the County of the Replacement Plan benefit amount(s), the schedule of payments, the tax withholding status of the payees etc remains the same.

Approved by:



SJ-APPROVED

Suzanne Jenike
Assistant CEO
External Operations

Attachments:

- (1) CERL Chapter 3.9, Sections 31899, *et. seq.*
- (2) OCERS' 415(b) Policy

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF ORANGE
AND
THE ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
REGARDING THE COUNTY OF ORANGE REPLACEMENT BENEFITS PLAN**

This Memorandum of Understanding (“MOU”) is entered into by and between the Orange County Employees Retirement System (“OCERS”) and the County of Orange (“County”) to be effective beginning on XXX, 2021.

WHEREAS, OCERS administers retirement benefits for certain employees of the County ~~of Orange~~ and the Superior Court of California, County of Orange; and

WHEREAS, the amount of benefits that can be provided to OCERS members is limited by Section 415(b) of the Internal Revenue Code (“Section 415(b)” and “Code” respectively); and

WHEREAS, the County is required by California Government Code Sections 31899.4 through 31899.8 to establish a replacement benefit plan to the extent permissible under the Code; and

WHEREAS, the County has adopted the County of Orange Replacement Benefits Plan (the “Plan”), effective January 1, 2005; and

WHEREAS, the County has adopted the First Amendment to the Plan which added the Superior Court of California, County of Orange, to the Plan, effective beginning in the 2007 Plan Year; and

WHEREAS, the most efficient way for the County to operate the Plan is to enter into a memorandum of understanding with OCERS setting out the responsibilities of the County and OCERS with respect to the Plan; and

WHEREAS, the Plan document and amendment have been provided to OCERS and are attached hereto; and

WHEREAS, on January 1, 2005, OCERS and the County entered into a memorandum of understanding (the “2005 MOU”) for OCERS to act as the paying agent of the County for purposes of paying benefits under the Plan to Participants and Eligible Survivors; and

WHEREAS, OCERS and the County ~~agreed in 2020 that the County would begin paying~~ agree that the County should now pay Plan benefits directly to Plan Participants and Eligible Survivors effective beginning in the ~~2020~~2021 Plan Year; and

WHEREAS, OCERS and the County wish to enter into ~~this~~~~the~~ MOU, which will supersede and replace, the 2005 MOU; ~~on the terms set forth below setting~~ memorialize the County having commenced paying Plan benefits directly to Plan Participants and Eligible Survivors effective beginning in the 2020 Plan Year; and set out the new-respective responsibilities of County and OCERS with respect to the Plan~~the County now directly paying benefits under the Plan to Participants and Eligible Survivors.~~

THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE COUNTY AND OCERS AS FOLLOWS:

1. Purpose of Agreement

This MOU is entered into by the County and OCERS in order to facilitate the efficient operation by the County of the Plan, which provides benefits to Retired Members and Eligible Survivors (each as defined in the Plan document) whose OCERS retirement benefits are limited by Section 415(b) of the Code. This MOU supersedes and replaces~~amends and restates~~ the 2005 MOU in its entirety effective as of the date of the effective date of this MOU ~~is fully executed~~.

2. Definitions

Undefined terms used in this MOU shall have the same meaning as in the Plan.

3. Payment of Replacement Benefits

(a) In accordance with the Plan, the County shall pay to Retired Members of OCERS, and to their Eligible Survivors, the difference between the benefits that would be payable from OCERS without regard to the limits of Section 415(b) ~~of the Code~~ and the amount that may be paid by OCERS under the Code, to the extent that such benefits can be paid without violating Section 415(b). These benefits are referred to as "Replacement Benefits".

(b) The County shall pay Replacement Benefits and all direct or indirect costs associated with administration of the Plan from legally available monies of the County. No assets of OCERS shall be used to pay Replacement Benefits and no assets of OCERS shall be used to pay the cost of administration or any other costs regarding the operation of the Plan. ~~OCERS will not charge the County for calculating Replacement Benefit amounts or notifying the County of the Beginning Date for affected Retired Members and~~

~~Eligible Survivors each Plan Year to the extent that OCERS would otherwise be required by law to make the calculations.~~

(c) OCERS shall notify the County of the amounts described in Section 4(a) below to be paid to affected Retired Members and Eligible Survivors under the Plan. OCERS shall also notify the County when affected Retired Members and Eligible Survivors will reach the Beginning Date, as defined under the Plan and under Section 4(d) below of this MOU, to facilitate when payments should begin each Plan Year. Based upon such information and notification from OCERS, the County shall pay the Replacement Benefits payable under the Plan to affected Retired Members and Eligible Survivors.

4. Determination of Amount of Replacement Benefits

(a) When a Retired Member or Eligible Survivor's OCERS benefit is limited by Section 415(b), and in accordance with OCERS' responsibilities under Section 415(b). OCERS shall determine the retirement benefit amount that would have been paid from the OCERS plan but for the application of the limits of Section 415(b), and shall determine the amount of the retirement benefit that will be paid to such persons from the OCERS plan as limited by Section 415(b). The difference between these two amounts (if any) is the amount of Replacement Benefits payable by the County under the Plan.

(b) OCERS shall make ~~the~~this determination described in paragraph (a) of this Section 4 for the first year that the benefits of any affected Retired Member or Eligible Survivor are limited by Section 415(b) and for each year thereafter. Annual determination is needed because both the amount of the limits and the amount of OCERS benefits may change periodically.

(c) To the extent that the amount of benefits that are limited by Section 415(b) change during the year, and if required under Section 415(b), OCERS shall redetermine the amount~~calculate the benefits payable by OCERS and the County under the Plan as~~ described in paragraph~~subpart~~ (a) of this Section 4 above.

(d) In any Plan Year, the County shall only pay Plan benefits to an affected Retired Member or Eligible Survivor after the date in the Plan Year that the benefits paid to such person from OCERS have reached the maximum annual benefit that OCERS can pay under Section 415(b) for that Plan Year. The day after the maximum annual benefit payment from OCERS is reached is the Beginning Date for the affected Retired Member or Eligible Survivor for that Plan Year. The Beginning Date may change from Plan Year to Plan Year as the amount payable under the Plan is redetermined.

(e) As provided in Section 6 below of this MOU, OCERS shall communicate to the County the information determined under this Section 4 on a monthly basis.

(f) In accordance with the Plan, the County shall rely on the calculations and information provided by OCERS set out in paragraphs (a), (b), (c) and (d) of this Section 4 for purposes of determining the Replacement Benefits payable under the Plan.

5. Effect on County Contributions to OCERS of Section 415(b) Limits

(a) In accordance with the recommendation of OCERS' actuary, County contributions to OCERS shall be adjusted, taking into account ~~Code~~ Section 415(b) benefit limitations. OCERS shall make available to the County all information considered by the OCERS' actuary in making recommendations to the OCERS in accordance with this ~~sub~~paragraph.

(b) County contributions to OCERS shall be adjusted, in accordance with Sections 3(c) and 4, for each Plan Year in which Replacement Benefits are payable under the Plan. At the end of each Plan Year, OCERS shall determine and make the appropriate reduction in County contributions in any amount equal to the Replacement Benefits payable under the Plan in accordance with OCERS' actuary.

6. Communications Between the County and OCERS

(a) OCERS shall communicate to the County, in writing and as soon as reasonably practicable, information that OCERS determines is necessary or appropriate for the efficient administration of the Plan. This communication may include, but is not limited to, the following: the names and identifying numbers of the Retired Members and Eligible Survivors whose OCERS benefits are limited in any year; the amounts of their Replacement Benefits (if any) and the calculations that support those amounts; the date as of which the Replacement Benefits will become payable each year (if any); the direct deposit information of affected Retired Members and Eligible Survivors to facilitate payment; the amount by which the Replacement Benefits change during the year (if at all); the amount of reduction in the County's contribution to OCERS that will occur under Section 5 above (if any); and the date that any Replacement Benefits are no longer required under the Plan or this MOU (for example, on the death of the Retired Member).

(b) The County shall communicate to OCERS, in writing and as soon as reasonably practicable, all information that is necessary or appropriate for the efficient administration of the Plan.

7. Communications With Members

Upon determining the amounts and timing of Replacement Benefits, and in accordance with its responsibilities under Section 415(b), OCERS shall inform each

affected Retired Member or Eligible Survivor that his or her benefits are limited by Section 415(b), and will generally inform him or her that the Plan will provide Replacement Benefits, including the amounts that will be paid under the Plan for the particular year, and the timing of such payments if known to OCERS.

8. Reconciliation of Amounts

The County and OCERS shall take all reasonable steps to reconcile, after the end of each Plan Year, the amounts of Replacement Benefits that have been identified as payable by County and the amounts of Replacement Benefits that have actually been paid. Plan underpayments or overpayments of Replacement Benefits shall be corrected by the County as required. The County shall not seek any recourse against OCERS related to such overpayments or underpayments except to the extent that OCERS is required to reduce County contributions as provided in Section 5(b) above.

9. Tax Reporting

OCERS and the County shall be separately responsible for their required reporting to the tax authorities. County and OCERS shall cooperate in providing information needed for accurate tax reporting, provided that OCERS shall have no obligation or liability with respect to any tax reporting for benefits paid by the Plan.

10. Indemnification and Hold Harmless

To the extent allowable by applicable law, and subject to Section 8 above, Each party to this MOU shall indemnify and hold the other harmless for any costs, damages, or other liabilities incurred hereunder on account of its own negligence or willful misconduct.

11. Dispute Resolution

Any dispute between the County and OCERS regarding this MOU shall be subject to binding arbitration conducted under the rules and procedures of the American Arbitration Association, or by any other procedure mutually agreed to by the County and OCERS.

12. Termination

This MOU shall terminate automatically upon termination of the Plan, effective immediately. Either party may terminate this MOU upon 90 days' notice. Termination shall be effective the first day of the immediately following Plan Year.

13. Miscellaneous

(a) Integration.

This MOU and the documents referenced herein constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral.

(b) Amendment.

This MOU may only be amended pursuant to a written agreement executed by both parties hereto. Notwithstanding the immediately preceding sentence, the Plan Administrator for the Plan and OCERS may enter into such other agreements, policies and procedures, as determined to be necessary, consistent with the terms of the Plan and of this MOU, for the efficient operation and administration of the Plan.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN ENTERED INTO AS OF _____, 2021.

COUNTY OF ORANGE, CALIFORNIA

Kim Derrick, Director
Employee Benefits, as Plan Administrator

APPROVED AS TO FORM
COUNTY COUNSEL

Deputy, Office of County Counsel
Orange County, California

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Steve Delaney, Chief Executive Officer

APPROVED AS TO FORM

Gina M. Ratto, General Counsel

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF ORANGE
AND
THE ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
REGARDING THE COUNTY OF ORANGE REPLACEMENT BENEFITS PLAN**

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WHEREAS, the amount of benefits that can be provided to OCERS members is limited by Section 415(b) of the Internal Revenue Code (“Section 415(b)” and “Code” respectively); and

WHEREAS, the County is required by California Government Code Sections 31899.4 through 31899.8 to establish a replacement benefit plan to the extent permissible under the Code; and

WHEREAS, the County has adopted the County of Orange Replacement Benefits Plan (the “Plan”), effective January 1, 2005; and

WHEREAS, the County has adopted the First Amendment to the Plan which added the Superior Court of California, County of Orange, to the Plan, effective beginning in the 2007 Plan Year; and

WHEREAS, the most efficient way for the County to operate the Plan is to enter into a memorandum of understanding with OCERS setting out the responsibilities of the County and OCERS with respect to the Plan; and

WHEREAS, the Plan document and amendment have been provided to OCERS and are attached hereto; and

WHEREAS, on January 1, 2005, OCERS and the County entered into a memorandum of understanding (the “2005 MOU”) for OCERS to act as the paying agent of the County for purposes of paying benefits under the Plan to Participants and Eligible Survivors; and

WHEREAS, OCERS and the County agreed in 2020 that the County would begin paying Plan benefits directly to Plan Participants and Eligible Survivors effective beginning in the 2020 Plan Year; and

WHEREAS, OCERS and the County wish to enter into this MOU, which will supersede and replace the 2005 MOU; memorialize the County having commenced paying Plan benefits directly to Plan Participants and Eligible Survivors effective beginning in the 2020 Plan Year; and set out the respective responsibilities of County and OCERS with respect to the Plan.

THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE COUNTY AND OCERS AS FOLLOWS:

1. Purpose of Agreement

This MOU is entered into by the County and OCERS in order to facilitate the efficient operation by the County of the Plan, which provides benefits to Retired Members and Eligible Survivors (each as defined in the Plan document) whose OCERS retirement benefits are limited by Section 415(b) of the Code. This MOU supersedes and replaces the 2005 MOU in its entirety effective as of the date of the effective date of this MOU.

2. Definitions

Undefined terms used in this MOU shall have the same meaning as in the Plan.

3. Payment of Replacement Benefits

(a) In accordance with the Plan, the County shall pay to Retired Members of OCERS, and to their Eligible Survivors, the difference between the benefits that would be payable from OCERS without regard to the limits of Section 415(b) and the amount that may be paid by OCERS under the Code, to the extent that such benefits can be paid without violating Section 415(b). These benefits are referred to as "Replacement Benefits".

(b) The County shall pay Replacement Benefits and all direct or indirect costs associated with administration of the Plan from legally available monies of the County. No assets of OCERS shall be used to pay Replacement Benefits and no assets of OCERS shall be used to pay the cost of administration or any other costs regarding the operation of the Plan.

(c) OCERS shall notify the County of the amounts described in Section 4(a) below. OCERS shall also notify the County when affected Retired Members and Eligible

Survivors will reach the Beginning Date, as defined under the Plan and under Section 4(d) below, to facilitate when payments should begin each Plan Year. Based upon such information and notification from OCERS, the County shall pay the Replacement Benefits payable under the Plan to affected Retired Members and Eligible Survivors.

4. Determination of Amount of Replacement Benefits

(a) When a Retired Member or Eligible Survivor's OCERS benefit is limited by Section 415(b), and in accordance with OCERS' responsibilities under Section 415(b), OCERS shall determine the retirement benefit amount that would have been paid from the OCERS plan but for the application of the limits of Section 415(b), and shall determine the amount of the retirement benefit that will be paid to such persons from the OCERS plan as limited by Section 415(b). The difference between these two amounts (if any) is the amount of Replacement Benefits payable by the County under the Plan.

(b) OCERS shall make the determination described in paragraph (a) of this Section 4 for the first year that the benefits of any affected Retired Member or Eligible Survivor are limited by Section 415(b) and for each year thereafter. Annual determination is needed because both the amount of the limits and the amount of OCERS benefits may change periodically.

(c) To the extent that the amount of benefits that are limited by Section 415(b) change during the year, and if required under Section 415(b), OCERS shall redetermine the amounts described in paragraph (a) of this Section 4.

(d) In any Plan Year, the County shall only pay Plan benefits to an affected Retired Member or Eligible Survivor after the date in the Plan Year that the benefits paid to such person from OCERS have reached the maximum annual benefit that OCERS can pay under Section 415(b) for that Plan Year. The day after the maximum annual benefit payment from OCERS is reached is the Beginning Date for the affected Retired Member or Eligible Survivor for that Plan Year. The Beginning Date may change from Plan Year to Plan Year as the amount payable under the Plan is redetermined.

(e) As provided in Section 6 below, OCERS shall communicate to the County the information determined under this Section 4 on a monthly basis.

(f) In accordance with the Plan, the County shall rely on the calculations and information provided by OCERS set out in paragraphs (a), (b), (c) and (d) of this Section 4 for purposes of determining the Replacement Benefits payable under the Plan.

5. Effect on County Contributions to OCERS of Section 415(b) Limits

(a) In accordance with the recommendation of OCERS' actuary, County contributions to OCERS shall be adjusted, taking into account Section 415(b) benefit limitations. OCERS shall make available to the County all information considered by the OCERS' actuary in making recommendations to the OCERS in accordance with this paragraph.

(b) County contributions to OCERS shall be adjusted, in accordance with Sections 3(c) and 4, for each Plan Year in which Replacement Benefits are payable under the Plan. At the end of each Plan Year, OCERS shall determine and make the appropriate reduction in County contributions in any amount equal to the Replacement Benefits payable under the Plan in accordance with OCERS' actuary.

6. Communications Between the County and OCERS

(a) OCERS shall communicate to the County, in writing and as soon as reasonably practicable, information that OCERS determines is necessary or appropriate for the efficient administration of the Plan. This communication may include, but is not limited to, the following: the names and identifying numbers of the Retired Members and Eligible Survivors whose OCERS benefits are limited in any year; the amounts of their Replacement Benefits (if any) and the calculations that support those amounts; the date as of which the Replacement Benefits will become payable each year (if any); the direct deposit information of affected Retired Members and Eligible Survivors to facilitate payment; the amount by which the Replacement Benefits change during the year (if at all); the amount of reduction in the County's contribution to OCERS that will occur under Section 5 above (if any); and the date that any Replacement Benefits are no longer required under the Plan or this MOU (for example, on the death of the Retired Member).

(b) The County shall communicate to OCERS, in writing and as soon as reasonably practicable, all information that is necessary or appropriate for the efficient administration of the Plan.

7. Communications With Members

Upon determining the amounts and timing of Replacement Benefits, and in accordance with its responsibilities under Section 415(b), OCERS shall inform each affected Retired Member or Eligible Survivor that his or her benefits are limited by Section 415(b), and will generally inform him or her that the Plan will provide Replacement Benefits, including the amounts that will be paid under the Plan for the particular year, and the timing of such payments if known to OCERS.

8. Reconciliation of Amounts

The County and OCERS shall take all reasonable steps to reconcile, after the end of each Plan Year, the amounts of Replacement Benefits that have been identified as payable by County and the amounts of Replacement Benefits that have actually been paid. Plan underpayments or overpayments of Replacement Benefits shall be corrected by the County as required. The County shall not seek any recourse against OCERS related to such overpayments or underpayments except to the extent that OCERS is required to reduce County contributions as provided in Section 5(b) above.

9. Tax Reporting

OCERS and the County shall be separately responsible for their required reporting to the tax authorities. County and OCERS shall cooperate in providing information needed for accurate tax reporting, provided that OCERS shall have no obligation or liability with respect to any tax reporting for benefits paid by the Plan.

10. Indemnification and Hold Harmless

To the extent allowable by applicable law, and subject to Section 8 above, each party to this MOU shall indemnify and hold the other harmless for any costs, damages, or other liabilities incurred hereunder on account of its own negligence or willful misconduct.

11. Dispute Resolution

Any dispute between the County and OCERS regarding this MOU shall be subject to binding arbitration conducted under the rules and procedures of the American Arbitration Association, or by any other procedure mutually agreed to by the County and OCERS.

12. Termination

This MOU shall terminate automatically upon termination of the Plan, effective immediately. Either party may terminate this MOU upon 90 days' notice. Termination shall be effective the first day of the immediately following Plan Year.

13. Miscellaneous

(a) Integration.

This MOU and the documents referenced herein constitute the entire agreement of the parties with respect to the subject matter hereof and supersede all prior agreements and understandings, both written and oral.

(b) Amendment.

This MOU may only be amended pursuant to a written agreement executed by both parties hereto. Notwithstanding the immediately preceding sentence, the Plan Administrator for the Plan and OCERS may enter into such other agreements, policies and procedures, as determined to be necessary, consistent with the terms of the Plan and of this MOU, for the efficient operation and administration of the Plan.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN ENTERED INTO AS OF _____, 2021.

COUNTY OF ORANGE, CALIFORNIA

Kim Derrick, Director
Employee Benefits, as Plan Administrator

APPROVED AS TO FORM
COUNTY COUNSEL

Deputy, Office of County Counsel
Orange County, California

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Steve Delaney, Chief Executive Officer


APPROVED AS TO FORM

Gina M. Ratto, General Counsel



Orange County
Employees' Retirement System

415(b) Policy & Operational Process

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	OVERVIEW
	OWNER: Legal Department	
	PROCESS: §415(b) and §415(m)	

IRC §415(b) Limit Screening and Capping Process

1 SCOPE

1.1 What's included

This business process covers the following:

- Screening of OCERS' payee records to identify those who will come within 85% of the annual IRS General or IRS Safety 415(b) limits as applicable.
- Determination of 415(b) limitation eligibility or exclusion.
- Referral to OCERS' actuary for individual limit calculation.
- Monitoring total benefit payment status and implementing caps as adjustments to specific benefit payments.
- Communication with the plan sponsors to provide information needed to make payments under a 415(m) replacement benefits program.
- Communication of 415(b) and 415(m) requirements and policies to all members, and specific communication to those payees who may be subject to 415(b) limitation.
- Process for re-calculation of individual member caps to reflect changes in IRS limits and OCERS' annual COLA grant.
- Process for the administration of the plan sponsors' 415(m) replacement benefits program.
- Reconciliation of payee benefits capped under 415(b) with payments made under 415(m).


1.2 What's NOT included

- The detailed actuarial calculations used to determine the unique individual 415(b) limitations.

2 POLICY OVERVIEW

Internal Revenue Code §415(b) limits the annual benefit that can be accrued or paid to a participant under a defined benefits plan. This statement, taken from an IRS publication is deceptively simple, when in fact the rules surrounding §415(b) limitations are extremely complex and subject to interpretation.


OCERS has worked to ensure absolute compliance with the §415(b) limitations, while continuing to safeguard its member's interests. This document outlines the screening and benefit limitation process that OCERS will follow in conjunction with its Actuary and Legal Counsel, to identify and address those Members and their associated payees who are subject to benefit capping under §415(b) and eligible for replacement benefit payments under an employer-sponsored §415(m) program.

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	OVERVIEW
	OWNER: Legal Department	
	PROCESS: §415(b) and §415(m)	

3 STAKEHOLDERS

Below are the stakeholders in this process and an outline of their respective responsibilities:


Stakeholder	Responsibilities / Relation to process
Retirees (& other non-member monthly benefit recipients)	<ul style="list-style-type: none"> • Those eligible will be subject to benefit capping as dictated by IRC§415(b) and OCERS policy. Those payees who are subject to benefit limitation will be eligible to receive replacement benefit payments under an IRC §415(m) program.
Information Technology Department	<ul style="list-style-type: none"> ▪ Will support the tools and systems that have been developed or modified for the §415(b) and §415(m) processes.
Member Services Department	<ul style="list-style-type: none"> ▪ Will run quarterly “soft screening” reports to identify any new payees who are projected to come within 85% of the 415(b) limits. ▪ Will review all payees’ records on the quarterly screening, and refer those who are not exempt to the actuary for specific limit calculation. ▪ Will enter individual caps and other calculation components into the PensionGold member records when received from the actuary. ▪ Will run monthly limit “hard screen” reports in conjunction with normal payroll. ▪ Will issue communication with payees subject to capping. ▪ Will enter 415(b) adjustments for those payees whose benefits must be capped.
Member Services Manager	<ul style="list-style-type: none"> ▪ Will review and sign off on quarterly screening report. ▪ Will serve on the review committee of senior managers responsible for payee file review prior to referral to the Actuary.

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	OVERVIEW
	OWNER: Legal Department	
	PROCESS: §415(b) and §415(m)	

	<ul style="list-style-type: none"> ▪ Will review and sign off on the 415(b) adjustments. ▪ Will ensure that appropriate counseling is being given to retirees and other payees who may be subject to 415(b) limits. ▪ Will forward screening and capping reports to the Accounting Department.
Accounting Department	<ul style="list-style-type: none"> ▪ Will forward funding request and associated reports to the plan sponsor for use in producing 415(m) replacement benefit payments for capped payees. ▪ Will manage the 415(m) replacement fund from which 415(m) payments will be made. ▪ Will produce 415(m) payments according to validated reports from the Member Services Manager. ▪ Will perform an analytical review and reconciliation of A/R credit adjustments taken by plan sponsors to 415(b) payment reductions and 415(m) replacement payments. ▪ Will calculate the cost of administering the 415(m) program on behalf of plan sponsors and bill them accordingly
Communications Department	<ul style="list-style-type: none"> ▪ Will produce 415(b) and 415(m) communications for OCERS active and retired members.
Actuary	<ul style="list-style-type: none"> ▪ Will produce updated age reduction tables each year, based on new 415(b) limit issued by the IRS. ▪ Will use individual payee data supplied by OCERS to calculate payee-specific limits.

4 RISKS

Following are the risks associated with this process:

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	OVERVIEW
	OWNER: Legal Department	
	PROCESS: §415(b) and §415(m)	

- Correctness of the 415(b) limitation implementation is a direct member service issue. If not done correctly, a member's livelihood can be affected.
- If 415(b) limitations are not implemented according to IRS rules, OCERS runs the risk of very substantial penalties and could possibly jeopardize its tax exempt status.

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Version Control

Version	Date	Changes from previous version
1.0		Initial Draft

For OCERS Use Only

Approved by	Signature	Date

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	BUSINESS RULES & PRECONDITIONS
	OWNER: Legal Department	
	PROCESS: §415(b)	

IRC §415(b) Limit Screening and Capping Process

1 IRS Limits

IRC §415(b) places an annual limit on total benefits paid to individuals participating in tax qualified benefit plans. The “year” is a twelve-month period that is determined by OCERS, and could be based on a fiscal year or a calendar year. The IRS issues annual revised limits, making cost of living adjustments to its formula for deriving the limits. When this occurs, OCERS must re-calculate the caps for those members with actuarially determined specific limits.

Actual limits will differ from one member to the next, because the basic IRS limits are adjusted by various factors. After-tax contributions, which must be factored at their present value over the lifetime of the benefit (determined actuarially) will potentially increase the benefit limit. Note, however, that this is not equivalent to the monthly safe harbor amount that reduces the basis for tax withholding. Contributions based on service purchase, if post tax dollars are used, may also increase the limit, as will rollovers from 401K, 401(a), 403(b), 457 and traditional IRAs. Other factors that may affect the limits on an individual basis are:

- 10-year rule – if a person has less than ten years of service, the benefit limit is prorated on the percentage of ten years service that the person has.
- Associated payees are limited based on the original member’s benefit limit.
- If there are multiple survivor benefits, all of the combined benefits must be totaled and then compared to the limit.
- QDROs are limited to the aggregated amount between the member and non-member.
- If the various benefit options are not actuarially equivalent to the IRS’ single life annuity, the limits will vary by option selected. Otherwise, the limits are the same as the unmodified option.

In order to determine a nonexempt member’s specific 415(b) annual limit with the highest degree of accuracy possible, the member’s pertinent information will be forwarded to OCERS’ actuary for limit calculation once the member comes within 85% of the applicable General or Safety limit.

1.1 General Limits

All members who do not meet the definition of IRS Safety are subject to the IRS General limits and the associated age reduction based on their age at retirement. In 2006, General members have a limit of \$175,000 if retired at age 62 but this amount is reduced for each year that a person is younger than 62 at retirement.

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	BUSINESS RULES & PRECONDITIONS
	OWNER: Legal Department	
	PROCESS: §415(b)	

1.2 IRS Safety Limits

The IRS has a very specific definition of Safety that is narrower than OCERS' definition of a Safety member. Only employees of a police, sheriff, or fire department are considered IRS Safety. The member needs 15 years of police, sheriff or fire department service at any point in his or her career to qualify, but doesn't actually have to be a police officer, sheriff, or firefighter. For example, an administrative assistant working in a sheriff's office for 15 years would qualify as IRS Safety. Members and their associated payees that do not qualify must adhere to the General Limits and the age reductions. Reciprocal and purchased service do not count towards the 15 years.

1.3 Eligibility

Only non-exempt members and their associated payees are subject to 415(b) limitations on their total annual benefits. A member is considered exempt or "grandfathered" if and only if all of the following are true:


- The benefit formula under which the member retired existed prior to 10/14/1987, AND;
- There were no early retirement incentives offered to the member after 10/14/1987, and
- His or her date of entry into the OCERS system is prior to 01/01/1990

If one or both is not true, then the member or associated payee is subject to 415(b) limits. It should be noted that the Ventura Settlement is not considered a change in benefit.

2 Screening

Generally speaking, total pension + annuity + cost of living amount paid is compared to the applicable annual limits when a screening is done. OCERS will conduct two levels of screening. The first is referred to as "soft screening" and will compare projected annual benefit payments for all non-exempt payees against the non-specific IRS General and Safety limits. Anyone who is projected to come within 85% of these limits will be returned on a screening report. This screening will be done quarterly, excluding only those payees who have been previously assessed and marked as exempt.

All non-exempt payees will have their information sent to the actuary for the calculation of a specific individual limit. Once this limit is received, it will be entered into PensionGold and used for the second level of screening. Referred to as "hard screening" it is done monthly as part of the payroll process and results in a report listing information for each payee for whom an individual limit has been established. This hard screening report is used to monitor payees to ensure that benefits are capped in the appropriate period.

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	BUSINESS RULES & PRECONDITIONS
	OWNER: Legal Department	
	PROCESS: §415(b)	

3 Capping

When OCERS' screening process indicates that a payee will exceed his or her 415(b) limit in the current year, plans are made to cap benefits at the limit through adjustments to the normal payroll.

3.1 Implementation of 415(b) Payroll Adjustments

It is OCERS' policy to pay out the full annual annuity benefit due all payees, while still observing the 415(b) limits set by the IRS. Paying annuity throughout the year will accommodate any payroll deductions that the payee may have (this is especially important in the case of healthcare premium deductions). This concept is best explained by way of a simple example:

Member John Doe has a projected benefit of **\$124,303.44** for a given year, with a monthly Normal payroll gross amount of **\$10,358.62** of which **\$1,549.15** is annuity and **\$66.60** is MBRP.

The annual 415(b) cap provided by the actuary for John is **\$114,401.64**.


His amount over the 415(b) cap to be paid as part of a 415(m) program by the County is **\$9,901.80**.

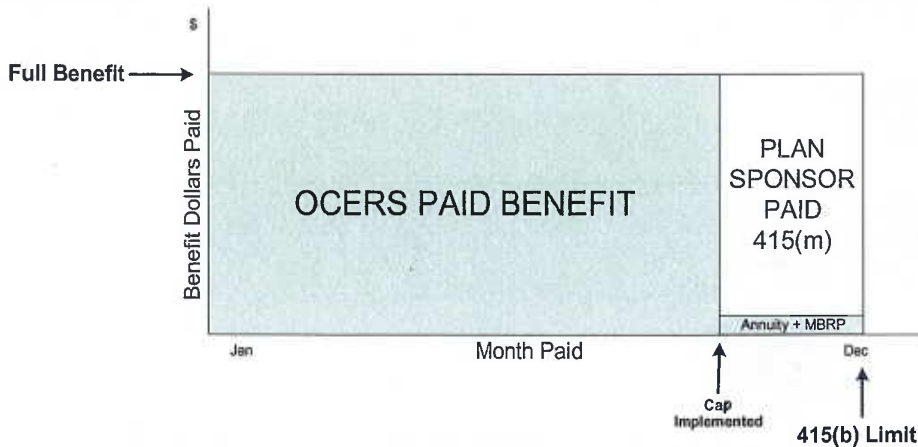
Monthly health insurance premium deduction (after subsidies) is **\$286.48**, and other monthly deductions are **\$170.00** for a total of **\$456.48**.

When John's benefits are capped, his payment schedule for benefit dollars will look like this:

Payment Type	Jan - Oct	Nov	Dec
Retirement Benefits	\$10,358.62 / per mo	\$9,199.69	\$1,615.75
415(m) Payment	\$0.00	\$1,158.93	\$8,742.87

Notice that the total of all benefits paid by OCERS as of December 31st do not exceed the 415(b) cap of \$114,401.64. By paying the full annuity amount through the end of the year, we would actually reserve enough benefit dollars below the cap to cover payroll deductions. This procedure will ensure that medical coverage will be unaffected, and that OCERS' Vendor Payroll process continues unchanged.

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	BUSINESS RULES & PRECONDITIONS
	OWNER: Legal Department	
	PROCESS: §415(b)	



Exception Cases

- **Annuity is “Not Enough Gross” to Handle Deductions**


If Payroll Analysis indicates that this is the case, then the cap will be implemented one month earlier. The Payroll Analysis report will be used to confirm correct payments required for each month. All other procedures will remain unchanged.

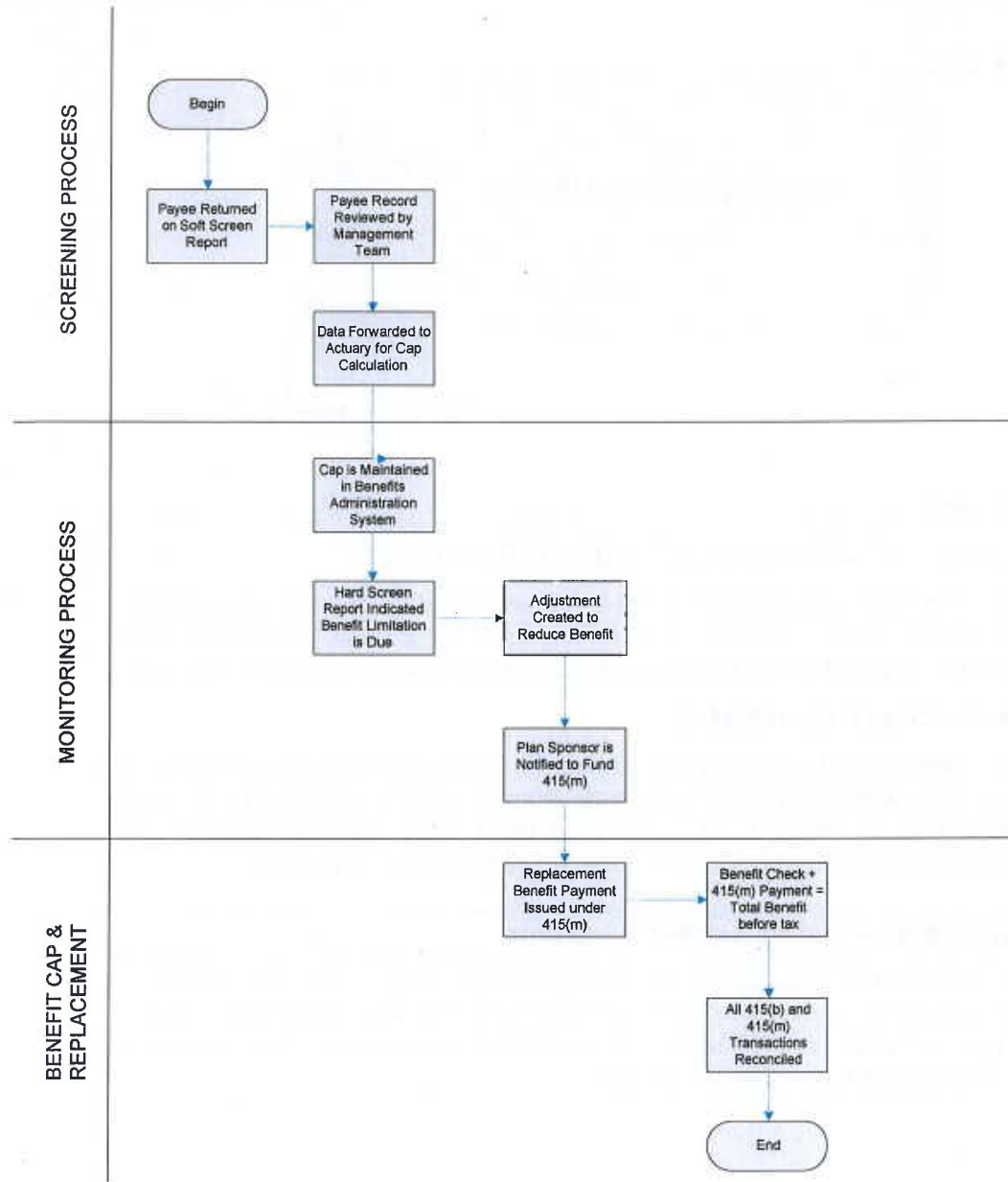
- **Death During Capped Period**

If a payee dies during the capped period, we will have to perform a “true-up” to reclassify some or all of the payments from 415(m) by the County to benefit dollars paid by OCERS. It is important that this true-up occur prior to mid-January so that the annual tax forms can be accurately issued on time.

3.2 415(m) Replacement Benefit Programs

If a payee’s benefit must be capped, it will be replaced by a payment issued under the 415(m) replacement program funded by the plan sponsor. The following diagram is a high level view of the cap and replacement process. Each component will be addressed in detail in subsequent sections of this document.

	ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM	BUSINESS RULES & PRECONDITIONS
	OWNER: Legal Department	
	PROCESS: §415(b)	



Version Control

Version	Date	Changes from previous version
1.0		Initial Draft

For OCERS Use Only

Approved by	Signature	Date

California Government Code
Title 3. Division 4. Part 3. Chapter 3.9

§. 31899 Purpose

(a) The purpose of this chapter is to ensure the federal tax- exempt status of the county employees' retirement systems, to preserve the deferred treatment of federal income tax on public employer contributions to public employee pensions, and to ensure that members are provided with retirement and other related benefits that are commensurate, to the extent deemed reasonable, with the services rendered without violating the intent and purposes of Section 415 of the Internal Revenue Code.¹

(b) To achieve this purpose, this chapter incorporates certain pension payment limitations and elects the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code. Also, this chapter provides for certain replacement benefits.

(c) On or after January 1, 2013, the application of this chapter is limited as specified in Section 7522.43.

§ 31899.1. Definitions

(a) The definitions in Chapter 3 (commencing with Section 31450) of this part shall apply to this chapter.

(b) The term "Internal Revenue Code" includes all regulations, revenue rulings, notices, and revenue procedures issued by the Internal Revenue Service.

§ 31899.2. First time members on or after Jan. 1, 1990; payment limitations; grandfather election; counties of first class; application

(a) In accordance with Section 31899.3, the retirement benefits for any person who for the first time became a member of the system on or after January 1, 1990, shall be subject to the payment limitations of Section 415 of the Internal Revenue Code. The retirement benefits for any person who became a member of the system before January 1, 1990, also shall be subject to the payment limitations of Section 415 of the Internal Revenue Code to the extent that those benefits are not exempt from those limitations under the "grandfather" election that has been made under that section and this section.

(b) The "grandfather" election in Section 415(b)(10) of the Internal Revenue Code is hereby made. All members of a retirement system who joined the system prior to January 1, 1990, are exempt from the Section 415 limits to the extent permitted by the Internal Revenue Code.

(c) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

§ 31899.3. Impact of I.R.C. upon retirement rights; notice to employers; counties of first class

(a) Notwithstanding any other provision of law, the retirement rights conferred by this chapter and by Chapter 3 (commencing with Section 31450) of this part upon any person who for the first time becomes a member of a retirement system on or after January 1, 1990, shall be subject to the limitations in the Internal Revenue Code upon benefits that may be paid by public retirement systems. That person may not have any retirement right or benefit that exceeds those limitations, and no retirement right or benefit may

California Government Code
Title 3. Division 4. Part 3. Chapter 3.9

accrue to or vest in that person under Chapter 3 (commencing with Section 31450) that exceeds those limitations. That person may, however, have retirement rights and benefits under the replacement benefits program established under this chapter.

(b) Each retirement board shall provide to each employer a notice of the content and effect of subdivision (a) for distribution, prior to employment, to each person who may become a member and to each person who for the first time becomes a member on or after January 1, 1990.

(c) Chapter 3 (commencing with Section 31450) shall be construed as if it included this section.

(d) This section does not apply in a county of the first class as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, which county is instead subject to Article 2.1 (commencing with Section 31510) of Chapter 3.

§ 31899.4. Replacement benefits program

(a) Each county and district shall provide a program to replace the benefits that are limited by Section 415 of the Internal Revenue Code for members whose retirement benefits are limited by Section 415 and cannot be fully maximized pursuant to Section 31538. The replacement benefits program shall provide benefits that, together with the benefits provided by the retirement system, are the same as, and may not exceed, the benefits that would be paid by the retirement system but for the application of the limits of Section 415. Notwithstanding the foregoing, the county or district may modify its replacement benefits program and may add, modify, or eliminate any replacement benefits, as necessary, to carry out the purpose of this chapter. A replacement benefit may not be reduced if the reduction would impair the vested rights of any person.

(b) Each county shall establish and administer its own replacement benefits program for members whose retirement benefits are limited by Section 415 of the Internal Revenue Code.

(c) A county may, pursuant to a contract with a district, agree to administer the district's replacement benefits program for the district's members whose retirement benefits are limited by Section 415 of the Internal Revenue Code. The county may charge each district a reasonable fee for administering the district's program and the county and district may agree on any other conditions relating to that administration. If a district does not contract with the county to administer its replacement benefits program, it shall establish and administer its own replacement benefits program.

(d) Upon the recommendation of the retirement system's actuary, and in accordance with its obligation to recommend county and district contribution rates under Sections 31453 and 31453.5, the board shall adjust the contributions required to be made by a county or district to the extent that benefits are payable under a replacement benefits program of that county or district.

(e) The county, and any district that establishes and administers its own program, shall enact an ordinance or prescribe regulations or other written documentation setting forth the terms of its replacement benefits program.

(f) Notwithstanding any other provision of this chapter, a county of the first class, as defined in Section 28020, as amended by Chapter 1204 of the Statutes of 1971, and Section 28022, as amended by Chapter 43 of the Statutes of 1961, is not required to provide replacement benefits to any member under this

California Government Code
Title 3. Division 4. Part 3. Chapter 3.9

section if that member participates in General Plan F or Safety Plan F under Article 2.1 (commencing with Section 31510) of Chapter 3.

§ 31899.5. Administration of replacement benefits program

Each county, and each district that establishes its own replacement benefits program, shall administer the replacement benefits program established by it pursuant to this chapter. The board may, pursuant to an agreement with the county or the district that establishes its own program, assist in the administration of the replacement benefits program to the extent permitted under the Internal Revenue Code.

§ 31899.6. Nonconformity with I.R.C. § 415; inoperative effect on Chapters 3 and 3.9

If the Internal Revenue Service determines that any provision of Chapter 3 (commencing with Section 31450) of this part or this chapter cannot be given effect without placing a retirement system administered under this chapter or Chapter 3 (commencing with Section 31450) of this part out of conformity with Section 415 of the Internal Revenue Code, that provision, only to the extent that it causes that nonconformity and only with respect to the affected parties shall become inoperative with respect to the payment of benefits pursuant to Chapter 3 (commencing with Section 31450) of this part, as of the effective date of the determination. The retirement board shall notify the Secretary of State of inoperation under this section.

§ 31899.7. Exclusion of public retirement systems; invalidation of application of I.R.C. § 415; inoperation of chapter; action by retirement board

(a) If Section 415 of the Internal Revenue Code is amended to exclude public retirement systems, or if the application of Section 415 of the Internal Revenue Code to public retirement systems is invalidated by the final decision of an appellate court of proper jurisdiction, all sections of this chapter, except this section, shall become inoperative as of the effective date of that amendment or decision. The retirement board shall immediately notify the Secretary of State whenever any provision of this chapter becomes inoperative pursuant to this section.

(b) Whenever all sections of this chapter, except this section, become inoperative pursuant to this section, and to the extent not prohibited by the Internal Revenue Code, the retirement board, county, and districts shall do all of the following:

(1) Remove the pension limitations imposed by Section 415 of the Internal Revenue Code for prospective payments to annuitants.

(2) Eliminate the replacement benefits, and pay benefits that are due under the system to the affected annuitants without regard to any limitations of Section 415 of the Internal Revenue Code.

(3) Take any and all other actions they deem necessary and feasible.

§ 31899.8. Legislative intent; compliance with I.R.C.; legislative findings and declarations; costs

California Government Code
Title 3. Division 4. Part 3. Chapter 3.9

It is the sole intent of the Legislature, in enacting this chapter, to fully comply with the provisions of the Internal Revenue Code that apply to public retirement systems in order to maintain and ensure the federal income tax exempt status of the county employees' retirement systems, to elect the "grandfather" option in Section 415(b)(10) of the Internal Revenue Code, and to require that each county and district provide benefits that replace the benefits that are limited by Section 415 of the Internal Revenue Code for affected members of the county employees' retirement systems.

The Legislature finds and declares that all costs of local public agencies and local public retirement systems of complying with Section 415 of the Internal Revenue Code are a federal mandate within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2, as construed in *City of Sacramento v. State of California* (50 Cal. 3d 51).

It is the intent of the Legislature that this chapter not be construed to impose upon local public agencies that are maintaining county retirement systems pursuant to Chapter 3 (commencing with Section 31450) of this part, state-reimbursable, state-mandated local program benefit costs within the meaning of Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2.

If either the Commission on State Mandates or a court determines that this chapter imposes upon any local agency, state-mandated local program benefit costs, notwithstanding any other provision of law, no reimbursement therefor shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 or from any other state fund.

§ 31899.9. Amendment of chapter; reservation of power; memorandums of understanding

The Legislature reserves the power and right to amend this chapter, as needed to effect its purposes. This chapter shall be controlling over any memorandum of understanding reached between employers and employees pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: PROPOSED 2022 REGULAR BOARD AND OTHER MEETING SCHEDULE

Recommendation

Approve the proposed 2022 regular Board and other meeting schedule.

Background/Discussion

Attached is a list of the proposed Board meeting, Investment Committee, Disability Committee, and Strategic Workshop dates for 2022.

Dates in 2022 for other Board Committee meetings such as Audit, Governance, and Personnel will be determined after those committees are assigned in December 2021.

Also attached is a list of important conferences that may be of interest in 2022. This is provided to assist you in your personal calendaring.

Understanding that there will be occasions when individual trustees may not be able to attend a Board or committee meeting, but seeking to have consistency in Board meeting calendaring, Chair Dewane has requested this topic be posted as a consent agenda item.

While any Trustee is free to pull this item for open discussion, it is hoped adopting the coming year's meeting dates in this manner will encourage meeting standardization.

Attachments:

- 2022 Board and Investment Committee Schedule
- 2022 Conference Dates

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

2022 Meeting Calendar

January						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

February						
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20	21	22	23	24	25	26
27	28					

March						
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27	28	29	30	31		

April						
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24	25	26	27	28	29	30

May						
Su	Mo	Tu	We	Th	Fr	Sa
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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

June						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
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12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

July						
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					1	2
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24	25	26	27	28	29	30
31						

August						
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	1	2	3	4	5	6
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21	22	23	24	25	26	27
28	29	30	31			

September						
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18	19	20	21	22	23	24
25	26	27	28	29	30	

October						
Su	Mo	Tu	We	Th	Fr	Sa
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16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

November						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

December						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Federal Holidays 2022

Jan 1	New Year's Day	May 30	Memorial Day	Oct 10	Columbus Day	Dec 25	Christmas Day
Jan 17	Martin Luther King Day	Jul 4	Independence Day	Nov 11	Veterans Day	Dec 26	Christmas Day (obs.)
Feb 12	Lincoln's Day	Sep 5	Labor Day	Nov 24	Thanksgiving Day		
Feb 21	Presidents' Day			Nov 25	Holiday Observed		

SACRS 2022 CONFERENCES		
Spring Conference	May 10-13, 2022	Rancho Mirage, CA
Fall Conference	November 8-11, 2022	Long Beach, CA
SACRS/UC Berkeley Program	July 17-20, 2022	Berkeley, CA

CALAPRS 2022 CONFERENCES		
General Assembly	March 5-8, 2022	San Diego, CA
Advanced Principals of Pension Governance for Trustees at UCLA	March 30-April 1, 2022	Los Angeles, CA
Principles of Pension Governance for Trustees at Pepperdine University	Not yet listed	Not yet listed

NASRA 2022 CONFERENCES		
Winter Meeting	February 26-28, 2022	Washington, DC
Annual Conference	August 6-10, 2022	Long Beach, CA

NCPERS 2022 CONFERENCES		
Legislative Conference	Not yet listed	
Trustee Educational Seminar (TEDS)	May 21-22, 2022	Washington, D.C.
Program for Advanced Trustee Studies (PATS)	May 21-22, 2022	Washington, D.C.

NCPERS Accredited Fiduciary Program (NAF) Modules 1&2	May 21-22, 2022	Washington, D.C.
NCPERS Accredited Fiduciary Program (NAF) Modules 3&4	May 21-22, 2022	Washington, D.C.
Annual Conference & Exhibition (ACE)	May 22-25, 2022	Washington D.C.
Public Pension Funding Forum	August 2022(no exact date yet)	Los Angeles, CA
Public Safety Conference	October 25-28, 2022	Nashville, TN

IFEBP 2022 CONFERENCES		
Public Employee Benefits Institute	June 27, 2022	Seattle, WA
Health Benefits Conference & Expo	January 31, 2022	Clearwater Beach, FL
Trustees and Administrators Institute	February 19, 2022	Orlando, FL
68th Annual Employee Benefits Conference	October 23-26, 2022	Las Vegas, NV



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: DA-2 Hearing Officer Recommendations – Vincent Sardella

Recommendation

Staff recommends the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated October 4, 2021 (Recommendation) wherein the Hearing Officer recommended that the Board find the application for disability retirement filed by Applicant, Vincent Sardella was not timely, as he did not prove he was physically or mentally incapacitated to perform his job duties between January 8, 2015 and July 16, 2015, as required by Government Code section 31722.

Alternatives

California Government Code section 31534 outlines the Board’s options with respect to the Recommendation. Section 31534 states in pertinent part as follows:

Upon receiving the proposed findings of fact and recommendations of the referee, the board may:

- (a) Approve and adopt the proposed findings and the recommendations of the referee, or
- (b) Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon receipt thereof the board shall take such action as in its opinion is indicated by such evidence, or
- (c) Refer the matter back with or without instructions to the referee for further proceedings, or
- (d) Set the matter for hearing before itself. At such hearing, the board shall hear and decide the matter as if it had not been referred to the referee.

Background

Instrumentation Technician II, Orange County Sanitation District
Date employee filed application for service-connected disability retirement: 07/16/2015
Date of entry into OCERS: 12/17/2012
Total years of OCERS service: 2.04759
Last day of regular compensation: 01/08/2015
Applicant is represented by Troy Monge

Facts

The Applicant, Vincent Sardella (Applicant), began working for the Orange County Sanitation District (“OCSD”) as an Electronic Technician II on December 17, 2012. On August 4, 2014, the Applicant suffered an injury to his right shoulder and right side while working. The injury was reported to his supervisor. He was treated by Dr. Ghalamdor and was placed on Total Temporary Disability (TTD) for approximately 8 days, then given work restrictions. OCSD accommodated those work restrictions.

Dr. Ghalambor released the Applicant to full duty on October 13, 2014 and declared him permanent and stationary on November 14, 2014. The final report indicated that he could return to his usual and customary duties and there was no permanent disability. The Applicant resumed his full duties. Although the Applicant indicated that he was still having pain, he never requested that his duties be modified; and he continued working full duties until he voluntarily resigned on January 8, 2015.

The Applicant discussed his resignation with his supervisor and the human resources department. When asked directly why he was resigning, he stated he was unhappy that he had not been promoted and cited other personnel issues. He did not mention any physical impairment or work injury as a reason for his resignation. The Applicant filed an Application for service-connected disability retirement on July 16, 2015.

On February 5, 2019, the OCERS Disability Committee adopted staff’s recommendation and denied the application for service-connected disability retirement because of insufficient evidence of (1) permanent incapacity related to the Applicant’s right shoulder; and (2) job causation of the Applicant’s left shoulder incapacity. The Applicant timely requested an administrative hearing, and a hearing was held before Hearing Officer Jane Kearn on April 22, 2021. OCERS was represented by Nicole McIntosh and the Applicant was represented by Troy Monge. On October 4, 2021, the Hearing Officer issued the Recommendation recommending that the Board find that Applicant’s application for disability retirement was untimely pursuant to Government Code section 31722.

Government Code section 31722 states, in full, as follows:

The application [for disability retirement] shall be made while the member is in service, within four months after his or her discontinuance of service, within four months after the expiration of any period during which a presumption is extended beyond his or her discontinuance of service, or while, from the date of discontinuance of service to the time of the application, he or she is continuously physically or mentally incapacitated to perform his or her duties.

In reviewing the timeliness of the Applicant’s application under Section 31722, the Hearing Officer states in the Recommendation that,

The first two potential filing periods are summarily not applicable as Applicant did not file his Application while in service or within four months of discontinuance of service. Likewise, no party has argued that an applicable presumption which would extend the date. (Citations omitted.)

Accordingly, the only basis under which Applicant's Application might be timely [is] if Applicant "was continuously physically or mentally incapacitated to perform his or her duties."

(Recommendation, p. 50-51.)

The Recommendation reflects that the Applicant's last day of work was January 8, 2015, and that there was no medical evidence that Applicant was unable to perform the duties of his job at the time he stopped working. The Hearing Officer states, "There is no medical testimony that retroactively finds Applicant was continuously incapacitated until July 16, 2015, the date of his Application." (Recommendation, p. 52.) Ultimately, the Hearing Officer concludes as follows:

Based on the foregoing, because there is no medical testimony to support a claim of continuous incapacity from the last date of service, the Hearing Officer finds that the last possible ground of timeliness under Government Code Section 31722 is not met, as there is no proof Applicant was continuously physically or mentally incapacitated to perform his duties. (Recommendation, p. 53.)

The Hearing Officer therefore recommends that the Board find that the Applicant's application for disability retirement was not timely as Applicant did not prove he was physically or mentally incapacitated to perform his job duties between January 8, 2015 (the last day he worked) and July 16, 2015 (the day he filed his application), as required by Government Code section 31722.

The Hearing Officer goes on to state in the Recommendation that *if the Board disagrees* with the Hearing Officer's decision regarding the untimeliness of the application, then the Board must determine whether the Applicant is permanently incapacitated for the performance of duty. Staff recommends that the Board adopt the Hearing Officer's determination that the Applicant's application for disability retirement was untimely under Government Code section 31722; and if the Board adopts staff's recommendation, the Board need not consider the question of whether the Applicant is permanently incapacitated.

If the Board does not find that the application is untimely, staff will bring the matter back to the Board at a future meeting for the Board to consider the question of whether the Applicant is incapacitated. Staff will recommend at that time that the Board refer the case back to the Hearing Officer to consider additional medical evidence.

The Recommendation is attached.

This matter was adjudicated under the OCERS Board Adjudication Policy and Administrative Hearing Rules dated January 16, 2018 (Effective June 1, 2018). Pursuant to the Rules, the parties had twenty (20) days after the date the Recommendation to file objections, however; the Hearing Officer is not required to respond to objections from either party.

The Applicant filed objections on October 22, 2021 and the Respondent filed objections on October 25, 2021. Those objections are attached.

Staff recommends the Board approve and adopt the Hearing Officer's Recommendation that the Board find that the Applicant's application for disability retirement was untimely, and deny the Applicant a service connected disability retirement.

Submitted by:



SJ-Approved

Suzanne Jenike
Assistant CEO, External Operations

FILED

Orange County Employees
Retirement System

OCT 4 2021

By B. Singleton, Clerk
of the Hearing Officers

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**BEFORE THE BOARD OF RETIREMENT OF THE
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

In the Matter of

Case No. 0022-251817

VINCENT SARDELLA,

**SUMMARY OF EVIDENCE, FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
RECOMMENDATIONS**

Applicant.

Hearing Date: April 22, 2021
Location: OCERS, 2223 E. Wellington
Ave., Santa Ana, CA 92701
Time: 10:00 a.m.
Hearing Officer: Jane G. Kearl, Esq.

INTRODUCTION

The hearing regarding the application for benefit determination of Vincent Sardella (“Applicant”) was conducted on April 22, 2021. The Applicant was represented by Troy D. Monge, Esq. of the Law Offices of Martin Taller, APC. Respondent Orange County Employees Retirement System (“OCERS”) was represented by Nicole A. McIntosh, Esq. The Hearing Officer was Jane G. Kearl, Esq.

On April 29, 2019, Applicant filed a Request for Administrative Hearing for a Disability Benefit Determination pursuant to the Adjudication Policy and Administrative Hearing Rules of OCERS, contesting OCERS’ finding on permanent incapacity and service connection. (AR 0055-0057)¹ Jane G. Kearl, Esq. was appointed Hearing Officer on April 30, 2019. (AR 0058-0059)

¹ All references to AR refer to the Administrative Record page number.

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ISSUES

1. Was Applicant’s Application for Disability Benefits timely filed in accordance with Government Code section 31722?
2. Was Applicant permanently incapacitated and unable to perform the usual and customary duties of his position?
3. If permanently incapacitated, was the incapacity service-related?
4. If there was a service-related incapacity, what is the effective date for disability retirement benefits?

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TESTIMONY FOR APPLICANT

Witness Number 1 - Applicant, Vincent Sardella

Applicant testified on his own behalf at the hearing on April 22, 2021.

Applicant became an employee of Orange County Sanitation District (“OCSD”) and a member in OCERS, on December 17, 2012. (AR 0018)

Applicant testified that he filed for disability with OCERS in July of 2015. (HT² 11:7-12; AR 0001-0009) Applicant testified that he stopped working for the OCSD on January 8, 2015. (HT 11:15) Per Applicant, he did not file for disability benefits at that time because he did not know he would have a permanent disability. (HT 11:16-19)

Applicant testified that his injury occurred while working for the Sanitation District on August 4, 2014. (HT 12:9-13) Applicant testified that he injured his right side ribs and upper shoulders (HT 12:16-17) while Applicant was lifting heavy bottles of gas, approximately 25-30 lbs., over his head on a ladder, throwing them up on another platform. (HT 12:22-25; 13:1-5)

Applicant testified that he initially only reported a rib injury, and stated that he could barely breathe. (HT 13:12-15) Per Applicant, he reported later back to the doctor that he was also having problems with both shoulders. (HT 13:19-21) Applicant states that the doctor would only put the right shoulder in his report, not both shoulders. (HT 13:22-23)

Per Applicant, he was placed on light duty for approximately a month after seeing the providers at ProCare. (HT 14:17-25)

Applicant testified that X-rays were taken, but that an MRI was denied by his Workman’s Comp provider. (HT 15:12-17)

Applicant testified that he was cleared for full duty in October. Applicant stated that on the day he came back, he told his employer that he could not do the work. (HT 15:23-25) Applicant testified that he told “Bill, his leadman, and union steward that he needed extra help.” (HT 16:4-7)

Applicant testified that the earliest doctor’s appointment for his injures that he could schedule after he returned to work was January 6, 2015 with Dr. DeBottis. (HT 17:7-8)

² All references to HT refer to Hearing Transcript.

1 Per Applicant, an MRI was of the right shoulder was performed in March, which revealed
2 a torn rotator cuff. (HT 17:20-25) Applicant believes it was related to the injury of August 2014.
3 (HT 18:1-4)

4 Applicant testified that in July, 2015 doctors advised him that he needed surgery. (HT 18:8-
5 11) Per Applicant, the doctors said that surgery would not fully correct his problems. (HT 18:19-
6 20) Surgery was performed on the right shoulder in approximately October of 2015, but Applicant
7 stated that “the dates are getting kind of fuzzy.” (HT 19:4-11)

8 Applicant testified that he quit his employment on January 8, 2015. (HT 20:4-5) Applicant
9 states that he quit because he knew the doctor was going to do was put him back in physical
10 therapy, and he knew he could not do his job. (HT 20:8-11) Applicant testified that when
11 Applicant was released back to full duty up until January 8, 2015, he was having problems doing
12 his job and his co-workers had to help him. (HT 20:16-21) Applicant testified that “my bosses
13 even knew that.” (HT 20:25)

14 Per Applicant, when he resigned, he filled out paperwork and talked with the HR person
15 who asked how his arm was doing. Applicant testified that he told her that they were still trying
16 to figure out what was wrong with it and that he was going to physical therapy. Per Applicant, he
17 “figured when since he told her that, he didn’t need to write it down.” (HT 21:1-15) Applicant
18 testified that he did not know at that time his disability was going to be permanent. (HT 21:17-20)

19 Applicant testified that at the time of his retirement he could not lift anything greater than
20 10 or 20 pounds or reach over his head. (HT 21:22-25; 22:1-2)

21 Per Applicant his job was installing panels, which meant he needed to use a rotor hammer
22 which is a type of a drill but it vibrates, and had to do twisting for the screwdrivers. (HT 22:6-9)

23 Applicant testified that he still has problems with the radial nerve that goes all the way up
24 to his shoulder. (HT 23:15-16)

25 Applicant testified that he applied for Social Security Disability and was approved for that.
26 (HT 23:20-24)

27 Applicant testified that he received full Workman’s Compensation for his shoulders. (HT
28 24:4-8)

1 Applicant testified that before Applicant worked for the Sanitation District, he worked for
2 Boeing. (HT 27:2-4)

3 Applicant testified that his job at Boeing started out as an electronic electrician, an N.C.
4 electrician over there, then he was a facilities analyst in his last 8 years. (HT 27:14-18) Per
5 Applicant, he worked at Boeing for 31 years, and that his final position was facilities analyst. (HT
6 27:24-25)

7 Applicant testified that his first 22 years at Boeing were similar to his job at Orange County
8 Sanitation District. (HT 28:7-10).

9 Applicant testified that he used tools such as jackhammer and screwdrivers at the Sanitation
10 District. (HT 29:16-20) Applicant testified that he was also required to use similar types of tools
11 while he worked at Boeing, but on a more sporadic basis. (HT 29:21-25, HT 30:1-2)

12 Applicant testified that he felt pain in both shoulders. (HT 33:20-23)

13 Applicant was questioned as follows on cross-examination:

14 Q. "On page 92 of the Administrative Record, there is a section titled
15 assessment and diagnosis. And it reads: Mr. Sardella demonstrates improvement
16 consistent with early phase of physical therapy as evidenced by decreased pain and
17 good toleration. So would you say that that is inaccurate?"

18 A. "Subjective maybe." (HT 43:20-25; 44:1-2)

19 Applicant testified that right at that time it felt a little better. (HT 44:5-6)

20 Applicant believes he came off of light duty and started to work full duties in the
21 middle of October. (HT 45:24-25, HT 1-2) He did not have interactive process
22 meetings. (HT 46:3-6, 46:11)

23 Applicant testified that he does not remember, but it is possible that he had meetings with
24 his supervisor when he returned to work to review work restrictions and modifications to his job.
25 (HT 47:3-5)

26 Applicant testified as soon as his supervisor told him he was back on full duty, he told him
27 he could not do that. (HT 48:21-24)

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1 Applicant testified that he was given help when he was unable to lift certain things. (HT
2 51:2-8)

3 Applicant testified that another reason he stopped working at the Sanitation District was
4 because he was not happy there. (HT 54:1-5) He tried to get a couple other positions during the
5 time he was hurting. (HT 54:7-8) Applicant testified that there were a lot of problems in the shop.
6 (HT 54:12)

7 Applicant testified that he complained to his supervisors or leadmen about the problems on
8 a daily basis. (HT 55:1-6)

9 From the time period after Applicant's injury to the time he left, Applicant testified that he
10 applied for two or three positions. (HT 57:4-7) Applicant testified that electronic supervisor might
11 have been one of the positions he applied for, but he "could be wrong". (HT 57:14-15)

12 Applicant guesses that he applied for four or five positions in the 2 years he was working
13 there. (HT 57:16-21)

14 Applicant was questioned regarding his visit with Social Security doctor, Dr. John Godes.
15 (HT 58:8) Applicant testified that he vaguely remembers this evaluation. (HT 59:11-12)

16 Applicant had difficulty remembering details of the injury and events of the past, frequently
17 stating that he did not recall or did not remember details. Hearing Officer does note that the events
18 occurred more than 5 years prior.

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TESTIMONY FOR RESPONDENT

Witness Number 1 – Robert Bell

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3 Respondent’s first witness was Robert Bell, maintenance supervisor of fleet services with
4 the Orange County Sanitation District. (HT 67:1-4) Mr. Bell testified that he has worked with the
5 Sanitation District for twenty-seven years. (HT 57:8)

6 Per Mr. Bell, in 2014, his job title was maintenance supervisor instrumentation in Plant 1.
7 (HT 57:12) Mr. Bell testified that Applicant reported to him during his term of employment. (HT
8 67:20) Mr. Bell testified that he was aware of Applicant’s claim of suffering injury in August of
9 2014 at the Sanitation District. (HT 67:22-25)

10 Per Mr. Bell, his understanding of Applicant’s injury was that Applicant was working that
11 day on a scrubber system, running sensor hose and carrying calibration gas bottles to stage an
12 instrument.

13 Mr. Bell states that Applicant [“came back into my office around 11:00 a.m. to give
14 us an update on the work [on the date of the injury]. We break at 11:30. So he was
15 coming back in to report back in and get cleaned up prior to work. He went to wash
16 his hands, poked his head back into my office a few minutes later. He said he was
17 embarrassed. He had just sneezed and hurt himself. He had severe pain in his right
18 shoulder. I told him to sit for a minute to see if it would scale down. If not, we
19 would call a nurse and get him to ProCare.” (HT 68:4-19)

20 Mr. Bell testified that they contacted the nurse, and the nurse directed him to take Applicant
21 to ProCare. Per Mr. Bell, he transported Applicant to ProCare in Huntington Beach (he believes).
22 (HT 68:21-25) Mr. Bell testified that he believed Applicant was off work until 8/12. (HT 69:9)
23 Eight days later. (HT 69:12)

24 Mr. Bell testified that upon Applicant’s return to work he was working modified duties,
25 and that the nurse had communicated Applicant’s work restrictions to Mr. Bell. (HT 70:3-7)

26 Per Mr. Bell, the work restrictions included limited mobility in the right shoulder; a limit
27 of maybe six or ten pounds of weight and lifting. Mr. Bell testified that Applicant was provided
28 with modified duties. (HT 70:21-23)

1 After Applicant was released, Mr. Bell testified that Applicant was required to work full
2 duties with no restrictions (HT 71:10-13)

3 Mr. Bell testified that Applicant had communicated to the nurse that he was still having
4 pain and believes they kept him going to physical therapy. (HT 71:24-25, 72:1)

5 Per Mr. Bell, Applicant did not personally report to Mr. Bell that he was unable to do any
6 of his job duties. (HT 72:5-7)

7 However, Mr. Bell testified that Applicant personally told Mr. Bell that he was having pain
8 in his shoulders. (HT 72:8-10) Per Mr. Bell, he “guesses” that he was told “at least two to several
9 times over a period of two months” that Applicant was having pain. Mr. Bell testified that
10 Applicant was referred to the nurse when he reported pain in the shoulders. (HT 72:12-18)

11 Mr. Bell testified that he modified Applicant’s duties during this period of time, including
12 keeping him from climbing ladders or carrying anything heavy. (HT 72:23-25, 73:1)

13 Contrary to prior testimony, Mr. Bell testified that he does not recall if Applicant ever
14 reported pain in his left shoulder. (HT 73:2-5)

15 Mr. Bell testified that over a couple-year period, Applicant applied for 18-20 positions that
16 he interviewed for, but was not selected for any of them as a successful candidate. (HT 74:19-21)

17 Mr. Bell testified that Applicant had issues working with a few of the operators. He does
18 not recall whether he had complaints about working conditions or his work situation. (HT 76:6-
19 11) Mr. Bell stated that Applicant did have a complaint specifically against a manager for a time.
(HT 76:14-15)

20 Mr. Bell testified that Applicant’s final day of work was January 8, 2015. (HT 77:18)

21 Per Mr. Bell, Applicant told him he stopped working for the Sanitation District because he
22 was dissatisfied with his inability to be promoted and didn’t care to work for his supervisor or
23 manager any longer. (HT 77:21-23)

24 Mr. Bell stated that Applicant did not mention his injury as a reason why he was quitting.
25 (HT 78:8-11)

26 Mr. Bell testified that prior to October 14 and after October 14 Applicant continued to
27 complain of pain to the nurse. (HT 79:15-22)

28 Mr. Bell was found to be a credible witness.

Witness Number 2 – Lourdes Luna

Respondent’s second witness was Lourdes Luna, Orange County Sanitation District human resources assistant since 2003. (HT 83:18-24)

Ms. Luna testified that in January of 2015, Ms. Luna was an H.R. assistant, Human Resources. (HT 84:3)

Ms. Luna testified that she coordinated with Applicant on his final pay and his exit interview. (HT 84:18-19)

Ms. Luna testified that Applicant chose to do an in-person exit interview. (HT 84:23-25; HT 85:1)

Ms. Luna is directed to AR No. 78, a Separation of Employment Questionnaire dated January 8, 2015 and acknowledged she recognized same. (HT 85:14-20)

Ms. Luna testified that she asked Applicant why he decided to leave his current position at the Sanitation District. (HT 86:14-17) Ms. Luna testified that it looked like he was unhappy because he wasn’t promoted. (HT 86:20-21) Ms. Luna testified that Applicant did not mention a work injury. (HT 86:22-23) Ms. Luna testified that Applicant did not mention any physical inability to perform his job duties. (HT 86:24-25, 87:1)

Ms. Luna testified that the reasons checked as affirmative is rate of pay, lack of opportunity for advancement, working conditions, and excessive job pressure. (HT 87:24-25, 88:1-2)

Per Ms. Luna, she asked Applicant whether an illness or physical condition contributed towards his decision to leave the County, and Applicant did not indicate that that was one of the factors. (HT 88:6-12) Ms. Luna testified that they did not discuss Applicant’s worker’s compensation claim. (HT 88:17-19)

Ms. Luna testified that she stated that she had specific recollection of her exit interview with Applicant because Applicant mentioned that during his first year he did not receive development pay, and Ms. Luna discussed the same with her supervisor. (HT 89:4-6; HT 90:5-9)

Ms. Luna testified that she specifically remembers reading every question to Applicant. (HT 90:18-20)

Ms. Luna was found to be a credible witness.

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EXHIBITS

The Administrative Records and additional documents submitted, were received and admitted into evidence by the Hearing Officer without objection by either side, and are described below. The Parties stipulated to the admission of the Administrative Record 0001 – 0324 (HT 9:10-16).

After hearing, Respondent moved for the inclusion of additional records into the Administrative Record. That motion was denied based on OCER’s Adjudication Policy and Administrative Hearing Rules, Rules 10G and 15E.

AR Page No.

DOCUMENT DESCRIPTION

0001 **7/16/2015 Application for Service-Connected Disability Retirement**
Application for Disability Retirement of Applicant for Service-Connected Disability. Signed 7/16/15. Filed July 16, 2015.

0002-0003 **7/16/2015 Employee’s Statement of Disability**
Member Information: Vincent J. Sardella, Instrument Tech II, OC Sanitation District.
Disability Statement: Torn muscles in shoulder, upper arms, ribs; pain medication daily. Unable to lift the bottles of CalGas, carry ladders, climb vertical ladders, or use a roto hammer. Taking pain pills daily for pain in shoulders and upper arms and right side. Symptoms began 8/4/2014 after hoisting steel bottles overhead while on a vertical ladder. Unable to perform duties since 8/4/2014. Lists medical providers and treatment. Stopped working 1/8/2015.

0004-0007 **7/16/2015 Physician’s Statement of Disability (Dr. Jack Piasecki)**
Pain in shoulder. 3/24/15 MRI - Rotator cuff tear. Treated with steroid injection.
Gave limitation to avoid completely reaching forward or overhead. Was given the limitation of “some limitation” for: cramped, unusual positions, pull/push/twist, operate truck/car/dolly, operate heavy equipment. Was

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instructed not to do overhead work and to lift no more than 15 pounds.
Was found to be “permanently disabled from duties of occupation.”

0008-0009

7/16/2015 Authorization for Disclosure and use of protected Health Information

Authorization signed by Applicant on 7/16/15.

0010

7/20/2015 Worker’s Compensation Information Request

Number and dates of Claims: 1 claim, date of injury 8/4/2014. Type of Injury/Status of Claim: Rib strain; denied. No permanent restrictions issued. Last day of work: January 8, 2015. Last day of pay: January 8, 2015.

0011

7/30/2015 Supervisor Statement (Maintenance Supervisor, Robert Bell)

Report prepared by Robert Bell, supervisor.

Duties of Applicant: Field maintenance of process instruments analyzers, calibration, preventive and corrective maintenance, and equipment installation.

Applicant was performing usual and customary duties prior to last day of work.

Observations regarding Applicant’s injury: Applicant complained of pain in his right rib/shoulder area, and limited Applicant’s use of his right arm.

Work restrictions: Light duty restrictions received on 8/8/14.

Applicant was released by his doctor to full duty on 10/14/14.

Applicant voluntarily resigned on 1/8/15 (“he was unhappy he was not promoted”).

Applicant received permission to perform electrical contract work for a previous employer on nights and weekends.

0012-0016

11/25/2015 Employer’s Statement of Disability (Richard Spencer, HR Manager)

Section 3, Information about Work Related Injury.

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Date of Injury: 8/4/2014. Reporting Supervisor: Robert Bell. Date Injury Reported: 8/4/2014. Circumstances of Injury: While standing and reading field data, Applicant sneezed very hard and experienced immediate and severe pain in his left rib area. He informed his supervisor, who contacted the nurse and was advised to transport to a medical facility immediately. The Worker’s Comp claim was denied.

Section 5, Interactive Process/Work Restrictions/Accommodation. Work restrictions 8/8/14, 9/4/14, 9/10/14. Able to temporarily or permanently accommodate the restrictions provided by the applicant within the same job classification.

Section 7, Employee Status. Last day of work 1/8/2015. The applicant is a terminated employee, not an active employee. Applicant retired.

Section 8, Payment Status. Last day of county pay: 1/8/15 – Final paycheck and leave payouts.

Correspondence

0017

7/17/2015 OCERS Letter to Applicant Re: Confirmation of Receipt of Application for Service-Connected Disability Retirement

If awarded a disability retirement, effective date no earlier than July 16, 2015 (date of filing application).

0018

7/17/2015 OCERS Letter to O.C. Sanitation District Risk Management re: Filing of Application

OCERS request for all information regarding applicant’s workers’ compensation claim.

0019

7/17/2015 OCERS Letter to O.C. Sanitation District HR re: Filing of Application

OCERS request for all information regarding applicant’s entire personnel file.

- 1 0020-0021 **12/11/2015 OCERS Letter to Applicant re Application for Service-**
2 **Connected Disability Retirement**
3 OCERS letter to applicant with list of medical records received to date.
4 Gives notice of Applicant's burden of proof.
- 5 0022-0023 **12/18/2015 OCERS Letter to Timothy K. Ross, M.D. re: Examination**
6 **of Applicant**
7 Letter confirming appointment for examination of applicant; and criteria
8 and requirements for medical report.
- 9
10 0024 **12/21/2015 OCERS Letter to Applicant re Examination of Dr. Timothy**
11 **Ross**
12 Letter to applicant advising of appointment with Dr. Ross on February 3,
13 2016.
- 14 0025-0026 **6/14/2016 OCERS Letter to Timothy K. Ross, M.D. re Submission of**
15 **Additional Records by Applicant and Request for Supplemental**
16 **Report**
17 OCERS request to Dr. Ross to review applicant's additional records and
18 provide supplement report. Dr. Ross previously submitted three reports.
19 Permanency of incapacity still in question. Notes "OCERS accepts the
20 employee as-is."
- 21 0027 **6/24/2016 OCERS Letter to Applicant with Encrypted Copy of IME**
22 **Report of Dr. Ross dated February 3, 2016**
23 OCERS transmittal letter to applicant with CD containing a copy of
24 Independent Medical Examination report of Dr. Timothy K. Ross dated
25 February 3, 2016.
- 26 0028 **3/3/2017 OCERS Letter to Applicant with Encrypted Copy of IME**
27 **Supplemental Report of Dr. Ross dated 7/5/16**
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OCERS transmittal letter to applicant with CD containing a copy of Independent Medical Examination supplemental report of Dr. Timothy K. Ross dated July 5, 2016.

0029

8/22/2017 OCERS Letter to Applicant re Disability Retirement Application

Letter states Dr. Ross’ examination on April 19, 2017 is inconclusive. OCERS requests applicant to submit operative report and post-surgery reports of Dr. DeBottis to OCERS for Dr. Ross to review and provide supplemental report.

0030

8/22/2017 OCERS Letter to Applicant with Encrypted Copy of IME Supplemental Report of Dr. Ross dated 7/5/16

OCERS transmittal letter to applicant with CD containing a copy of Independent Medical Examination supplemental report of Dr. Timothy K. Ross dated 4/19/2017.

0031

11/8/2017 OCERS Letter to Timothy K. Ross, M.D.

OCERS letter to Dr. Ross with additional records for review.

0032

1/26/2018 OCERS Letter to Martin Taller, Esq.

OCERS transmittal letter to Mr. Taller with list of applicant’s medical records and reports per request of Mr. Taller.

0033

2/15/2018 Letter from Martin Taller, Esq. to OCERS (Megan Cortez)

Applicant’s attorney requests a neurological evaluation due to applicant’s nerve pain in his right upper extremity. Attorney states the opinion of an orthopedic specialist such as Dr. Ross is misplaced and inappropriate per *Zevora v Paul Revere* (9th Cir. 1997) 145 F. 3d 1118.

0034

3/5/2018 OCERS Letter to Applicant re Appointment with Dr. Michael Mahdad

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OCERS letter to Applicant confirming appointment scheduled for April 4, 2018.

0035-0036 **3/5/2018 OCERS Letter to M. Michael Mahdad, M.D. re Examination of Applicant**

OCERS letter to Dr. Mahdad re applicant appointment for examination; and criteria and requirements for medical report.

0037 **7/19/2018 OCERS Letter to Dr. Timothy Ross re Clarification of Findings from Supplemental Report of 11/16/2017**

OCERS request Dr. Ross to review the prior records and previous evaluations to provide opinion on service connection. Applicant’s employer is unable to find any position to meet restrictions of not lifting over 40 pounds and no overhead reaching. The reason for the request is that when accommodations cannot be met by an employer, the Applicant is deemed to be permanently incapacitated. A determination is needed on causation in order to make a decision to grant or deny service-connected disability retirement.

0038 **12/26/2018 Letter from Applicant’s Counsel re Remove from the Agenda the Case Scheduled for January 3, 2019, and Reset**

Applicant’s counsel requests the matter be removed from the agenda and reset due to being out of the country.

0039-0040 **1/25/2019 OCERS Letter to Applicant re Notice of 2/5/19 Disability Committee**

OCERS letter to applicant advising of Disability Committee meeting on February 5, 2019 and enclosing form to fill out for attendance at meeting. Staff recommendation is to: Deny service-connected disability retirement due to insufficient evidence of job causation to the left upper extremity. Deny service-connected disability retirement due to insufficient evidence of

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permanent incapacity related to right upper extremity, job causation is moot.

0041-0044 **2/5/2019 OCERS Staff Memo to Disability Committee re Vincent Sardella**

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of an Instrumentation Technician II for the condition related to the left upper extremity.

Deny service-connected disability retirement due to insufficient evidence of job causation to the left upper extremity.

Find the Applicant is not permanently incapacitated from the duties of an Instrumentation II for the condition related to the right upper extremity.

Deny service-connected disability retirement due to insufficient evidence of permanent incapacity related to the right upper extremity. Since there is no incapacity related to the condition in the Applicant’s right upper extremity, job causation is moot.

0045-0052 **2/5/2019 OCERS Disability Committee Meeting Agendas**

Disability Individual Applications and Recommendations for closed session.

0053-0054 **2/6/2019 OCERS Letter to Applicant re Disability Committee Decision**

Letter to Applicant re OCERS Disability Committee denied application for Service-Connected Disability. A request for Administrative Hearing must be made within 90 days.

0055-0057 **4/29/2019 Applicant’s Request for Administrative Hearing**

Applicant’s Request for an Administrative Hearing of a Disability Retirement Application. Attorney’s Name: Troy D. Monge SBA 217035. Details of Appeal: Contesting finding on permanent incapacity, finding on service connection. Description of Claim: Applicant should be found to be

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permanently disabled based on a service connected disability. This is supported by Dr. Richard Woods, neutral doctor in WC case whose opinion should be credited over opinions of Dr. Ross and Dr. Mahdad.

0058-0059

4/30/2019 Notice of Assignment of Hearing Officer

Hearing Officer assigned.

Medical Reports and Correspondence

0060

9/18/2014 Request for Authorization for Medical Treatment (Worker's Comp)

Date of Injury: 8/4/2014. Provider: Pamela J. Galambos, chiropractor. Treatment approved 9/18/14. Diagnosis: T/S sp/st, Ribs, sp/st, upper arm injury, upper arm pain. Recommend further treatment.

0061-0062

10/13/2014 Primary Treating Physician's Progress Report of Pamela Galambos D.C. (Worker's Comp)

Subjective: patient subjective complaints: rt arm flx and abd limited, able to sleep better on rt side "but not always", mid back pain and lateral rt torso pain decreased. Cause of symptoms: work injury; level: 5/10. Pain radiates to rt lateral torso. Weakness: none.

Upper Extremity: level: 5/10. Exacerbates symptoms: working; movement. Objective:

Thoracic: Tenderness on palpation: right mid thoracic paraspinal: +3; rt lateral torso: +3; rt subscapularis +4. Muscle Spasm on a scale of 1-5 demonstrated 1. Orthopedic tests: left Scissors: negative; right Scissors: Negative; left Lateral Trunk Bending: Negative, right Lateral Trunk Bending: Negative.

Upper Extremity: PROM testing negative for rt shoulder. AROM rt arm abd and flx unhindered when patient distracted. When tested with 5 lb and 10 lb weights, patient reported unable to perform bicep curl, lateral movement across a shelf, overhead press which demonstrated more

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restriction than when tested prior. Tenderness on palpation: lateral shoulder: mild.

Treatment and Plan: The Doctor recommends returning Released from W/C case with no further restrictions. Pre-injury status reached objectively, not subjectively. Any continuance or future care of thoracic or right arm should be directed to his general practitioner. May require 4-5 visits over the next 6 months if flare up.

0063-0069

11/15/2014 Primary Treating Physician’s Permanent and Stationary Report (Worker’s Comp)

Diagnoses: 1. T/S sp/st – resolved. 2. Rib sp/st – resolved. 3. Upper arm injury – resolved. 4. Pain in upper arm – resolved. No impairment.

Functional Capacity Assessment:

Limited, but remains Maximum capacities to Lift and/or Carry 40 lbs.

Frequently Lift and/or Carry 30 lbs.

Occasionally Lift and/or Carry 40 lbs.

Stand and/or Walk a total of less than 8 hours per 8 hour day.

Sit a total of less than 8 hours per 8 hour day.

Push and/or Pull unlimited.

Activities Allowed: Twisting (never). Twisting is never healthy for spine.

Can patient now return to his/her usual occupation: yes.

No permanent disability noted.

0070-0071

11/25/2014 Notice Regarding Permanent Disability Benefits Denial (Worker’s Comp)

Letter to applicant from Keenan & Associates handling WC Claim.

Discharged from care on 10/13/14 and Dr. Galambos indicated recovered with no permanent disability.

0072

1/6/2015 Primary Treating Physician’s Progress Report (Worker’s Comp)

Patient status since last exam: worsened.

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Work Limitations/Restrictions: None.

0073

1/28/2015 Request for Authorization (Workers Comp)

Requesting physician: Daniel DeBottis, MD. Diagnosis: Biceps Long Head, Proximal tear – Treatment Requested: 8 OT Visits by CHT @ The Hand Care Center. Approved 1/28/2015.

0074-0075

1/30/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 1. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Applicant presents to physical therapy with signs and sx consistent with tendinosis of R biceps LH tendon and muscle strain of R serratus anterior, as evidenced by decreased muscular strength, weak and painless contraction of biceps and pain to palpation and usage. Pt will benefit from skilled physical therapy in order to address above deficits and return to sx-free PLOF with all activities.

0076-0077

1/30/2015 Coast Therapy Plan of Care (Worker’s Comp)

Applicant presents to physical therapy with signs and sx consistent with tendinosis of R biceps LH tendon and muscle strain of R serratus anterior, as evidenced by decreased muscular strength, weak and painless contraction of biceps and pain to palpation and usage. Pt will benefit from skilled physical therapy in order to address above deficits and return to sx-free PLOF with all activities.

Long Term Goals: 4 weeks: pain free lifting; driving pain-free, working on his plane pain-free, exercising regularly (3 days/wk) pain-free; sleeping pain-free.

To improve pain relief, decrease inflammation, increase blood flow, improve tissue healing, electrical stimulation, ultrasound/phonophoresis, vasopneumatic, biofeedback training, whirlpool, paraffin bath, cryotherapy, hot packs, mechanical traction.

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0078-0081

1/30/2015 Physical Therapy Initial Examination – Coast Therapy (Worker’s Comp)

History of present injury: Applicant is a 62 year old male who presents with Right shoulder pain. Per MD, he has a full tear of the LH of the biceps tendon. He was throwing one really big bottle up over this shoulder, then he sneezed really hard and it tore. He feels like he pulled a rib out the pain was so bad. When pain medicine wore off, he felt pain from his elbow to his rib. Describes pain as under his arm and along his rib cage. He felt a pop in the rib. He gets a popping up with his arm now that he is not taking medication. Seeking physical therapy now because the shoulder popping and pain is a new sx.

Custom Outcome Measurement = 29/72 = 40% impairment.

Treatment to be provided: Therapeutic exercises, therapeutic activity, gait training, neuromuscular rehabilitation, manual therapy, massage, aquatic therapy, splinting/taping, group therapy, patient education.

0082-0083

2/4/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 2. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Applicant presents to physical therapy with signs and sx consistent with tendinosis of R biceps LH tendon and muscle strain of R serratus anterior, as evidenced by decreased muscular strength, weak and painless contraction of biceps and pain to palpation and usage. Pt will benefit from skilled physical therapy in order to address above deficits and return to sx-free PLOF with all activities.

0084-0085

2/6/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 3. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Applicant presents to physical therapy with signs and sx consistent with tendinosis of R biceps LH tendon and muscle strain of R serratus anterior, as evidenced by decreased muscular strength, weak and painless

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contraction of biceps and pain to palpation and usage. Pt will benefit from skilled physical therapy in order to address above deficits and return to sx-free PLOF with all activities.

0086

2/17/2015 Primary Treating Physician’s Progress Report (Worker’s Comp)

No show.

0087-0088

2/18/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 4. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Applicant presents to physical therapy with signs and sx consistent with tendinosis of R biceps LH tendon and muscle strain of R serratus anterior, as evidenced by decreased muscular strength, weak and painless contraction of biceps and pain to palpation and usage. Pt will benefit from skilled physical therapy in order to address above deficits and return to sx-free PLOF with all activities.

0089-0090

2/20/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 5. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Pain only with AROM of R shoulder and elbow flexion, and supination. It is feeling looser, and like it is “getting worse before it is getting better.” Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, and good toleration to ther ex. Pt will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0091-0092

2/25/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 6. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

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Pain only with AROM of R shoulder and elbow flexion, and supination. It is feeling looser, and like it is “getting worse before it is getting better.” Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, and good toleration to ther ex. Pt will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0093-0094

2/25/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)
(appears to be duplicate)

Visit No. 6. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Pain only with AROM of R shoulder and elbow flexion, and supination. It is feeling looser, and like it is “getting worse before it is getting better.” Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, and good toleration to ther ex. Pt will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0095-0096

2/27/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 7. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Pain only with AROM of R shoulder and elbow flexion, and supination. It is feeling looser, and like it is “getting worse before it is getting better.” Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, and good toleration to ther ex. Pt will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0097-0098

2/27/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)
(appears to be duplicate)

Visit No. 7. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

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Pain only with AROM of R shoulder and elbow flexion, and supination. It is feeling looser, and like it is “getting worse before it is getting better.” Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, and good toleration to ther ex. Patient will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0099-0102

3/6/2015 Coast Therapy Physical Therapy Progress Note (Worker’s Comp)

Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, subjective reports of increased strength, improvement in outcome measure to % and good toleration to the ex. Pt will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0103-0104

3/6/2015 Coast Therapy Daily Note/Billing Sheet (Worker’s Comp)

Visit No. 8. 8/4/2014 Chronic, New Injury. ICD9: 727.62: nontraumatic rupture of tendons of biceps (long head).

Pain only with AROM of R shoulder and elbow flexion, and supination. It is feeling looser, and like it is “getting worse before it is getting better.” Applicant demonstrates improvement consistent with early subacute phase of physical therapy, as evidenced by decreased pain post-tx, and good toleration to ther ex. Pt will benefit from skilled physical therapy in order to address above deficits, and return to sx-free PLOF with all activities.

0105-0107

3/10/2015 Progress Report by Orthopedic Surgeon Daniel DeBottis, M.D.

Chief Complaint: Right shoulder pain.
History: Evaluation of right shoulder. He has been doing physical therapy. He notices with twisting movements a clicking in the right shoulder. Pain

1 not improved with physical therapy. Strength slighter better. Continues to
 2 have pain with activity and pain at night and occasional pain at rest. Denies
 3 numbness or tingling. Patient has “noticed that his left shoulder has started
 4 to get achy as well.”
 5 Exam: Right shoulder shows no swelling or ecchymosis. Tenderness over
 6 supraspinatus insertion and long head of the bicep tendon. No atrophy
 7 about the shoulder. Strength notes as 5/5 with resisted forward elevation,
 8 internal and external elevation.
 9 Impression: Right shoulder pain consistent with the long head of the biceps
 10 tendon tendinitis vs. rotator cuff syndrome.
 11 Recommend MRI to evaluate for any possible rotator cuff tearing. Activity
 12 as tolerated. Continue physical therapy. Patient noted as retired, so no
 13 work restrictions issued.

13 0108 **3/10/2015 Primary Physician’s Progress Report (Worker’s Comp)**
 14 Treatment Plan: MRI right shoulder.

15 0109 **3/31/2015 Primary Treating Physician’s Progress Report of Daniel**
 16 **DeBottis, M.D., Orthopedic Surgeon (Worker’s Comp)**
 17 Chief complaint: Right shoulder pain.
 18 History: Still has pain. No relief with physical therapy. Pain occasionally
 19 at night. Still pain in right ribs.
 20 Imaging: MRI of the right shoulder shows full thickness rotator cuff tear in
 21 the supraspinatus; increased fluid around the biceps tendon.
 22 Discussion: Treatment options include continuing physical therapy,
 23 cortisone injections or surgical intervention. Patient to consider options.
 24 Follow up in 6 weeks.

25 0110-0116 **4/8/2015 Letter from Keenan Associates re Settlement Authority**
 26 Applicant disagrees with findings of Dr. Galambos of 0% permanent
 27 disability and a need for future medical care. He has appointment on
 28 5/11/2015 with Dr. Claveria, panel qualified medical examiner.

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MRI report (0111) and disability claim documents (0112-0116) attached.
MRI report impression: extensive tendinosis with undersurface tears of the supraspinatus muscle as a result of chronic impingement and tear of the superior aspect of the labrum.

00117-0119

4/16/2015 Progress Report by Orthopedic Surgeon Daniel DeBottis, M.D. (Worker's Comp)

Chief Complaint: Right shoulder rotator cuff tear.
History: Still has pain. No relief with physical therapy. Pain occasionally at night. Still pain in right ribs. Denies numbness or tingling. Strength notes as 5/5 with resisted forward elevation, internal and external elevation.
Impression : Right shoulder rotator cuff tear, right biceps tendinitis.
Discussion: Again discussed treatment options. Reviewed the surgical intervention. Recommended same. Would like second opinion. Follow up as needed or call to schedule surgery.

0120

4/21/2015 Primary Treating Physician's Progress Report (Worker's Comp)

Not improved significantly. Will consider surgical intervention – recovery 9-12 months. Wants 2nd opinion. Restrictions Limited use of injured Left / Right. Lifting, pulling/pushing, gripping/grasping, overhead work/ 10 to 20 lbs.

0121

5/12/2015 Orthopedic Report of Daniel DeBottis, M.D.

Chief complaint: Right shoulder rotator cuff tear.
History: Still has pain. Tried conservative treatments and has had no relief. Notices he is having pain in the left shoulder as well. Has more pain in the right shoulder and is worse with activities and only mildly relieved at rest. Pain at night. Medication offers little relief. Strength notes as 5/5 with resisted forward elevation, internal and external elevation.
Discussion: Previous MRI showed full thickness rotator cuff tear and fluid and questionable tearing of the bicep tendon. Previously wanted a second

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opinion, but feels pain is bad enough and doesn't want to wait for second opinion. Discussed risks of surgery and projected rehabilitation course. Will plan on seeing him for preoperative visit.

0122-0123

7/7/2015 Notice of Denial of Worker's Compensation Benefit

Letter from Keenan Associates to Applicant advising of denial of Worker's Compensation benefits for "claim of injury to the alleged rib cage and left shoulder."

0124

8/11/2015 Primary Treating Physician's Progress Report of Daniel DeBottis, M.D. (Worker's Comp)

Right shoulder rotator cuff tear impingement and right shoulder biceps tendinitis.

0125

8/11/2015 Orthopedic Report of Daniel DeBottis, M.D.

Follow up visit for right shoulder. Conservative treatments have failed. Beginning to have left shoulder pain. Worse with activities and at night; medications offer small amount of relief. Strength notes as 5/5 with resisted forward elevation, internal and external elevation.
Exam: Right shoulder tenderness; Possible impingement signs on the right shoulder. Sensation is intact throughout the right upper extremity; palpable radial pulse.
Right shoulder rotator cuff tear and right shoulder biceps tendinitis.
Discussion: Reviewed findings. Discussed treatment options again. Patient would like to go forward with surgical intervention.
Future Medical Care: Patient needs approval for surgical intervention and proposed postoperative rehabilitation and for postoperative sling. Will need preoperative approval for labs and x-rays. Will return for preoperative appointment.

0126

9/23/2015 Primary Treating Physician Progress Report of Daniel DeBottis, M.D.

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Not improved significantly, considering surgery, injection today (apparently re: right shoulder.) However, diagnosis notes for left shoulder and states no use of left arm.

0127-0129

10/8/2015 Operative Report Main Street Specialty Surgery Center

Preoperative Diagnosis:

Right Shoulder small full-thickness rotator cuff tear involving supraspinatus; Long head of the biceps tendon tearing; subacromial impingement syndrome; subacromial bursitis; right shoulder glenohumeral synovitis.

Postoperative Diagnosis: Same as above.

Procedure Performed: Right shoulder arthroscopic rotator cuff repair, right shoulder arthroscopic long head of the biceps tendinosis; right shoulder arthroscopic acromioplasty; right shoulder arthroscopic debridement with subacromial decompression.

Details of surgery performed.

0130

10/9/2015 Letter from Daniel DeBottis, M.D. re Applicant's Medical Care and Disability Status

Dr. DeBottis states that applicant is under his medical care and will remain on disability for approximately 3 months.

0131-0133

10/14/2015 Consulting Physician's Progress Report of Daniel DeBottis, M.D.

One week post-surgery follow up appointment. Therapist recommended wrist and elbow exercises. Pain controlled when he does not move it. Stiffness in the shoulder. Denies fevers, chills, etc.

Examination of the shoulder reveals arthroscopic portals are well healed. Passive forward elevation is to 90 with pain. External rotation is to 10 with pain. He is neurovascularly intact throughout right upper extremity.

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Very stiff postoperatively. He has not done any shoulder motion in 1 week to speak of. Needs to do passive physical therapy at home 5 times a day. Instructions given; follow up in 4 weeks.

0134-0136

11/2/2015 Consulting Physician’s Progress Report of Daniel DeBottis, M.D.

Status post 3 weeks right shoulder rotator cuff repair and biceps tenodesis. Still having pain; trying to take less Percocet. Has been doing therapy. Overall pain improving with therapy. Pain improving. Also has pain shooting down his arm into thumb with intermittent numbness in the thumb.
Reviewed findings with patient. Safe to stop wearing sling. Progress activities as tolerated. Continue physical therapy focusing on range of motion and stretching. Stop Percocet. Take anti-inflammatories as needed. Work Status: No use of the right upper extremity. Future Medical Care: Continue physical therapy. Follow up in 6 weeks.

0137

1/29/2016 Primary Treating Physician Progress Report of Daniel DeBottis, M.D.

S/P right shoulder rotator cuff repair. Improved as expected. Remain off work until next appointment.

0138-0153

2/3/2016 Orthopedic Independent Medical Evaluation of Timothy K. Ross, M.D.

History: Applicant reports injury to his shoulders and upper arms on August 4, 2014. Lifting gas cylinders onto an overhead platform while standing on a vertical ladder. Received chiropractic treatment over the ensuing few weeks and released from care.
Right shoulder surgery performed by Dr. DeBottis on 10/8/2015. Legal representation retained by Applicant and sent to another orthopedist, Dr. Jack Piasecki. Follow up appointment with Dr. DeBottis on 3/2/2016.

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Report details physical exam by Dr. Ross and indicates right shoulder is subjectively tender anteriorly. No posterior shoulder tenderness; mobility assessment of the right shoulder displays virtually normal values. Mobility of left shoulder is found to be unrestricted, albeit with some reported discomfort on the extremes. Bilaterally, apprehension and stability testing of Applicant’s shoulders is negative. Displays anterior tenderness and discomfort of motions extremes with left shoulder.

Reviewed medical records provided. Would like to review operative report. Expects 6- 12 months post-surgical for full convalescence in order to definitively assess for presence or absence of any permanent functional incapacitation. States Applicant capable of light duty work, namely a position that would preclude heavy lifting, repetitive or forceful pushing, pulling and overhead reaching activities. Applicant has yet to reach a plateau regarding the recently performed surgery and ongoing supervised orthopedic management for his right shoulder and request to reassess him in a few months. Would also like to revisit the matter of causation due to a variety of report inconsistencies. Initial report refers to a sneezing event associated with chest pain, the extension of symptoms to involve his right upper extremity and subsequent migration of reporting to include his left shoulder.

Xrays show early degenerative AC joint changes. Diagnostic impression: post right shoulder arthroscopy; probably left shoulder tendinitis.

0154-0164

4/19/2017 Follow-up Orthopedic Independent Medical Exam of Dr. Timothy Ross

Applicant reports improvement from the right shoulder operation, describes residual symptomology in the right shoulder and is unhappy with paresthesia that have persisted. A referral was made to an upper extremity specialist, Dr. Rubenstein. Surgical procedure is scheduled for May 11, 2017 to address the distal right upper extremity paresthesias. Also seen by a WC AME or QME physician named Dr. Woods on 2 occasions. Left

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shoulder MRI taken. Dr. Woods and Dr. Piasecki recommend a left shoulder operation after convalescing from Dr. Rubenstein’s procedure. Applicant remains off work since retiring from his position at Orange County Sanitation Department.

Exam: Right shoulder healed and flat arthroscopy scars. Intact rotator cuff strength; slight mobility limitations. Left shoulder displays subjective tenderness with positive impingement testing. Distal Right upper extremity symptoms Tinel test appears positive at the proximal dorsoradial aspect of the forearm, with subjective paresthesias that roughly correspond to distribution of the superficial radial nerve. Lists medical records reviewed and summary.

Discussion: Medically released by Dr. DeBottis in approx.. 7/2016. Applicant reports improvement from the right shoulder operation, dissatisfied with perioperative development of distal right upper extremity paresthesias. Dr. Piasecki and Dr. Woods recommend left shoulder surgery.

Unable to provide a determination of final orthopedic/treatment outcome, due to pending procedures. If a moderately favorable result from such operations, tentatively would not expect a permanent incapacitation from his job activities from orthopedic perspective, although aging and non-musculoskeletal /non-occupational co-morbidities are likely to be involved in his own decision to remain out of the labor force. Orthopedic IME determination would be expected anywhere from three to six months postsurgical. Diagnosis: 1. Status post right shoulder arthroscopy; left shoulder impingement, right superficial radial neuropraxia.

0165-0172

10/6/2017 Supplemental Orthopedic IME Report of Dr. Timothy Ross

Lists records reviewed and summarizes same.

All medical care rendered to Applicant appears to have been reasonable and appropriate. Based on favorable result from right shoulder surgery, noting the right forearm sensory condition to not impart any weakness or functional debility, an overall preclusion against very heavy lifting and

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repetitive overhead reaching are the relevant activities at hand. Doctor does not find sufficient pathology or diagnostic testing evidence to find Applicant to be considered functionally unable to perform his employment duties as an instrument technician II. Therefore, Doctor does not feel that a Service-Connected Disability Retirement applied. Based on the foregoing, the issue of causation is moot.

0173-0178

10/10/2017 Primary Treating Physician's Orthopedic Re-Evaluation and Permanent and Stationary Report

Applicant has not been working; temporary total disability just ended, not eligible for state disability benefits. No further accidents or injuries since last exam. Saw Dr. Ghalambor on 10/9/2017 and discussed possibility of injections and surgery. Schedule to see AME, Dr. Woods on 11/9/2017. Continues to have numbness in his right forearm. Right shoulder hurts intermittently, associated with activities such as lifting a gallon of water or reaching up. Frequent pain in left shoulder which wakes him up at night. Right thumb testing represents a 20% loss of sensation referable to the radial nerve. Minimal tenderness to right lateral subacromial space. Tenderness in left shoulder. Moderate tenderness in the left biceps muscle. Impingement and apprehension testing were positive in both shoulders. Patient has undergone surgical treatment of the right shoulder. This was complicated by radial nerve injury at the level of styloid in the right arm. The radial nerve sensory disturbance is a compensable consequence. Patient discussed surgery with Dr. Ghalambor, but doctor released him, recommending return on as needed vases. Discussed reasons with patient for not recommending left shoulder at the present time, include the fact that he did not do particularly well with right shoulder surgery and left shoulder MRI scan not very impressive. Physical therapy would not significantly alter his clinical course. This patient is permanent and stationary. Patient is not capable of return to his usual and customary duties at the Orange County Sanitation District.

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100% of patient’s whole person impairment and disability is entirely due to the specific industrial injury that occurred 8/4/2014. Patient requires future medical care of a conservative nature and should be permitted to see a medical practitioner as required for additional treatment of up to eight physical therapy visits per year for each shoulder, steroid injections and a TENS unit.

0179-0193

11/9/2017 Orthopaedic Agreed Medical Examination of Richard I. Woods, M.D.

Medical history summarized by Dr. Woods. Present complaints: Right shoulder/upper extremity pain. Left shoulder constant pain. Intermittent daily right rib pain depending on activity. Prior to injury could lift 100 lbs. Can currently lift 10 lbs. Physical Exam of Upper Extremities: Right shoulder anterior tenderness. No atrophy. Biceps muscle is equal and intact, etc. Left shoulder is tender anteriorly, laterally and over the anterior biceps. No shoulder atrophy. Resisted salute is positive. Disability Status: Applicant is not yet at Maximal Medical Improvement for his right forearm superficial radial nerve neurolysis nor for his bilateral shoulders. Causation: It remains my opinion that Applicant reasonably aggravated his left shoulder on a compensatory injury basis. The right shoulder and right chest wall were reasonably injured with the August 4, 2014 incident.

0194-0199

11/16/2017 Supplemental Orthopedic IME Report of Dr. Timothy K. Ross

Reviewed additional medical reports. Opined that prior report stands and again does not find sufficient objective evidence to support a Service-Connected Disability Retirement.

0200-0208

4/4/2018 Neurologic Independent Medical Evaluation /I.M.E. Assessment for Medical Retirement (Dr. Michael Mahdad)

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History, interviewing patient, performing physical exam, reviewing available medical records and preparing report required in excess of 5.75 hours. Summary of medical history provided by Dr. Mahdad. Patient states he has numbness on the dorsal aspect of the right distal forearm and dorsum of the hand, mostly around the thumb and radial aspect of the distal forearm. Scar from radial nerve release still feels tender. Complains of pain and lack of full range of motion of both shoulders, even on right side despite surgery. Worked for Orange County Sanitation District for about 2 years; worked 31 years for Boeing, Inc. as an analyst and maintenance engineer. Dr. Mahdad concludes that the radial-sensory neuropathy does not affect the patient's ability to work.

0209-0227

9/19/2018 Orthopaedic Agreed Medical Examination (Richard I. Woods, M.D.)

Review of interim summary outlined. Applicant feels right shoulder/upper extremity, left shoulder and right ribs are better. Continues to have pain on right forearm after his surgery. Pain when the area is touched. Pain is from thumb to halfway up his arm where the surgical scar is. Last worked 1/15/2015. No subsequent injuries since last exam on 11/9/2017. Dr. Woods opined that with reasonable medical probability the right shoulder impairment is due to the initial right shoulder injury of August 4, 2014, and probability that 50% of his residual left shoulder impairment is due to a compensatory injury and 50% due to factors unrelated to his employment. The right radial nerve injury, I would apportion 100% to the August 4, 2014 injury as this occurred intraoperatively due to the right shoulder injury.

0228-0235

11/6/2018 Neurologic I.M.E. Retirement Assessment Supplemental Report / Review of Additional Medical Records (Michael Mahdad, M.D.)

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Dr. Mahdad received and reviewed additional medical records. Dr. Mahdad states that after reviewing his own report of 4/4/2018, the original records and the additional records, it appears that all of the physicians agree that the patient had a “right-superficial-radial sensory neuropathy and had neurolysis, as far as neurologic issues. This is only a sensory nerve and it does not affect the functionality of the wrist or arm or hand, but mostly causes numbness or paresthesia at the dorsal aspect of the hand. There is no effect on the work or leisure activities.

0236-0241

1/8/2015 Orange County Sanitation District Separation of Employment Questionnaire

Questionnaire completed by Applicant by checking the rating scale boxes, with detailed comments at section 1, 4, 6, and 20.

0242-0243

8/8/14 – 9/4/14 Pro Care Work Injury Center Work Status Forms

8/8/14: Diagnosis: sprains/strains; ribs. Place of occurrence; industrial place and premises. Restrictions include no lifting or carrying more than 10 lbs.

9/4/14: Diagnosis: sprains/strains; ribs. Place of occurrence; industrial place and premises. Right shoulder impingement-disorders of bursac and tendons in shoulder region. Restrictions include no lifting or carrying more than 10 lbs.; work at ground level-no ladders, etc.; no hazardous machinery.

0244-0249

7/22/15 Complete Internal Medicine Evaluation by Dr. John S. Godes

Physical exam and review of medical records. Diagnosis: Bilateral rotator cuff tears; right biceps tendinitis. Limitations of occasionally lifting 20 lbs., 10 lbs. frequently. Able to stand or walk 6-hrs. of 8-hr. day; sit 6-hrs. of 8-hr. day. Occasional reaching, pushing and pulling limited due to rotator cuff tears.

- 1 0250-0252 **4/22/16 EMG and NCV**
2 Findings: prolonged distal onset latency (4.2 ms); right median sensory
3 nerve reduced amplitude and decreased conduction velocity; right radial
4 sensory nerve showed no response; all remaining nerves were within
5 normal limits; all F wave latencies with within normal limits.
6 There is absence of the right radial sensory nerve action potential
7 suggesting injury to the radial sensory nerve at wrist; mild right carpal
8 tunnel syndrome is demonstrated.
- 9 0253-0256 **4/27/16 Consulting Physician's Permanent and Stationary Report of**
10 **Dr. DeBottis**
11 Complaint: right shoulder.
12 Final Diagnosis: Status post right shoulder arthroscopic rotator cuff repair
13 and subacromial decompression.
14 Causation: Patient's right shoulder has been accepted as industrial in
15 causation.
16 Disability Status: Patient requires permanent disability of no lifting over
17 shoulder height and no lifting greater than 10 pounds on right shoulder.
18 May return to the open labor market with these restrictions.
- 19 0257-0258 **4/28/16 MRI Upper Extremity Joint w/o Contrast Left**
20 Impression: 1. Low-grade 20% partial thickness intrasubstance tear of the
21 supraspinatus tendon at the footprint, 9 mm AP, on a background of
22 tendinosis; 2. Mild intra-articular biceps tendinosis; 3. Mild
23 acromioclavicular joint osteoarthritis; 4. Trace subacromial subdeltoid
24 bursal fluid.
- 25 0259-0280 **11/2/16 Orthopaedic Medical Examination Report of Dr. Richard I.**
26 **Woods**
27 Disability Status: Applicant is not yet at Maximal Medical Improvement.
28 He remains Temporarily totally Disabled, but if he does not have left

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shoulder surgery in the next 2-3 months, then he will be considered at Maximal Medical Improvement.

0281-0282

5/11/17 Operative Report of Michael P. Rubinstein, M.D.

Preoperative Diagnoses: Superficial radial nerve entrapment, right forearm; tenosynovitis, brachioradialis, right forearm.

Operative Findings: Significant thickening of the brachioradialis at the level of mid forearm, causing compression on the nerve. Slight swelling of the nerve was appreciable, consistent with the entrapment process.

0283-0287

4/18/18 Primary Treating Physician's Re-Evaluation by Dr. Woods

Present complaints: No change in left shoulder, in pain or stiffness. Daily pain comes and goes depending on activity, increasing with upward reaching, reaching behind him and external rotation.

Disability Status: Patient remains permanent and stationary.

Diagnostic Impressions: Unchanged from permanent and stationary report of 10/10/17.

Treatment Recommendation: Re-evaluation in 2 weeks to discuss left shoulder surgery in further detail.

0288-0291

7/2012 Instrumentation Technician I/II Job Description of Orange County Sanitation District

Job description (4 pgs.)

0292-0302

9/7/17 SSA Notice of Decision – Fully Favorable

DECISION: Based on the application for a period of disability and disability insurance benefits protectively filed on May 18, 2015, the claimant has been disabled under sections 216(i) and 223(d) of the Social Security Act since January 8, 2015. The WC offset provisions at 20 CF 404.408 may be applicable.

- 1 0303-0311 **4/25/19 Workers Comp Appeal Board Award and Stipulations with**
2 **Request for Award**
3 Para. 3, p. 0309: The injury caused permanent disability of 33%.
4
- 5 0312 **8/8/2014 Email re Update on Applicant**
6 Email to/from OC Sanitation District re return to work with restrictions.
7
- 8 0313 **9/17/2014 Employee Acknowledgment Form**
9 Temporary Light Duty Work Assignment for 9-16-2014 to 12-16-2014
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- 11 0314 **1/9/2015 Employee Termination Notice**
12 OCERS notice re employee termination effective 1/9/2015.
13
- 14 0315 **2/3/2015 OCERS letter to Applicant**
15 Letter outlining options after termination.
16
- 17 0316 **7/23/2015 Letter to OCERS from Applicant**
18 Applicant requests effective date of January 9, 2015 as start date for
19 disability retirement.
20
- 21 0317-0323 **7/5/2016 Supplemental Orthopedic Report of Timothy K. Ross, M.D.**
22 Review of records. Six months post-op is advised in order to opine as to
23 permanent functional abilities, and only 4 months have passed.
24
- 25 0324 **7/2/2018 OC Sanitation District HR Letter**
26 Re long-term accommodation of work restrictions for job classification of
27 Instrumentation Technician II. Could not accommodate for overhead
28 reaching.

DISCUSSION

1. FACTUAL SUMMARY

A. Employment History of Applicant

Applicant became an employee of the Orange County Sanitation District (“District”) on December 17, 2012. (AR 018) Applicant’s job title was Instrument Technician II. (AR 002)

Applicant’s last day of service was January 8, 2015. (AR 003)

While employed with the District, Applicant also performed electrical work on a contractor basis for his former employer, with the permission of OCERS, from April 1, 2013 to June 14, 2014 in an electrical occupation. (AR 0003, AR 011)

Applicant was injured during his employment on August 4, 2014. (HT 12:9-13) Applicant complained of pain to rib cage and right shoulder. (HT 36:12-14) Applicant was placed on total temporary disability for 8 days. (AR 145, HT 69:8-12)

Applicant was placed on light duty from August 11, 2014 until October 14, 2014. (AR 003)

Applicant was released to his usual and customary duties, with no permanent disability, and declared permanent and stationary on November 15, 2014. (AR 061-69)

Applicant’s last day of service for the District was January 8, 2015 when Applicant’s resignation was effective. (AR 003) There were no doctor’s work restrictions for Applicant on his last day of service. (AR 061-69)

Applicant told his supervisor that he was resigning because was dissatisfied with his inability to be promoted and didn’t care to work for his supervisor or manager any longer. (HT 77:21-23)

During his exit interview, Applicant told Lourdes Luna, the human resources representative, that he was resigning because he had never been promoted and other complaints unrelated to any injury. (HT 86:13-21)

In his six-page Separation of Employment Questionnaire (“Separation Questionnaire”), Applicant explains at great length the reasons for his termination, which can be most accurately summarized as dissatisfaction with pay, lack of opportunity for advancement, working conditions, and job pressure. (AR 0236-0241)

1 Applicant does not mention disability or pain as a reason for resignation in his Separation
2 Questionnaire. (AR 0236-0241)

3 Applicant also did not check the box for “illness or physical condition” as a reason for
4 leaving employment on his Separation Questionnaire. (AR 0236)

5 **B. Application for Disability Retirement**

6 **1. Application**

7 Applicant filed his Application for Service-Connected Disability on July 16, 2015
8 (“Application”). (AR 0001) Applicant stated on his Application that he “tore muscles in [his]
9 shoulders and upper arms and pulled rib and [was] on pain medication, daily,” with the injury taking
10 place on August 4, 2014. (AR 0003)

11 In his Application, Applicant stated that he is not able to lift bottles of CalGas, carry
12 ladders, climb vertical ladders or use a Roto hammer. (AR 0002) Applicant stated that his injuries
13 prevent him from lifting and moving steel bottles of CalGas, carrying ladders and working at
14 elevated platforms, climbing vertical ladders, using rotohammers to mount boxes in concrete and
15 use of sledge hammers to install anchors in concrete, and any other lifting. (AR 0002)

16 **2. Job Duties**

17 Applicant’s normal job duties are lengthy, and included field maintenance of process
18 instruments and analyzers; calibration, preventive, and corrective maintenance; and equipment
19 installation. (AR 11) Physical demands for Applicant’s position include “climb and descend
20 ladders and the ability to lift, carry, push and pull materials and objects weighing a minimum of 40
21 pounds, or heavier wights with the use of proper equipment. (AR 0291)

22 His job description (AR 0288-0291) can be summarized to include:

- 23 1. Field maintenance of process instruments of analyzers.
- 24 2. Typical tests include calibration.
- 25 3. Maintenance & equipment installation, both complex and non-complex,
26 control panels & cables.
- 27 4. Coordinating the installations.

- 1 5. Trouble-shoot & repair electronic and electrical microprocessor-based
- 2 pneumatic & mechanical process-control components.
- 3 6. Maintain and update all applicable documents, gathering technical
- 4 information.
- 5 7. Prepare clear and concise Purchase Acquisitions.

6 Physical requirements include:

- 7 1. mobility to work in-and-around waste-water treatment plants.
- 8 2. pump and lift stations.
- 9 3. climb and descend ladders.
- 10 4. operate varied hand & power tools and equipment.
- 11 5. operate a motor vehicle.
- 12 6. perform Field Work – requiring walking in operational areas.
- 13 7. having finger dexterity – including using keyboards and calculators.
- 14 8. able to bend, stoop, kneel, reach, and push-pull materials & objects weighing
- 15 a minimum of 40 lbs. or heavier in the proper use of equipment.

16 **3. Supervisor’s Observations**

17 Applicant was released to full duty from October 14, 2014 until the last date of work. (AR
18 011; HT 79:19-22) However, Applicant complained to his supervisor of pain in his right rib/right
19 shoulder area, and his supervisor observed that Applicant made limited use of Applicant’s right
20 arm. (AR 011) Applicant’s supervisor modified Applicant’s job duties during this time, including
21 keeping him from climbing ladders or carrying anything heavy. (HT 72:23-25, 73:1)

22 **C. Physician Reports and Prior Findings**

23 **A. Initial Reports of Pro-Care**

24 The first physician Applicant saw was a doctor at ProCare Work Injury Center in
25 Huntington Beach, CA (“Pro Care”). (AR 0242-0243) Applicant complained of injury to his right
26 rib on August 4, 2014 and later his right shoulder. (AR 0242-243) The records do not reflect that
27 Applicant complained of left shoulder pain. (AR 0242-243)

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1 **B. Chiropractor Pamela Galambos**

2 After being discharged from ProCare, Applicant next went under the care of his own
3 chiropractor Dr. Pamela Galambos, D.C., on September 18, 2014. (AR 0060). Dr. Galambos
4 released Applicant from treatment on October 13, 2014, noting that thorax, rib and upper arm issues
5 were resolved. (AR 0061) The findings of Dr. Galambos detail issues with right arm, and some
6 mid back pain and lateral right torso pain. (AR 0062) There is no mention of left shoulder pain.

7 On October 13, 2014, Dr. Galambos declared Applicant permanent and stationary, with no
8 permanent disability, noting that Applicant could return to his usual occupation. (AR 0063-0069)
9 Dr. Galambos noted that complaints of problems were resolved. (AR 0061-0069)

10 **C. Orthopedic Physician Daniel P. DeBottis**

11 **i. January 30, 2015 Report**

12 Applicant next saw Dr. Daniel P. DeBottis, orthopedic physician, in January, 2015, who
13 referred him to Coasttherapy for treatment of right shoulder. (AR 0074) Treatment continued on
14 the right shoulder through Coasttherapy until March 6, 2015. (AR 74-104) The Coasttherapy notes
15 of March 6, 2015 state that Applicant “demonstrate improvement consistent with early subacute
16 phase of physical therapy, as evidenced by decreased pain post-[treatment], subjective reports of
17 increased strength, improvement in outcome measure to % and good toleration of their exercises”
18 although further treatment is recommended. (AR 0104)

19 There is no mention of pain to the left shoulder or rib cage in these reports.

20 **ii. March 10, 2015 Report**

21 Dr. DeBottis noted, however, at the March 10, 2015 visit with Applicant, that there was no
22 improvement in the right shoulder and recommended an MRI. (AR 0105-0109)

23 It was during this visit that there is the first mention of pain to the left shoulder, with Dr.
24 DeBottis noting that Applicant stated that his left shoulder “has started to get achy as well.” (AR
25 0105-0109)

26 An MRI was performed on the right shoulder on March 24, 2015. (AR 0111) The
27 impression was “(1) Extensive tendinosis with undersurface tears of the supraspinatus muscle as a
28 result of chronic impingement. (2) Tear of the superior aspect of the labrum.” (AR 0111)

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iii. April 16, 2015 Report

After the MRI results, on April 16, 2015, Dr. DeBottis recommended arthroscopic rotator cuff tear, subacromial debridement with acromioplasty and possible biceps tenodesis for the right shoulder. (AR 0118) The treatment plan included treatment for the left shoulder as well. (AR 0120)

iv. May 12, 2015 Report

On May 12, 2015, Applicant returned to Dr. DeBottis and stated he was still in pain. (AR 0121) Pain in left shoulder noted in this visit as well. (AR 0121)

v. August 11, 2015 Report

On August 11, 2015, Dr. DeBottis again treated Applicant and recommend surgery on the right shoulder. (AR 0125-0126)

vi. October 8, 2015 Right Shoulder Surgery

On October 8, 2015, Dr. DeBottis performed surgery for rotator cuff repair, long head of the biceps tenodesis, acromioplasty and debridement with subacromial decompression. (AR 0127-0129)

Applicant was seen by Dr. DeBottis for various post-operative visits, remaining “off-work,” as noted in reports of October 14, November 2, 2015, and January 29, 2016. (AR 0130-1037)

vii. April 27, 2016 Permanent And Stationary Report

On April 27, 2016 Dr. DeBottis issued a Consulting Physician’s Permanent and Stationary Report. (AR 0253-0256)

Dr. DeBottis noted that patient reports he is doing well with regard to his right shoulder and only gets occasional twinges of pain. (AR 0254) The right shoulder was shown to have flexion to 170, extension 40, adduction 40, abduction 160, internal rotation 45, and external rotation 90 with 5/5 strength with resisted forward elevation, external rotation and internal rotation. (AR 0254)

Dr. DeBottis found Applicant to be permanent and stationary with regard to the right shoulder with slight loss of flexion, extension, abduction, and internal rotation, with a 6 % upper extremity impairment. (AR 0254)

Dr. DeBottis issued a requirement of no lifting over shoulder height and no lifting greater than 10 pounds on his right shoulder. (AR 0255)

1 Dr. DeBottis noted that Applicant complained of pain to right wrist and left shoulder. (AR
2 0254)

3 **D. Dr. John S. Godes**

4 On July 22, 2015 Dr. John Godes issued a Complete Internal Medicine Evaluation at the
5 request of the Department of Social Services. (AR 0244 – 0249)

6 Dr. Godes evaluated Applicant for bilateral shoulder pain and prior right posterior chest
7 pain. (AR 0244) Grip strength was noted to be 30, 25, pounds on the right and left sides. (AR 0246)
8 No tenderness was noted in the chest. (AR 0246) Range of motion of the back was within normal
9 limits. (AR 0247) Range of motion for the right shoulder was: forward elevation 90/180 degrees
10 and abduction 90/180 degrees. (AR 0247) Range of motion for the left shoulder was: forward
11 elevation 70/180 degrees and abduction 90/180 degrees. Motor strength was found to be normal.
12 (AR 0248)

13 Based on exam, Dr. Godes diagnosed bilateral rotator cuff tears and right biceps tendinitis.
14 (AR 0248)

15 Dr. Godes issued a functional assessment of lifting 20 pounds occasionally and 10 pounds
16 frequently due to the rotator cuff tears. (AR 0248) Pushing and pulling were limited to occasional
17 in the upper extremities. (AR 0249)

18 Dr. Godes' report does not state that Applicant was disabled since resignation.

19 **E. Dr. Timothy Ross**

20 **i. February 3, 2016 Report**

21 On February 3, 2016, Applicant was interviewed and evaluated by Dr. Timothy Ross for an
22 Orthopedic Independent Medical Evaluation Report. (AR 0138-0153) Dr. Ross evaluated
23 Applicant for bilateral upper extremity pain. Dr. Ross noted that the right shoulder was subjectively
24 tender anteriorly, but that there was no tenderness in the subacromial region, nor overlying the
25 acromioclavicular joint. (AR 0142) Dr. Ross stated that mobility of the right shoulder was within
26 "virtually normal values." (AR 0142) He stated that there was a 10% lack of full forward flexion,
27 and an approximately 20-30% lack of full abduction, due to discomfort. Paresthetic sensation
28 complaints were noted for the right side. Dr. Ross found that otherwise both upper extremities

1 demonstrated symmetric and intact deep tendon reflexes with regard to the brachial radialis,
2 biceps, and triceps. Mobility of the left shoulder was found to be unrestricted, but with some
3 reported discomfort. There was no perceived rotator cuff weakness on resistance testing.
4 Apprehension and stability testing on both shoulders was negative. (AR 0143)

5 At this visit, Dr. Ross was unable to make further determinations though he did note from
6 his review of the records that the chiropractic reporting of symptom resolution and a full-duty
7 release on October 14, 2014, as well as “what appears to be a subsequent full-duty undertaking of
8 his job until resigned on January 8, 2015.” (AR 0153)

9 **ii. July 5, 2016 Report**

10 On July 5, 2016 Dr. Ross issued a Supplemental Orthopedic IME Report (AR 0317-0323)
11 with an opinion as to the likelihood as to whether or not Applicant would be expected to return to
12 the usual and customary duties of his job. Dr. Ross declined to do so, advising for a six month
13 postoperative management time to lapse. (AR 0322)

14 **iii. April 19, 2017 Report**

15 Dr. Ross again saw Applicant on April 19, 2017 and prepared a report. (AR 0154-164) By
16 this visit, Applicant had been released from post-operative care and had been referred to Dr.
17 Rubenstein for distal right upper extremity paresthesias. (AR 0155) For this visit, the complaint
18 was that the left shoulder was in greater pain than the right. (AR 0155)

19 As to causation, Dr. Ross noted that “a preoperative right shoulder MRI displayed pathology
20 to include that of a chronic nature” and that x-rays of the left shoulder showed “inferior acromial
21 anatomy that is of a chronic nature.” (AR 0163). Applicant’s prior long-term employment at
22 Boeing being the same nature of physicality as Applicant’s two years of service with the County of
23 Orange. (AR 0163)

24 Dr. Ross was unable to provide a determination as to Applicant’s final orthopedic treatment
25 outcome due to pending surgical procedures. (AR 0164) Dr. Ross noted that the right shoulder had
26 only very slight mobility limitation and that his right rotator cuff strength was intact. (AR 0162)
27 Applicant’s left shoulder was found as positive for impingement and having a slight decrease in
28

1 mobility. (AR 0162) Dr. Ross noted that “a current restriction precluding very heavy lifting and
2 repetitive overhead reaching is reasonable” for the left shoulder. (AR 0163)

3 On October 6, 2017, Dr. Ross provided a Supplemental Independent Medical Evaluation
4 Report. (AR 0165-0172)³ Dr. Ross found the degree of left shoulder “rotator cuff pathology (20%)
5 is not overly substantial.” (AR 0172)

6 Dr. Ross stated that:

7 Although the physical requirements of [Applicant’s] employment position are
8 understood, it is again implicit that such tasks (40 or more pounds) is in reference
9 to bi-manual endeavors. Based on the favorable result from the right shoulder
10 surgery, and noting the right forearm sensory condition to not impart any weakness
11 or functional debility, I feel that an overall preclusion against very heavy lifting and
12 repetitive overhead reaching are the relevant activities at hand.”

13 (AR 0172)

14 After reviewing prior reports and testing, and surgical outcomes and current limitations,
15 Dr. Ross opined that he “did not find sufficient pathology or diagnostic testing evidence to find
16 [Applicant] to be considered functionally unable to perform his employment duties as an instrument
17 technician II. Therefore, [he does] not feel that a Service-Connected Disability Retirement applies.
18 (AR 0172)

19 **iv. November 16, 2017**

20 On November 16, 2017 Dr. Ross issued a Supplemental Independent Medical Evaluation
21 Report for Applicant. (AR 0194-0199) In this report, Dr. Ross disagreed with the impairment
22 quantifications of Dr. Piasecki, as set forth below, and remained of the opinion that recommended
23 preclusion against very heavy lifting and repetitive overhead reaching. (AR 0198)

24 **F. Dr. Jack O. Piasecki**

25 **i. Report of October 10, 2017**

26 The record includes an Orthopedic Re-Evaluation and Permanent and Stationary Report of
27 Dr. Jack O. Piasecki, Orthopaedic Surgeon of October 10, 2017. (AR 0173-0178) In this report,
28 _____

1 Applicant is noted to have complained of numbness in his right forearm, pain in right shoulder, and
2 pain in left shoulder. (AR 0174)

3 Dr. Piasecki notes a 20% loss of sensation in the radial nerve based on monofilament testing.
4 Other diagnostic impressions were strain of right rotator cuff, strain of muscles and tendons of the
5 left shoulder rotator cuff and radial nerve palsy, right arm. (AR 0175)

6 Dr. Piasecki recommended against left shoulder surgery as Applicant did not do well with
7 the right shoulder surgery, the left shoulder MRI scan was “not very impressive,” and Applicant
8 “did not pursue a home exercise program rigorously.” (AR 0175)

9 Dr. Piasecki declared Applicant permanent and stationary. Dr. Piasecki determined an 9%
10 upper extremity impairment. (AR 0176) Dr. Piasecki found that Applicant was not capable of
11 returning to his usual and customary duties at the District. Dr. Piasecki advised against lifting in
12 excess of 30 pounds and repetitive reaching at or above shoulder level. Also, advices for avoidance
13 of “forceful pushing and pulling with arms.” (AR 0176)

14 **ii. Report of April 18, 2018**

15 On April 18, 2018 Dr. Piasecki issued a Primary Treating Physician’s Re-Evaluation. (AR
16 0283-0288)

17 In this updated report, Dr. Piasecki reports that Applicant complains of left shoulder pain
18 on a daily basis. Abduction on the left shoulder was 95 degrees, forward flexion was 100 degrees,
19 external rotation was 80 degrees, and internal rotation was 40 degrees. (AR 0284)

20 Dr. Piasecki’s opinion was not changed from his prior report of October 10, 2017.

21 Applicant did not complain of rib cage pain.

22 **G. Dr. Richard I. Woods**

23 **i. November 2, 2016**

24 Applicant was seen by Richard I. Woods for an Orthopaedic Agreed Medical Examination
25 as part of his Workers Compensation complaint on November 2, 2016 for which a report is included
26 in the Administrative Record. (AR 0259-280)⁴

27 _____
28 ⁴ The report references visit of March 31, 2016. Reports from said visit is not included in the Administrative Record.

1 Applicant complains of right shoulder and upper extremity pain, left should pain and rib
 2 pain. (AR 0261) Range of motion for both shoulders was noted as follows:

3 <u>Shoulder Range of Motion</u>	<u>Right</u>	<u>Left</u>	<u>AMA</u>
4 Flexion	180	180	175+
5 Extension	50	50	45+
6 Abduction	140	150	165+
Adduction	10	16	35+
7 Internal Rotation	40	10	75+
External Rotation	90	90	55+

8 Dr. Woods’ diagnosis was right shoulder arthroscopic decompression, rotator cuff repair,
 9 and long head biceps tenodesis, October 8, 2015; chronic left shoulder strain with partial rotator
 10 cuff tear and impingement syndrome; right wrist dorsal cutaneous radial neuroma, and right chest
 11 wall strain. (AR 0268) Dr. Woods found that Applicant was not permanent and stational but rather
 12 Temporarily Totally Disabled, but if he did not have left shoulder surgery in the next 2-3 months,
 13 then he would be at Maximal Medical Improvement. (AR 0269) As to causation, Dr. Woods found
 14 the chest wall and right shoulder were injured on August 4, 2014. He found the etiology of the left
 15 shoulder condition unclear, but concludes that considering this underlying pathology, which was
 16 not caused by the compensatory injury, the left shoulder was thereafter aggravated on a
 17 compensatory basis. (AR 0269) He does not state when the left shoulder was aggravated.

18 Applicant was seen by Dr. Woods on November 9, 2017 for which a report is included in
 19 the Administrative Record. (AR 0179-0191)⁵

20 Dr. Woods found that Applicant was not at plateau as there could yet be improvement,
 21 including further treatment of the left shoulder and further recovery for the right forearm. (AR
 22 0191)

23 In the interim, Dr. Woods considered Applicant temporarily partially disabled with
 24 preclusions from lifting greater than 10 pounds, repetitive grasping, prolonged fine manipulation
 25 of the right upper extremity, as well as overhead work in both upper extremities. (AR 0191) Dr.
 26

27
 28 ⁵ The report references visit of March 31, 2016. Reports from said visit is not included in the Administrative Record.

1 Woods found Applicant would remain temporarily partially disabled until he underwent left
2 shoulder surgery. (AR 0191)

3 As for causation, Dr. Woods found that Applicant reasonably aggravated his left shoulder
4 on a compensatory injury basis and that the right shoulder and right chest wall were reasonably
5 injured with the August 4, 2014 incident. (AR 0190) No treatment was recommended for the
6 diagnosis of strained chest wall or limitations based on the chest wall/rib cage.

7 **ii. September 19, 2018 Report**

8 On September 19, 2018, Dr. Woods again saw Applicant for an Orthopaedic Agreed
9 Medical Examination. (AR 0209-0227) Complaints were for the right shoulder, left shoulder, right
10 ribs and right forearm. (AR 0211)

11 Dr. Woods found Applicant's right shoulder had loss of motion, although no gross motor
12 strength deficit. (AR 0221) He did find loss of strength rotation, abduction and forward flexion,
13 for an 18% upper extremity impairment. (AR 0221) As to the left shoulder, Dr. Woods found
14 impingement syndrome, but noted that his prior partial rotator cuff tear had improved. He still noted
15 loss of strength and motion and weakness for a 13% upper extremity impairment. (AR 0222)

16 No impairment percentage was noted for chest wall strain. (AR 0222)

17 Dr. Woods found that Applicant could not return to his usual and customary duties with the
18 District. (AR 0223) He found that Applicant would require work accommodations precluding
19 lifting over 20 pounds, work at or above shoulder level, and forceful pushing and pulling. (AR
20 0223)

21 Dr. Woods stated that it is within reasonable medical probability that Applicant's residual
22 right shoulder impairment is due to the initial right shoulder injury of August 4, 2014. (AR 0224)
23 Further, Dr. Woods opines that the left shoulder to be aggravated by a compensatory injury of
24 which 50% was compensatory. (AR 0224)

25 **G. Dr. M. Michael Mahdad**

26 **i. April 4, 2018 Report**

27 Dr. Michael Mahdad examined Applicant on April 4, 2018 for a Neurologic Independent
28 Medical Evaluation of Applicant's right forearm and hand for numbness. (AR 0200-0208) Dr.

1 Mahdad noted that Applicant had no major right ribcage pain, but that Applicant had recently
2 undergone lithotripsy for kidney stones, which Applicant felt might be the source of some of the
3 soreness in the ribcage. (AR 0202)

4 Dr. Mahdad found that the radial-sensory neuropathy did not affect the patient's ability to
5 work.

6 **ii. November 6, 2018 Report**

7 Dr. Mahdad issued a Supplemental report on November 6, 2018. (AR 0228) In this report,
8 Dr. Mahdad reiterated that the right superficial radial sensory neuropathy does not affect the
9 functionality of the wrist or arm or hand; there are no effects on work or leisure activities. (AR
10 0228)

11 The Hearing Officer notes that radial neuropathy is not noted as a grounds for disability in
12 the Application. (AR 0003)

13 **H. Dr. Michael P. Rubenstein**

14 The Applicant saw Dr. Michael Rubenstein for superficial radial nerve entrapment and
15 tenosynovitis, brachioradialis of the right arm on May 11, 2017 and surgery was performed for
16 nerve release. (AR 0281-282)

17 **I. Other Diagnostics**

18 **i. EMG/NCV**

19 Dr. Andrew Schreiber conducted an EMG and NCV on April 22, 2016 on Applicant. Dr.
20 Schreiber found prolonged distal onset latency for the right medial motor nerve and reduced
21 amplitude and decreased conduction velocity of the right median sensory nerve. (AR 0250-0253)

22 Dr. Schreiber found the right radial sensory never showed no response, but other nerves
23 were within limits. (AR 0250)

24 **ii. MRI (04-28-2016) (Left Shoulder)**

25 An MRI was done on the left shoulder on April 28, 2016, with Dr. Woods the
26 referring physician. A low-grade 25% partial thickness intrasubstance tear of the supraspinatus
27 tendon was noted. However, this is also referred to separately in the reports as a low-grade 20%
28 partial thickens tear. (AR 0257 and AR 258)

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J. Opinion of Social Security Administration

On September 7, 2017, the Honorable Sharilyn Hopson, Administrative Law Judge, issued a decision that that claimant was disabled under federal law since January 8, 2015, based on the following impairments: bilateral biceps tendinitis; right wrist tendonitis and radial nerve injury, status post/surgery; calcified renal stones, sigmoid diverticulosis, inguinal hernia, fatty infiltration of the liver, and in both feet, osteophytosis of the first metatarsophalangeal joint, joint space narrowing, calcaneal spurs, and several hallux rigidus. (AR 0292-302)

K. Award of the Workers Compensation Appeals Board

On April 25, 2019, the Honorable Bolynda Schultz, Workers’ Compensation Judge, Workers’ Compensation Appeals Board, issued an award finding permanent disability based on a settlement between the parties. (AR 0303-311)

4. Post-Resignation Position of District

On July 2, 2018 the District stated that it would not be able to accommodate a restriction of “No overhead reaching,” although it could accommodate of restriction of “no heavy lifting (40 or more pounds).” (AR 0324)

II. LEGAL DISCUSSION

A. Timeliness of Disability Application

The initial threshold issue in this matter is whether Applicant timely filed his request for a disability retirement. An application for disability retirement under Government Code section 31721 must be filed within the time limits of section 31722. Government Code section 31722 provides that an application for disability shall be made “while the member is in service, within four months after his or her discontinuance of service, within four months after the expiration of any period during which a presumption is extended beyond his or discontinuance of service, or while, from the date of discontinuance of service to the time of the application, he or she is continuously physically or mentally incapacitated to perform his or her duties.”

The first two potential filing periods are summarily not applicable as Applicant did not file his Application while in service or within four months of discontinuance of service. Likewise, no

1 party has argued that an applicable presumption which would extend the date. (See, *Gutierrez v*
 2 *Board of Retirement of Los Angeles County Employees Retirement Association* (1998) 62
 3 Cal.App.4th 745; Statutory time limit for submitting application for service-connected and
 4 nonservice-connected county disability retirement benefits does not permit employee or employee's
 5 survivor to submit late application for one kind of disability retirement after the other kind has been
 6 applied for and received.)

7 Accordingly, the only basis under which Applicant's Application might be timely if
 8 Applicant "was continuously physically or mentally incapacitated to perform his or her duties."

9 To establish such incapacity, there must be sufficient medical evidence. *Cameron v.*
 10 *Sacramento County Employees' Retirement System* (2016) 4 Cal.App.5th 1266. In *Cameron*,
 11 applicant's appeal was found untimely due to a lack of medical evidence to establish continuous
 12 incapacity between the date of his original retirement and the date of filing his disability application
 13 where there was a gap in time by the attesting doctor. The finding of lack of continuous disability
 14 was made despite the fact that at least one doctor had opined that the applicant was permanently
 15 incapacitated prior to applicant's retirement. However, because applicant returned to work after
 16 that finding of incapacity, it was disregarded given the fact that applicant actually did perform the
 17 duties of his job. (*Cameron*, p. 1275)

18 In *Mansperger v. Public Employees Retirement System* (1970) 6 Cal.App.3d 873, the court
 19 held that "incapacitated for the performance of duty" (under former Government Code section
 20 20122 regarding safety employees) means the substantial inability to perform his usual duties.
 21 (*Mansperger v. Public Employees Retirement System* (1970) 6 Cal.App.3d 873, 876.) In making
 22 this determination, factors to consider include whether an applicant is: 1) the nature of Applicant's
 23 "usual" duties at the time that he last worked; 2) whether Applicant's medical condition(s) render
 24 him "substantially" unable to perform those "usual" duties; and 3) whether Applicant's incapacity
 25 is permanent. (*Id.*) Government Code Section 31724 requiring a member to be "permanently
 26 incapacitated physically or mentally for the performance" of duties has been interpreted in line.
 27 (*Harmon v. Board of Retirement* (1976) 62 Cal. App. 3d 389.)

28

1 An Applicant is not entitled to a disability pension upon application and submission of a
2 favorable doctor's report. The applicant, instead, must prove the requisite qualifying facts.
3 (*Masters v. San Bernardino County Employees Retirement Association*, 32 Cal.App.4th 30 (1995))

4 In this case, Applicant's last date of work was January 8, 2015. Applicant testified as to
5 having shoulder pain while performing his job, even after his release to full duty. Applicant's
6 supervisor states that Applicant complained "two to several" times of shoulder pain. However,
7 Applicant continued to substantially perform his job duties during this time period with the
8 accommodation of staying off of ladders and no heavy lifting.

9 There is no testimony from any doctor that Applicant was unable to perform the duties of
10 his job at the time of his retirement. Likewise, there is no testimony as to why Applicant could
11 substantially perform his work without doctor's restriction on his last date of active duty, but
12 thereafter became continuously incapacitated due to the conditions complained of in this appeal.

13 There is no medical testimony that retroactively finds Applicant was continuously
14 incapacitated until July 16, 2015, the date of his Application.

15 Further, in the exit interview, Applicant did not state that he was resigning due to pain or
16 illness. Applicant testified that he reported to the human resources officer that he was pursuing
17 worker's compensation, though the human resources officer denies this report. Hearing Officer
18 finds that Applicant does not meet the burden of proof in this regard given the lengthy comments
19 of Applicant in the six-page Separation Questionnaire are devoid of any comment on pain or illness
20 at time of resignation.

21 There is a stipulated disability in the workers' compensation forum. While workers'
22 compensation awards may be probative, a worker's compensation award does not automatically
23 prove Applicant's case. OCERS is not a party to the workers' compensation proceeding and the
24 standards in a workers' compensation proceeding are different from those in a disability retirement
25 cases. (*Traub v. Board of Retirement* (1964) 34 Cal.3d 793, 799; *Lindsay v. County of San Diego*
26 *Board of Retirement* (1964) 231 Cal.App.2d 156, 161.) This is particularly so as Applicant's
27 workers' compensation award was based on stipulation and not a neutral finding of fact.

28

1 Finally, the Hearing Officer does not find that this Recommendation is required to follow
 2 the findings of determination social security disability by Administrative Law Judge Hopson, for,
 3 among other reasons, that decision was based on a multitude of impairments, and not limited to
 4 those complained of in Applicant's Application herein. (AR 0292-302)

5 Based on the foregoing, because there is no medical testimony to support a claim of
 6 continuous incapacity from the last date of service, the Hearing Officer finds that the last possible
 7 ground of timeliness under Government Code Section 31722 is not met, as there is no proof
 8 Applicant was continuously physically or mentally incapacitated to perform his duties. Applicant
 9 cites to Dr. Godes, yet Dr. Godes made no retroactive finding of disability.

10 **B. Potential Incapacity of Applicant**

11 If the Board disagrees with the Hearing Officer's decisions regarding the untimeliness of
 12 the application, it must be determined if Applicant is presently "permanently incapacitated for the
 13 performance of duty."

14 The *Mansperger* standard again applies, with the additional requirement that an incapacity
 15 is deemed permanent if further change in the condition is not reasonably anticipated by usual
 16 medical standards. (*Sweeney v. Industrial Accident Commission* (1951) 107 Cal.App.2d 155, 159.)

17 Case law holds that a hearing officer and the Board should not consider medical reports as
 18 "substantial evidence if they are known to be erroneous, or if they are based on facts no longer
 19 germane, or inadequate medical histories and examinations, or inadequate medical histories and
 20 examinations, or on incorrect legal theories." (*Heggin v. Workers' Comp. App. Bd.* (1972) 4 Cal.3d,
 21 162, 169.)

22 Here, the District has stated that it would not be able to accommodate a restriction of "no
 23 overhead reaching." (AR 0324)

24 Dr. Godes diagnosed bilateral rotator cuff tears in July, 2015 and prescribed work
 25 restrictions which precluded "reaching" but did not preclude specifically overhead reaching. (AR
 26 0249) Dr. Godes did not see Applicant after the rotator cuff surgery on October 8, 2015. The
 27 Hearing Officer does not find the report of Dr. Godes persuasive to find disability.
 28

1 However, Dr. Woods, the Worker’s Compensation Agreed Upon Medical Examiner, found
2 lasting impairment of the right shoulder even after the surgery. (AR 0221) Dr. Wood issued a work
3 restriction including no “work at or above shoulder level.” (AR 0222) He does not preclude one
4 shoulder or the other, but rather states no work “above shoulder level” after discussing impairment
5 of each shoulder. The Hearing Officer finds the report of Dr. Wood credible.

6 Further, Dr. Ross, the orthopaedic independent medical evaluator, after recovery from the
7 surgery, issued a work restriction including “no repetitive overhead reaching.” (AR 0172) He does
8 not specify that this restriction is limited to either shoulder. The Hearing Officer finds the report
9 of Dr. Ross credible.

10 Dr. Piasecki, as treating physician, also noted impingement and impairment issues in both
11 shoulders and recommended a work restriction including avoiding “repetitive reaching at or above
12 shoulder level.” (AR 0175-0176) The Hearing Officer finds the report of Dr. Piasecki credible.

13 Finally, Dr. DeBottis, after releasing Applicant from care following surgery on the right
14 shoulder, issued a restriction of “no lifting” over shoulder height, similar to no reaching over
15 shoulder height. (AR 0255)

16 As such, based on the agreement of the reports of Dr. Woods, Dr. Piasecki, Dr. Ross, and
17 Dr. DeBottis, and the testimony of Applicant, together with the statement of the District, the
18 Hearing Officer finds that Applicant is presently, permanently incapacitated for the performance of
19 duty based on the restriction of “no overhead reaching” arising from shoulder injuries.

20 **C. Potential Incapacity is Service-Related**

21 The standard for review for determination of service connection is whether the employee’s
22 employment “contributes substantially” to the capacity. “Contributes substantially” means
23 employment was more than “any” and less than the “principal” cause of the incapacity. (*Gatewood*
24 *v. Board of Retirement of San Diego County Employees Retirement Ass’n* (1985) 175 Cal.App.3d
25 311.) Causation cannot be apportioned; it is either service-connected or it is not. (*Lindsay v. County*
26 *of San Diego Retirement Board, supra*, 161.)

1 There are three areas of alleged incapacity: rib cage/chest wall; right shoulder; and left
2 shoulder. Applicant did not include his right wrist as a grounds for disability on his Application
3 and for that reason it is not discussed as a ground herein.

4 **1. Rib Cage/Chest Wall**

5 While the complaint of chest wall tenderness was made fairly consistently by Applicant
6 since the date of alleged injury, no doctor has offered any medically substantive opinion that the
7 chest wall condition is a qualifying factor for the restriction of “no overhead reaching.” The
8 Hearing Officer notes that Dr. Woods assigned no impairment based on rib cage/chest wall injury.
9 (AR 0222)

10 As such, while the chest wall is found to be service-related, the Hearing Officer does not
11 find that it results in a permanent incapacity.

12 **2. Right Shoulder**

13 There is consistent documentation in the record of objective injury and impairment to the
14 shoulder beginning with Applicant’s visit to Pro-Care. Applicant testified consistently as to the
15 issue.

16 As such, the Hearing Officer finds that the injury to the right shoulder arose on August 4,
17 2014 and that the right shoulder injury is service-related.

18 **3. Left Shoulder**

19 The first documented complaint of left shoulder pain was in the report of Dr. DeBottis dated
20 March 10, 2015, in which Dr. DeBottis reported that Applicant stated that his left shoulder “has
21 started to get achy as well.” (AR 0105-AR 0107) Similar pain is again noted in reports of May 12,
22 2015 and August 11, 2015 by Dr. DeBottis. (AR 0121 and 0125)

23 Applicant also complained of his left shoulder to Dr. Godes in July, 2015. (0244-0249)

24 In September, 2015, Dr. DeBottis ordered no use of the left arm. The MRI report of the left
25 shoulder showed: 1. Low-grade 20% partial thickness intrasubstance tear of the supraspinatus
26 tendon at the footprint, 9 mm AP, on a background of tendinosis; 2. Mild intra-articular biceps
27 tendinosis; 3. Mild acromioclavicular joint osteoarthritis; 4. Trace subacromial subdeltoid bursal
28 fluid. (AR 257-258)

1 On February 3, 2016, Dr. Ross noted that the MRI report was “unimpressive,” and found
2 the left shoulder mobility to be unrestricted, with some discomfort at the extremes, but bilaterally,
3 apprehension and stability testing being negative. However, Dr. Ross relayed that Applicant
4 showed anterior tenderness and discomfort of motion extremes with the left shoulder. (AR 0149)

5 In this case, the doctors are not in agreement. Dr. Woods opines that the left shoulder injury
6 is compensable. (AR 0269) Dr. Ross contends that it is not being more likely based on injury
7 arising in Applicant’s prior employment, being chronic in nature.

8 Dr. Woods, however, states that Applicant suffers for left shoulder is 50% compensatory,
9 but that is in the Workers Comp field, which is a different standard then retirement, as set forth
10 above.

11 Accordingly, the Hearing Officer finds that only after employment ended with the District,
12 two months later, did Applicant first start complaining about his left shoulder, but that once he
13 started noting the pain, he did so consistently. Based on the delay in reporting the pain, the MRI
14 findings of chronic injuries, Applicant’s past employment history, the lack of any action on the date
15 of injury on August 4, 2014 attributing to the left side of the body, and the medical opinion of Dr.
16 Ross, the Hearing Officer finds that the left shoulder injury is not service-related.

17 **D. Potential Effective Date for Service-Related Unemployment**

18 If the Board disagrees with the timeliness of the appeal, and agrees the Applicant is disabled
19 and that the disability is service-related, then there must be a determination of the effective date for
20 the service-connected disability.

21 Government Code Section 31724 holds that generally the effective date for a disability
22 retirement allowance is the date the application was filed, but not earlier than the day following the
23 last day for which the member received regular compensation.

24 Applicant has shown no grounds for an exception to this rule. Rather, Applicant testified
25 that he resigned because he knew he was injured. As such, the Hearing Officer finds that if the
26 Board finds Applicant is entitled to a service-related disability, the effective date should be the date
27 Applicant filed his Application, specifically July 16, 2015.

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FINDINGS OF FACT

1. Applicant began working for Orange County Sanitation District on December 17, 2012.
2. Applicant injured his chest wall and right shoulder on August 4, 2014.
3. Applicant was placed on total temporary disability, and then light duty until October 8, 2015.
4. Applicant substantially performed the duties of his job from October 8, 2014 until January 8, 2015.
5. Applicant’s last day of employment was January 8, 2015.
6. Applicant was not under doctor’s work restrictions on his last day of employment.
7. Applicant began complaining of pain to his left shoulder to his doctor in March, 2015.
8. Applicant was diagnosed with complete tear in the right rotator cuff March 24, 2015.
9. Applicant filed his Application for Service-Connected Disability on July 16, 2015.
10. Applicant had surgery on October 8, 2015 for repair of right rotator cuff.
11. Applicant was diagnosed with 20-25% tear in his left rotator cuff April 28, 2016.

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- 12. Medical diagnosis supports four doctor’s recommendation of a work restriction of “no overhead reaching” based on impairment to left and right shoulders.

- 13. The District is unable to accommodate a work restriction of “no overhead reaching.”

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CONCLUSIONS OF LAW

1. Applicant’s application for disability is not timely as Applicant has not proven he was physically or mentally incapacitated from performance of his job duties between January 8, 2015 and July 16, 2015.
2. Applicant is presently permanently incapacitated and unable to perform the usual and customary duties of his position based on injury to his right and left shoulders.
3. Applicant’s incapacity based on his right shoulder is service-related. Applicant’s incapacity based on his left shoulder is not service-related.
4. If the Applicant had filed a timely application, the effective date for disability retirement benefits would be July 16, 2015.


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RECOMMENDATIONS

The Hearing Officer recommends that the Board finds:

1. Applicant’s application for disability is not timely as Applicant has not proven he was physically and mentally incapacitated to perform his job duties between January 8, 2015 and July 16, 2015, as required by Government Code 31722.
2. Applicant is presently permanently incapacitated and unable to perform the usual and customary duties of his position based on injury to his right and left shoulders.
3. Applicant’s incapacity based on his right shoulder is service-related. Applicant’s incapacity based on his left shoulder is not service-related.
4. If the Applicant had filed a timely application, the effective date for disability retirement benefits would be July 16, 2015.

Dated: October 4, 2021

By: 

 Jane G. Kearl, Hearing Officer

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FILED
Orange County Employees
Retirement System
OCT 22 2021
By B. Singleton, Clerk
of the Hearing Officers

BEFORE THE BOARD OF RETIREMENT OF THE
ORANGE COUNTY EMPLOYEE’S RETIREMENT SYSTEM

VINCENT SARDELLA,)	Case No: 0022-251817
)	
Plaintiff,)	
)	Plaintiff’s Objections to Hearing
v.)	Officer’s Findings
)	
ORANGE COUNTY EMPLOYEES’)	
RETIREMENT SYSTEM,)	
)	
Defendant.)	

Applicant, Vincent Sardella, hereby submits its Objections to the Hearing Officer’s findings:

The recommendation comments that Mr. Sardella did not file before he learned that his incapacity was permanent. (P. 3). There is nothing unreasonable about this. He resigned January 8, 2015 due to frustration with his employment situation and lack of effective treatment related to his workers’ compensation claim. The recommendation does not indicate whether Mr. Sardella was credible. On the other hand, the recommendation indicates that Mr. Bell provides contrary testimony about what he was advised by Mr. Sardella. (P. 8 line 13). However,

1 the recommendation indicates that Mr. Bell was credible. (P. 8). This is not
2 consistent, and Mr. Bell should not have been found credible.

3 In the factual summary, it is indicated that there were no doctor restrictions
4 on January 8, 2015 when Mr. Sardella stopped working. This is correct but this
5 does not mean that the later developed evidence does not support a permanent
6 incapacity continuously from January 8, 2015 to present.

7 In the factual summary, it is indicated that Mr. Sardella did not check the
8 box that he resigned because of “illness or injury,” and this is correct but this does
9 not have anything to do with his workers’ compensation claim or if the later
10 developed evidence supports a permanent incapacity continuously from January 8,
11 2015 to present.

12 In the Application, it is noted that Mr. Sardella’s supervisor, Mr. Robert
13 Bell, indicated, “Mr. Sardella complained of pain in his right rib/shoulder area.
14 The reported pain limited Mr. Sardella use of his right arm.” (P. 40 referencing
15 AR 0011). This shows even while working that Mr. Sardella had limited use of his
16 right arm, which supports that the right arm permanent limitation concerning
17 overhead reaching relates back to at least when he stopped working.

18 In the recommendation, it is reported that Dr. Godes indicated limitations,
19 but he did not specifically indicate that Mr. Sardella was disabled since
20 resignation. (P. 43). This is accurate, but this is of no consequence. When read in
21 reasonable context, the opinion relates back to when Mr. Sardella stopped working.
22 Dr. Godes indicated that the present illness relates back to the August 2014 injury.
23 (AR 0244). Dr. Godes reviewed the MRI and other medical records. (AR 0245).
24 Dr. Godes diagnosed bilateral rotator cuff tears. (AR 0248). Based upon this
25 evidence, Dr. Godes limited Mr. Sardella’s reaching. While Dr. Godes did not use
26 the “magic words” that this related back to the date of resignation, this report of
27 Dr. Godes can only be reasonably interpreted as supporting the reaching limitation
28 since the August 2014 injury that resulted in the rotator cuff tear of the right upper

1 extremity. Reports and diagnostic studies are generally retrospective in nature.
2 See Bilby v. Schweiker 762 F.2d 716, 719 (9th Cir. 1985) (Medical reports are
3 inevitably retrospective and should not be disregarded solely on that basis.). The
4 MRI in March 2015 is retrospective to the August 2014 date of injury, which is
5 well before the resignation. This is because there is no significant intervening
6 event from August 2014 to March 2015 that would provide an explanation for the
7 significant findings on the MRI. Absent some basis to find the March 2015 MRI
8 does not relate back to August 2014, it must be found to relate back to the original
9 injury. This means that it relates back to the date last worked. Additionally, the
10 Federal Court Administrative Law Judge did relate this report back and the
11 overhead limitation back to the date of resignation as the recommendation later
12 concedes. (P. 50 referencing AR 292-302).

13 The recommendation was to find that Mr. Sardella was not continuously
14 incapacitated from the date of discontinuance of service. (P. 50-53). This was
15 essentially because no doctor testified concerning incapacity from the time of his
16 retirement. This is not required and no legal authority has been provided to
17 support this implied requirement, and Mr. Sardella only has to prove incapacity
18 based upon something other than his own statements. It would be helpful to have
19 said testimony, but this is not required, and the recommendation actually supports
20 that the limitations relate back to the date last worked. As addressed above, this
21 has been shown based upon the medical opinion of Dr. Godes, the MRI findings of
22 March 2015 that can only reasonably relate back to the August 2014 date of injury,
23 and the judicial determination from an Administrative Law Judge.

24 The recommendation indicates that the Administrative Law Judge's finding
25 does not need to be followed because it was based upon a "multitude or
26 impairment" implying that it included limitations based upon other impairments
27 that have nothing to do with Mr. Sardella's application. (P. 53). While it is true
28 that Judge Hopson considered other impairments, the reaching limitations were

1 based only upon the impairment at issue here which is the shoulders. The reaching
2 limitation particularly as it relates to the right shoulder cannot be rejected because
3 it was based upon other conditions. The recommendation fails to give legally
4 sufficient rationale to reject a judicial determination concerning the retrospective
5 applicability of the right shoulder reaching limitations.

6 The recommendation was to find that Mr. Sardella was permanently disabled
7 based upon a limitation concerning overhead reaching. (P. 54). Mr. Sardella
8 agrees, and the relevant question is how far back in time the permanent incapacity
9 would be applicable. Based upon the above concerning the MRI, the report of Dr.
10 Godes, and the judicial determination, it relates back to 2014. Without indicating
11 when this permanent incapacity was applicable, the recommendation is not
12 substantial evidence.

13 The recommendation is to find that Mr. Sardella's incapacity was service
14 connected as it relates to the right shoulder. (P. 55). Mr. Sardella agrees.

15 This case cannot be viewed from a rigid viewpoint. Mr. Sardella was
16 injured in 2014. He was not able to access treatment, and in frustration, he
17 resigned January 8, 2015. This does not detract from the fact he has a tear in his
18 right shoulder demonstrated by the MRI, which shows an inability to reach
19 overhead with the right shoulder. Medical reports and opinion are inherently
20 retrospective. When the MRI in March 2015 shows a tear, this did not arise on that
21 date. This shows a long-standing condition and the recommendation supports that
22 this condition existed since the original date of injury in 2014. (P. 55). While Mr.
23 Sardella might not have known the extent of his limitations when he resigned, the
24 evidence shows that the preclusion from overhead lifting related back to the
25 original injury, which shows that Mr. Sardella was permanently incapacitated from
26 a service-connected limitation since the date he last worked.

27 Based upon all the above, Mr. Sardella objects to the recommendation
28 finding that he was not continuously disabled from the date he last worked for the

1 reasons detailed above. He agrees that he was permanently incapacitated and that
2 said incapacity was service connected. Therefore, he respectfully requests that he
3 is found entitled to a service-connected disability.

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Respectfully submitted,

Dated: October 22, 2021

LAW OFFICES OF MARTIN TALLER

By: /s/troydmonge

TROY D. MONGE
Attorney for Plaintiff

FILED
Orange County Employees
Retirement System
OCT 25 2021
By B. Singleton, Clerk
of the Hearing Officers

1 Nicole A. McIntosh, Esq.
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2 2223 Wellington Avenue
3 Santa Ana, California 92701
714-569-4894

4 Attorney for Orange County Employees Retirement System

5
6 BEFORE THE BOARD OF RETIREMENT OF THE
7 ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

8 VINCENT SARDELLA,
9 Applicant,
10 ORANGE COUNTY EMPLOYEES
11 RETIREMENT SYSTEM
12 Respondent,

RESPONDENT’S OBJECTION TO HEARING
OFFICER’S RECOMMENDATIONS

13
14 Respondent, Orange County Employees Retirement System, hereby submits its Objections to the
15 Hearing Officer’s Recommendations:

16
17 The recommendation finds that the Applicant was not permanently incapacitated at the time he
18 voluntarily resigned from his position. The Hearing Officer further finds that the Applicant later became
19 incapacitated due to a right shoulder injury and was “presently” incapacitated at the time of the hearing
20 seven years later. Respondent objects on two grounds. First, Respondent objects to the finding of
21 permanent incapacity based, in part, on an inaccurate reading of Dr. Ross’ reporting. Second, Respondent
22 objects to Hearing Officer’s assessment of incapacity at the time of the hearing as opposed to the time the
23 Applicant stopped working.
24

25
26
27
28 RESPONDENT’S OBJECTION TO HEARING OFFICER’S RECOMMENDATIONS - 1

1 **1. Respondent objects to the conclusion that Dr. Ross found the right shoulder incapacitating.**

2
3 The Hearing Officer bases her conclusion of permanent incapacity in both shoulders, at least
4 partially, “based on the agreement of the reports of Dr. Woods, Dr. Piasecki, Dr. Ross and Dr.
5 DeBottis...” (Recommendation 54:16-19). Dr. Ross issued several reports in this matter. In summary, Dr.
6 Ross finds that the Applicant’s left shoulder is incapacitating but not service connected and his right
7 shoulder is service connected but not incapacitating. In his October 6, 2017 report, Dr. Ross lists
8 restrictions but does not state whether the restrictions apply to the right or left shoulder. The Hearing
9 Officer appears to have applied this ambiguity to conclude that Dr. Ross found both shoulders to be
10 incapacitating. Respondent objects to this conclusion as it contradicts the rest of Dr. Ross’ reporting.

11
12 Dr. Ross’ reports taken together demonstrate that he did not believe the right shoulder was
13 incapacitating, supporting the conclusion that the restrictions listed in his October 6, 2017 report were
14 intended to relate the left shoulder only. In his April 19, 2017 report, Dr. Ross states “During the course
15 of my current examination of Mr. Sardella, a favorable result from the right shoulder operation is
16 demonstrated...his right rotator cuff strength is intact... There is no right upper extremity weakness...”
17 (AR 0162) He further states “With respect to his right upper extremity, the neurologic condition is of a
18 sensory nature, which is more of an understandable bother to him and is not associated with weakness or
19 functional debility.” (AR 0163)

20
21 Dr. Ross reached his conclusion in regards to the Applicant’s right shoulder in his April 19, 2017
22 report. Additional reports, including the October 6, 2017 report, were issued to address the Applicant’s
23 pending left shoulder surgery. Respondent acknowledges that the doctor did not specifically state which
24 shoulder he was referring to in his October 6, 2017 report, leaving open a possible ambiguity. However,
25 the rest of Dr. Ross’ reports demonstrate that he did not believe the right shoulder was incapacitating.
26 Concluding that the restrictions should relate to the right shoulder is insistent with the rest of the reporting
27 from Dr. Ross where he repeatedly concludes that the right shoulder injury has healed and is not
28

RESPONDENT’S OBJECTION TO HEARING OFFICER’S RECOMMENDATIONS - 2

1 incapacitating. A more consistent conclusion is that the restrictions applied only to the left shoulder, as
2 have the rest of Dr. Ross' restrictions.

3
4 **2. Respondent objects to Hearing Officer's assessment of incapacity at the time of the hearing**
5 **as opposed to the time the member stopped working.**
6

7
8 The Applicant's incapacity should have been measured at the time he discontinued service. The
9 question in any case for disability retirement is whether the Applicant was compelled to stop working
10 because he was permanent incapacitated. The evidence shows that this was not the case. At the time of his
11 discontinuance of service, the Applicant was able to perform his job duties, was not under restrictions and
12 was not working modified duties. His own statements and testimony demonstrate that he was not
13 compelled to resign due to an incapacity but did so due to personnel issues.

14 Whether he later became incapacitated is both inevitable and irrelevant. Measuring the
15 Applicant's incapacity years after he voluntarily retired is inconsistent with the purpose of disability
16 retirement benefits under the CERL. The CERL provides service connected disability benefits for
17 Applicant's who are forced out of work due to injuries incurred as a result of their work with the county.
18 The incapacity must be the cause of the Applicant's discontinuance of service. The only logical time
19 period to evaluate an incapacity that stopped the Applicant from working is at the time he stopped
20 working. His physical condition years later is not relevant. Disability retirement is not a life-long
21 disability policy. The reality of mortality is that every member will eventually become incapacitated from
22 performing their usual and customary duties. Still not every member is entitled to disability benefits; only
23 those members whose employment was cut short because of an incapacity.
24

25 The evidence has shown and the hearing officer has concluded that the Applicant was not
26 incapacitated at the time of his voluntary resignation. His incapacity should be measured as of this time
27
28

RESPONDENT'S OBJECTION TO HEARING OFFICER'S RECOMMENDATIONS - 3

1 period. Any incapacity that developed later is not relevant. He should not be granted benefits because he
2 “later” became incapacitated, as we all shall someday.

3
4 **CONCLUSION**

5 Based on the above, Respondent objects to the finding that the Applicant was permanent
6 incapacitated and to the period in which capacity was measured. The Applicant is not entitled to service
7 connected disability retirement benefits.
8

9
10 Dated this 25 of October, 2021.

11
12 

13
14 _____
Nicole McIntosh



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Brenda Shott, Assistant CEO, Finance and Internal Operations
SUBJECT: **OCERS' PROPOSED ADMINISTRATIVE BUDGET FOR FISCAL YEAR 2022**

Recommendation

Adopt the Proposed Administrative Budget for Fiscal Year 2022 in the amount of \$33,100,984 which includes:

- a. Personnel costs in the amount of \$19,262,569
- b. Services and supplies in the amount of \$13,528,415
- c. Capital expenditures in the amount of \$310,000

Background/Discussion

The proposed budget was developed based on the 2022 Business Plan and the Personnel Committee's recommended 2022 Staffing Plan, both of which were approved by the Board of Retirement on October 18, 2021.

The Business Plan is directly linked to the 2022-2024 Strategic Plan developed using OCERS' Mission Statement and Vision Statement and Values as its foundation. The goals and initiatives included in the approved Business Plan provided guidance for the proposed Fiscal Year (FY) 22 Administrative Budget.

In addition to the 2022 Business Plan, the proposed budget for personnel costs was developed based on the approved 2022 Staffing Plan, OCERS' Compensation Policy for direct employees, and the most recent Memorandum of Understanding between the County of Orange and the Orange County Employees Association applicable to County employees working at OCERS.

Attached is the presentation that summarizes the FY22 Proposed Administrative Budget, as well as a detailed budget narrative and several detailed appendixes that provide further information about the proposed budget that staff is recommending for approval.

Submitted by:

A handwritten signature in blue ink, appearing to be "Tracy Bowman", written over a horizontal line.

Tracy Bowman
Director of Finance

Approved by:

A handwritten signature in blue ink, appearing to be "Brenda M Shott", written over a horizontal line.

Brenda Shott
Assistant CEO, Finance & Internal Operations



Memorandum

Approved by:

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

Steve Delaney
CEO



OCERS 2022 Proposed Administrative Budget

**Regular Board Meeting
November 15, 2021**

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with the highest standards of excellence."*





Today's Agenda

1. Purpose of Presentation
2. Overview of Budget Process
3. Proposed 2022 Administration Budget



Purpose of Presentation

➤ General review of 2022 Administrative Budget

Recommended actions:

1. Adopt the Administrative Budget for Fiscal Year 2022 in the amount of \$33,100,984 which includes:
 - a. Personnel costs in the amount of \$19,262,569
 - b. Service and supplies in the amount of \$13,528,415
 - c. Capital expenditures in the amount of \$310,000



Overview of Budget Process

- Budget Approval Policy
- OCERS' Mission Statement, Vision and Values, and 3-Year Strategic Plan
- Set Business Plan goals for 2022 and related cost estimates
 - Executives/Directors' virtual meeting prior to Strategic Planning
 - Strategic Planning with Board on September 8-9, 2021
 - 2022 Business Plan approval on October 18, 2021
- Initial budget requests are made by each department head
- CEO, Assistant CEO of Internal Operations and Director of Finance met individually with department heads to discuss and determine necessity of each line item in their budget request



Overview of Budget Process (cont'd)

- Prepare budget with comparisons to prior years' budgets and actuals
- Personnel Committee meetings on May 27, 2021 and June 9, 2021 recommended approval of changes to OCERS Compensation Policy including a pay philosophy, new salary ranges, pay structure and pay adjustments based on the compensation study, which was approved by the full Board at the June 21, 2021 Board meeting
- Meeting with the Personnel Committee on September 15, 2021 to review and approve the 2022 recommended Staffing Plan, which was approved by the full Board at the October 18, 2021 Board meeting
- Approval of the budget by the Board at the November 15, 2021 meeting



Budget Supports Strategic Goals

Fund
Sustainability

Excellent
Service and
Support

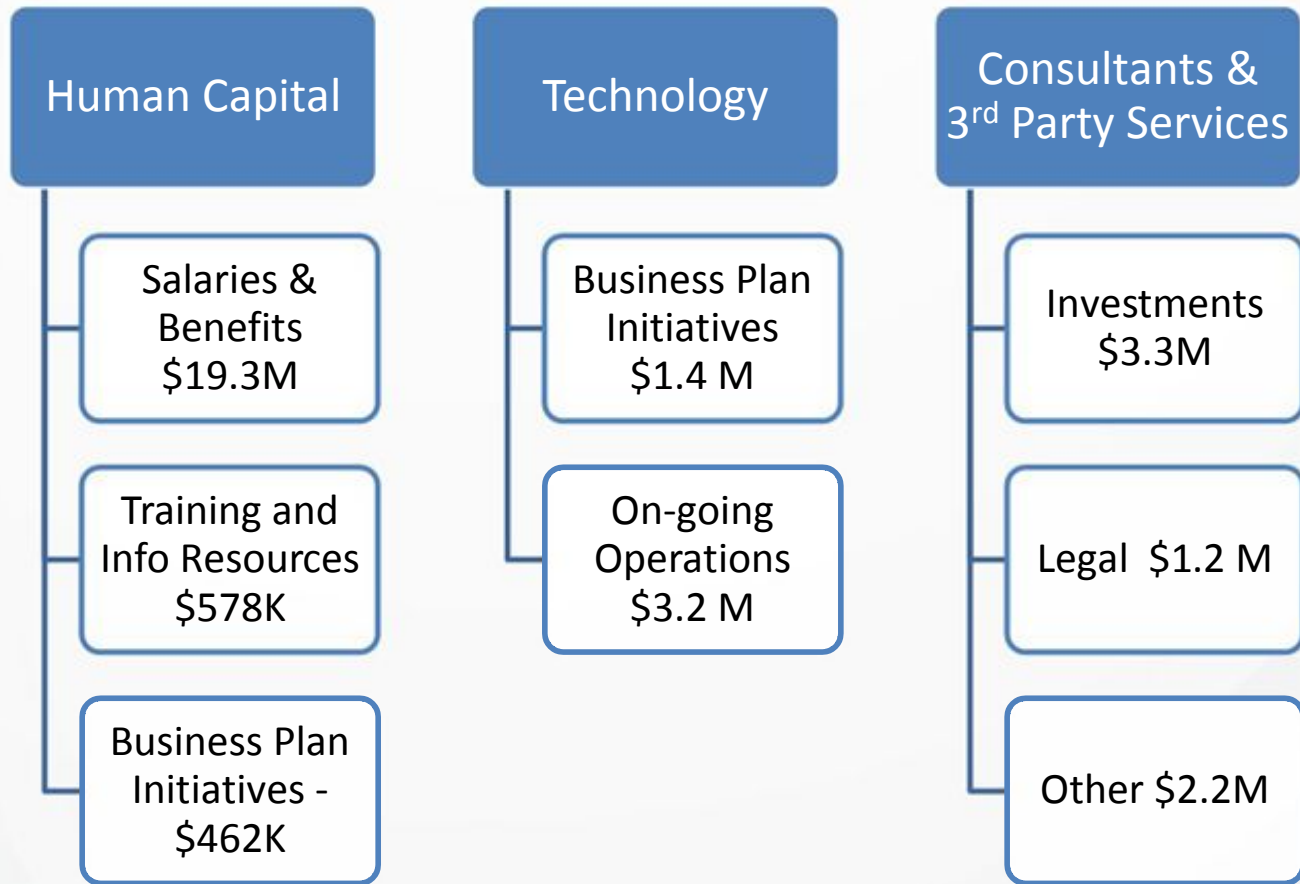
Risk
Management

Talent
Management

Effective
Governance



Primary Cost Drivers



The sum of the primary cost drivers noted above represents approx. 96% of the 2022 Administrative Budget



Budget Limitations

Budget Authority

Administration expenses, as defined in Government Code Section 31580.2, incurred in any year will not exceed 21 basis points of the actuarial accrued liability (AAL) of the system.

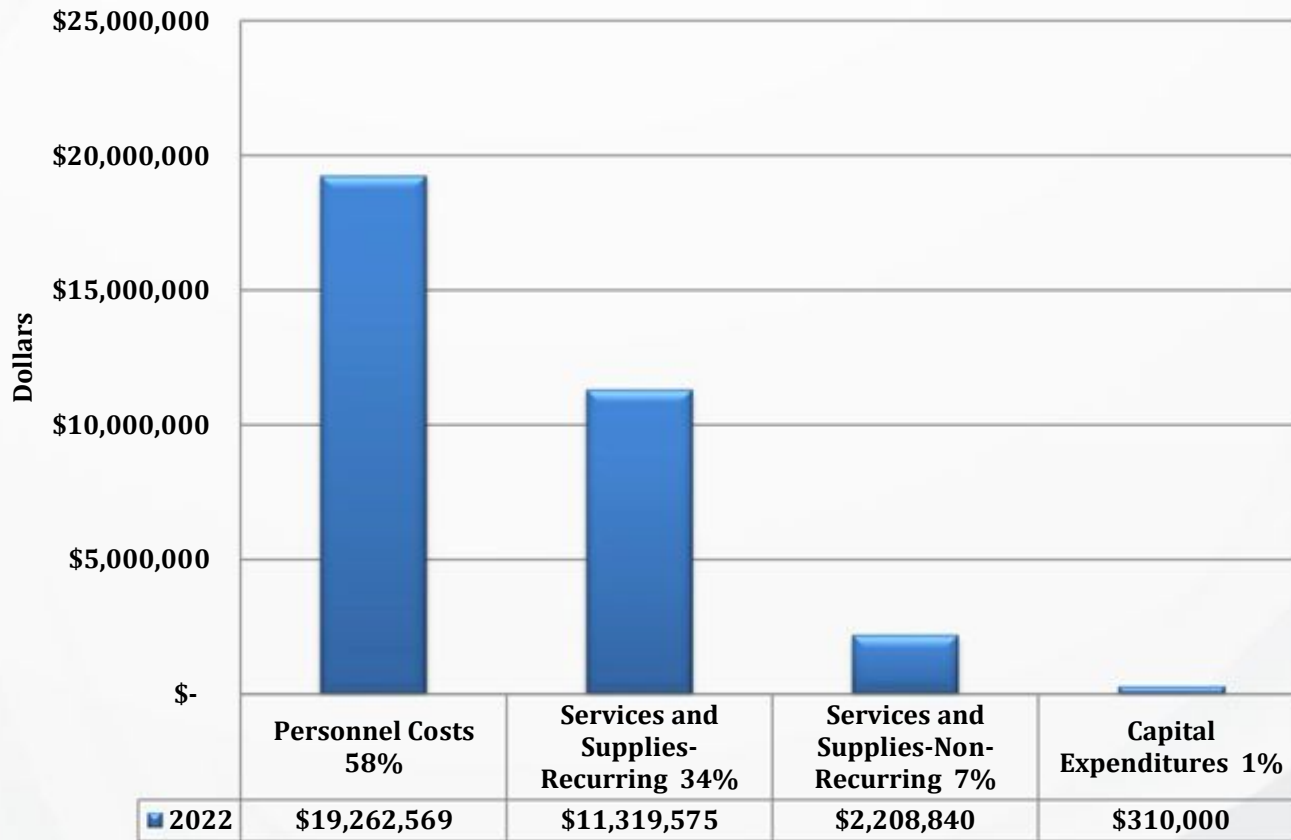
2022 Statutory Budget Limitation is \$50,292,478

2022 Proposed Budget (excluding investment-related costs and applicable IT-related costs not subject to budget limitation test) is 9.75 basis point of AAL



FY22 Proposed Administrative Budget Summary

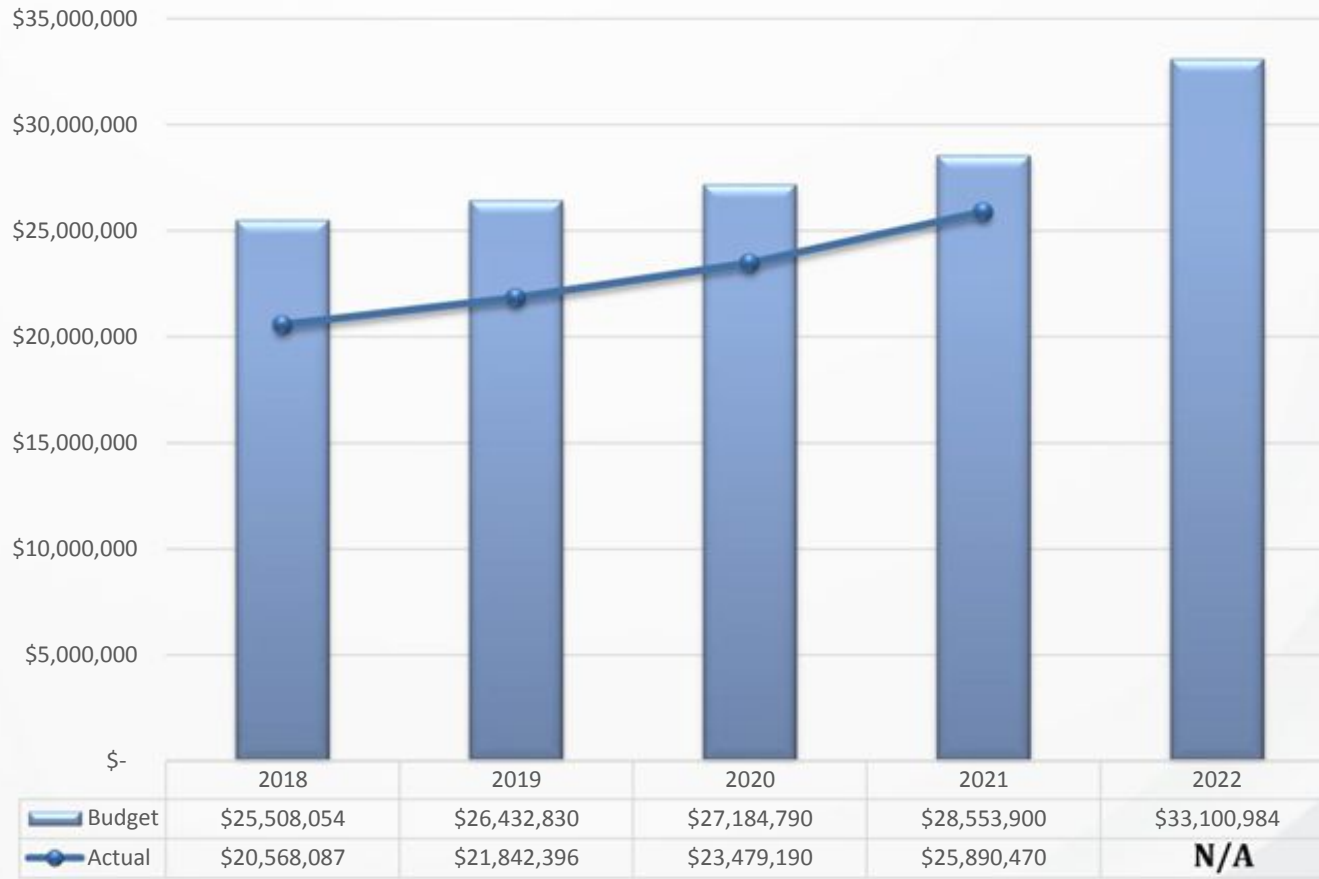
Total - \$33,100,984





Budget versus Actuals Trend

Total Budget



Actual to Budget % 80.63% 82.63% 86.37% 90.67% N/A



Trends

(Dollars in Thousands)

	2018	2019	2020	2021	2022	5 Year Average
Total Budget	\$ 25,508	\$ 26,433	\$ 27,185	\$ 28,554	\$ 33,101	
% Increase	2.6%	3.6%	2.8%	5.0%	15.9%	6.0%
Total Budget (No Capital Expenditures)	\$ 24,413	\$ 26,063	\$ 26,585	\$ 27,884	\$ 32,791	
% Increase	6.9%	6.8%	2.0%	4.9%	17.6%	7.6%
Actuals¹	\$ 20,568	\$ 21,842	\$ 23,479	\$ 25,890	\$ 33,101	
% Increase	14.0%	6.2%	7.5%	10.3%	27.9%	16.5%
Actuals¹ (No Capital Expenditures)	\$ 20,404	\$ 21,790	\$ 23,293	\$ 25,220	\$32,791	
% Increase	15.3%	6.8%	6.9%	8.3%	30.0%	16.8%
Budgeted Personnel Costs	\$ 13,925	\$ 14,765	\$ 15,507	\$ 16,254	\$ 19,263	
% Increase	12.1%	6.0%	5.0%	4.8%	18.5%	9.3%
Budgeted FTE²	91.5	92.5	94	94.5	106.5	
% Increase	15.8%	1.1%	1.6%	0.5%	12.7%	6.3%

¹ FY2022 Actuals is based on FY2022 proposed budget

² Budgeted FTE was amended for FY2020 to include three additional extra help positions in Member Services.



Summary of Budget Increases

Description of Increase	Amount
Staffing Plan, Retirement & Benefit Costs, & Salary Growth	\$3.0M
Investment Consultants – Primarily Private equity	\$0.7M
Infrastructure Maintenance	\$0.3M
Disability Medical Reviews	\$0.2M
Increase in Cost of Business Plan Initiatives	\$0.2M
Insurance Premiums	\$0.1M
Total Increase in 2022 Budget over prior year	\$4.5M

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FY 2022 Staffing Plan

\$19,262,569





Compensation Policy

OCERS' Direct

- Purpose and Background

- Create and maintain a pay structure that is competitive among OCERS' peers in the public pension community and aligned with published market data for similarly sized governmental organizations
- Recognize and reward individual performance
- Provide management the flexibility to make compensation decisions within budgetary guidelines
- Provide employees some measure of predictability with respect to both salary growth and rewards for superior performance

- Compensation Program

- CEO manages salaries within approved salary ranges using the Board approved performance based system:
 1. Meets Expectations receives salary increase equal to the Employer Cost Index (base increase)
 2. Exceeds Expectations receives base increase plus one Merit Step (Merit Step = 2.75%)
 3. Exceptional receives base increase plus two Merit Steps
- Salary ranges will be reviewed at least every five years to ensure they remain competitive
- In years ranges are not reviewed they will automatically be increased by the amount of the increase in the Employer Cost Index



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Staffing Plan

Board approved the 2022 Staffing Plan at the October Board meeting which included the following:

- Added two (2) Information Technology Managers to the IT department (Est. cost \$214,000 each or \$428,000)
- Added a total of ten (10) new positions to the Member Services department (Est. total cost \$1,230,672).
 - a. Two (2) Benefit Analysts - Payroll and QA \$303,362
 - b. Two (2) Retirement Supervisors - QA \$254,566
 - c. Four (4) Senior Retirement Program Specialist (Sr. RPS) - QA \$455,744
 - d. Two (2) Retirement Program Specialist (RPS) - Call Center \$217,000
- The costs above include salary and a 55% fringe benefits load factor. The total annual cost related to increasing the OCERS headcount from 96 to 108 for the positions listed above is \$1,658,672

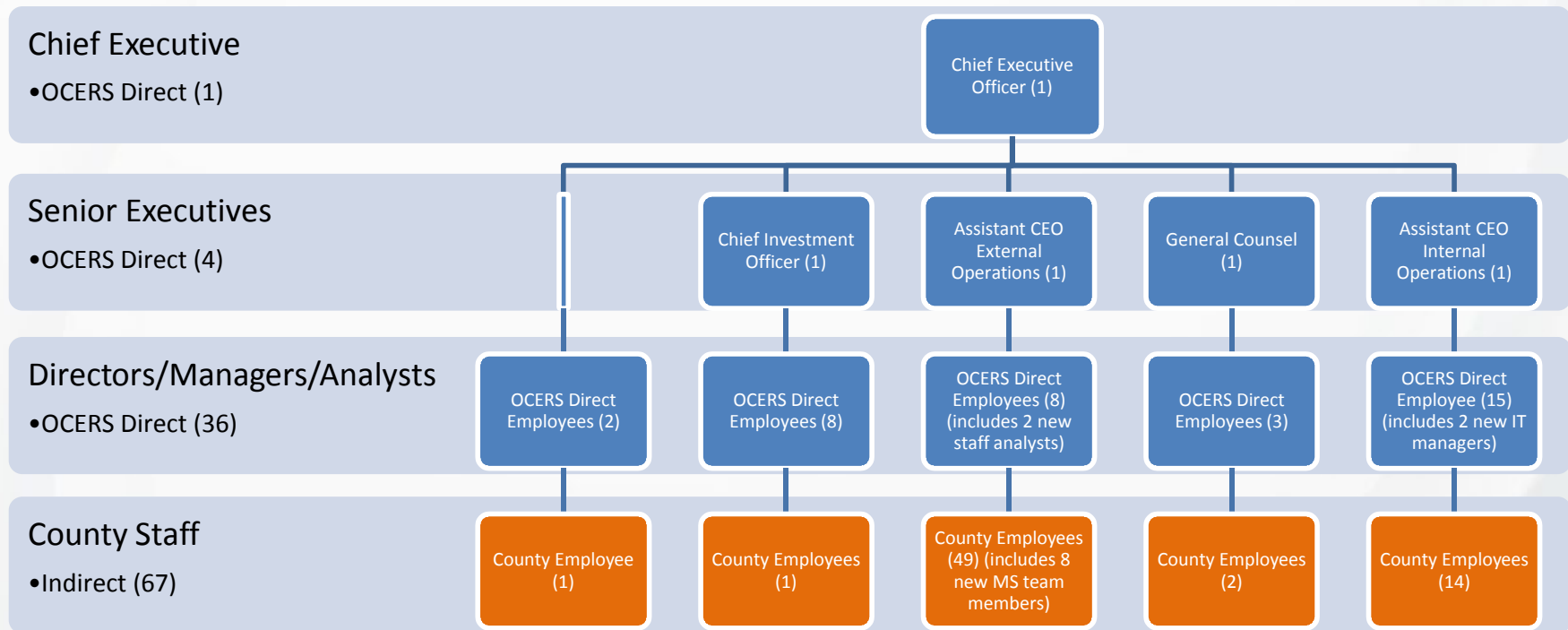




OCERS

2022 Organization Chart

(108 team members, 106.5 FTE)



Staffing Plan
 108 Budgeted Positions
 114 Approved Classifications



Budget versus Actuals Trend Personnel Costs and FTE's



Budgeted FTE was amended for FY2020 to include three additional extra help positions in Member Services.



Increase in Budgeted Personnel Costs

Description	Amount
Additional Positions	\$1.7M
Increase in Retirement Contribution Rate and Other Benefit Costs	\$0.7M
Salary Growth/Adjustments	\$0.6M
Total Increase in Budget from Prior Year	\$3.0 M





OCERS Direct Employees Salary Ranges Approved June 2021

OCERS Employee Position	Current Annual Minimum	Current Annual Midpoint	Current Annual Maximum
Chief Investment Officer	\$293,641	\$374,393	\$455,144
General Counsel	\$204,538	\$260,786	\$317,034
Managing Director of Investments	\$204,538	\$260,786	\$317,034
Assistant Chief Executive Officer	\$176,994	\$225,667	\$274,340
Director of Investments	\$164,645	\$209,923	\$255,200
Deputy Legal Counsel	\$142,473	\$181,653	\$220,833
Senior Investment Officer	\$142,473	\$181,653	\$220,833
Director of Finance	\$132,533	\$168,980	\$205,426
Director of Human Resources	\$132,533	\$168,980	\$205,426
Director of Information Security	\$132,533	\$168,980	\$205,426
Director of Information Technology	\$132,533	\$168,980	\$205,426
Director of Internal Audit	\$132,533	\$168,980	\$205,426
Director of Member Services	\$132,533	\$168,980	\$205,426
Investment Officer	\$123,286	\$157,190	\$191,094
Staff Attorney	\$123,286	\$157,190	\$191,094
Finance Manager	\$106,684	\$136,022	\$165,360
Information Security Manager	\$106,684	\$136,022	\$165,360
Retirement Analyst	\$106,684	\$136,022	\$165,360
Senior Manager Operations Support Services	\$106,684	\$136,022	\$165,360
Contracts, Risk & Performance Administrator	\$99,241	\$126,532	\$153,823
Disability Manager	\$99,241	\$126,532	\$153,823
Learning and Organization Development Manager	\$99,241	\$126,532	\$153,823
Member Services Manager	\$99,241	\$126,532	\$153,823
Senior Investment Analyst	\$99,241	\$126,532	\$153,823
Communications Manager	\$92,317	\$117,704	\$143,091
Internal Auditor	\$82,876	\$107,992	\$133,108
Investment Analyst	\$79,885	\$97,859	\$115,833
Staff Analyst	\$79,885	\$97,859	\$115,833



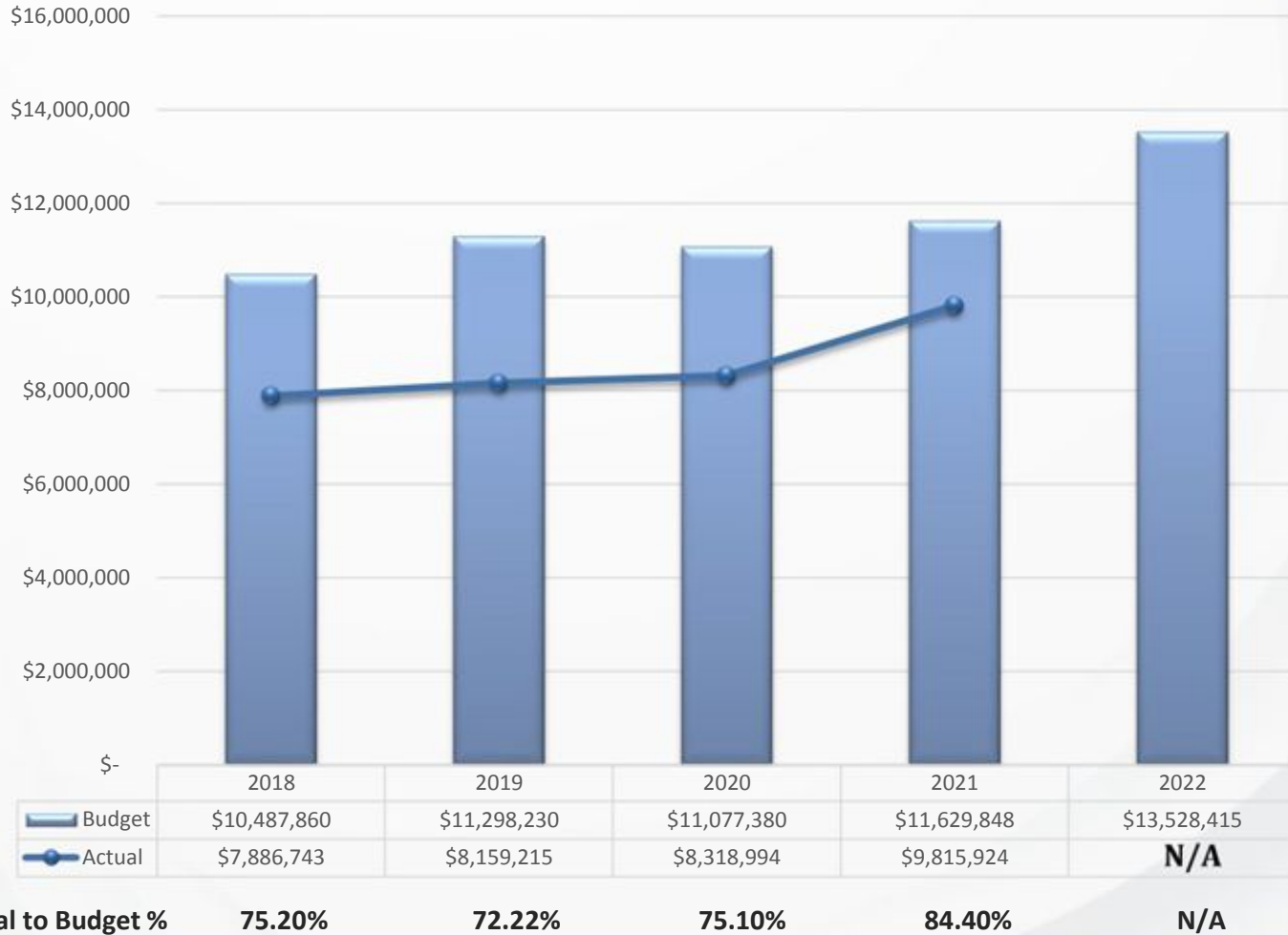
Services and Supplies

\$13,528,415



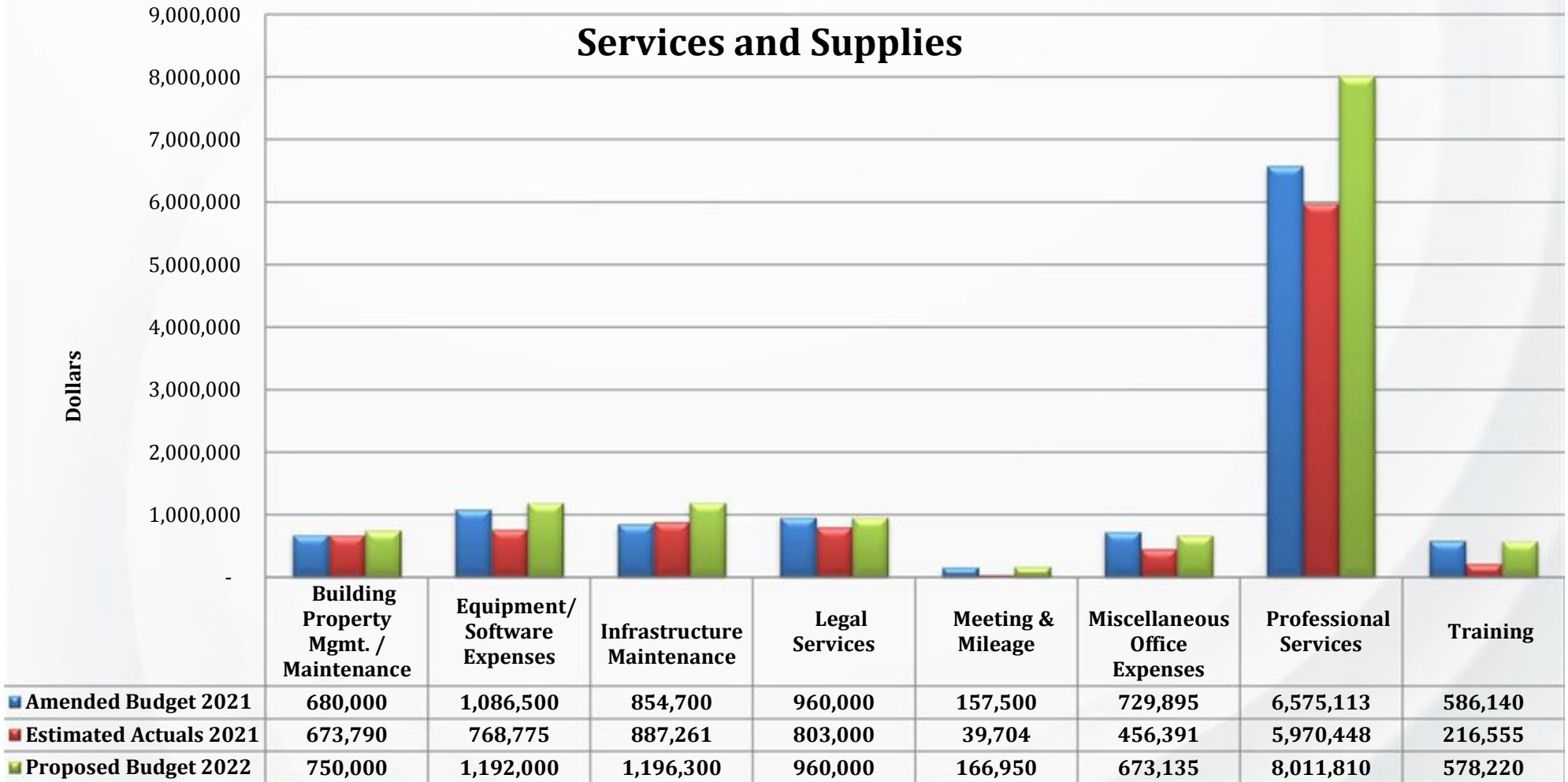


Budget versus Actuals - Trend Services and Supplies





Services and Supplies Proposed versus Estimated Actuals

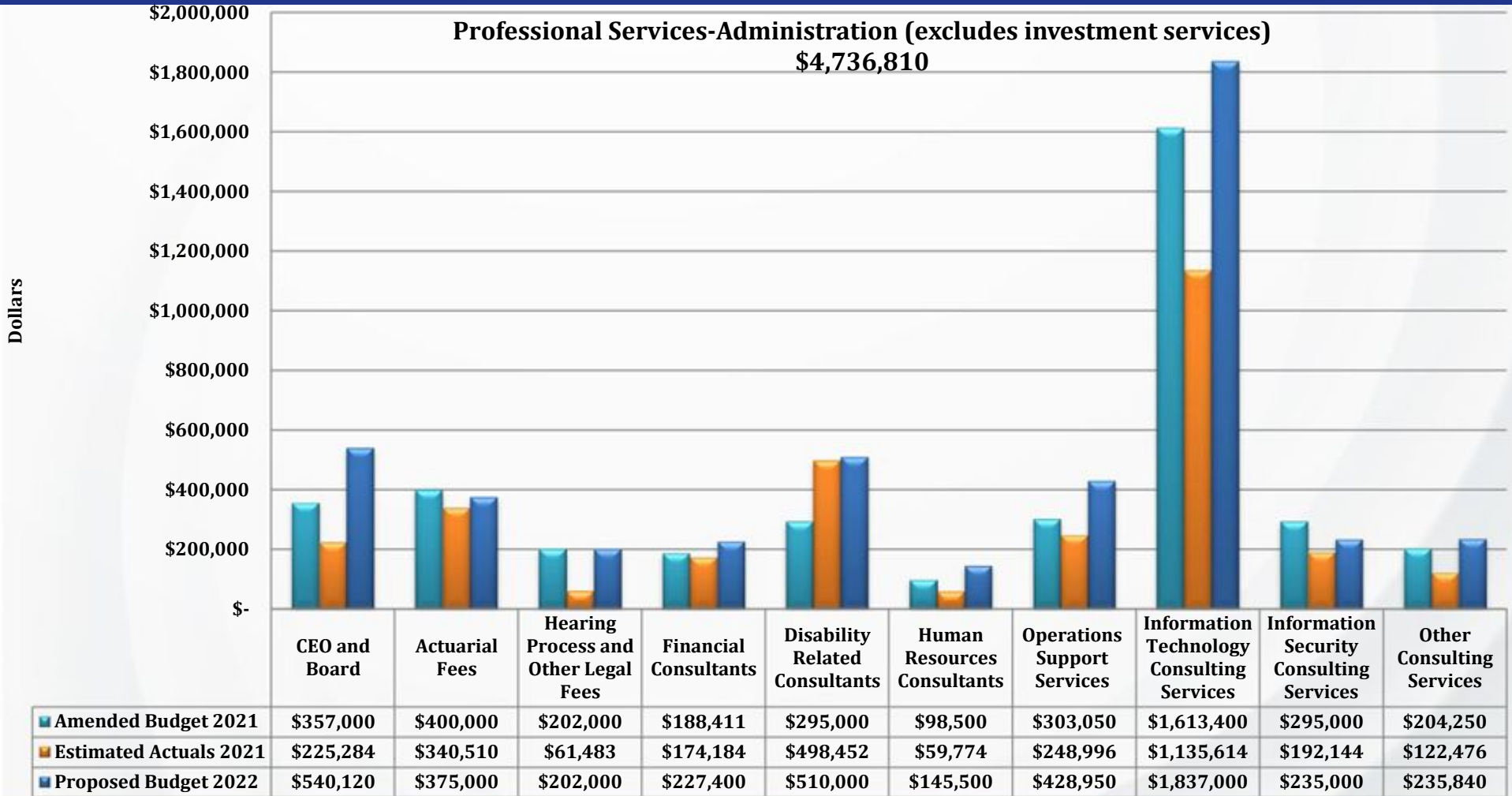




Professional Services Administration



Professional Services-Administration (excludes investment services)
\$4,736,810

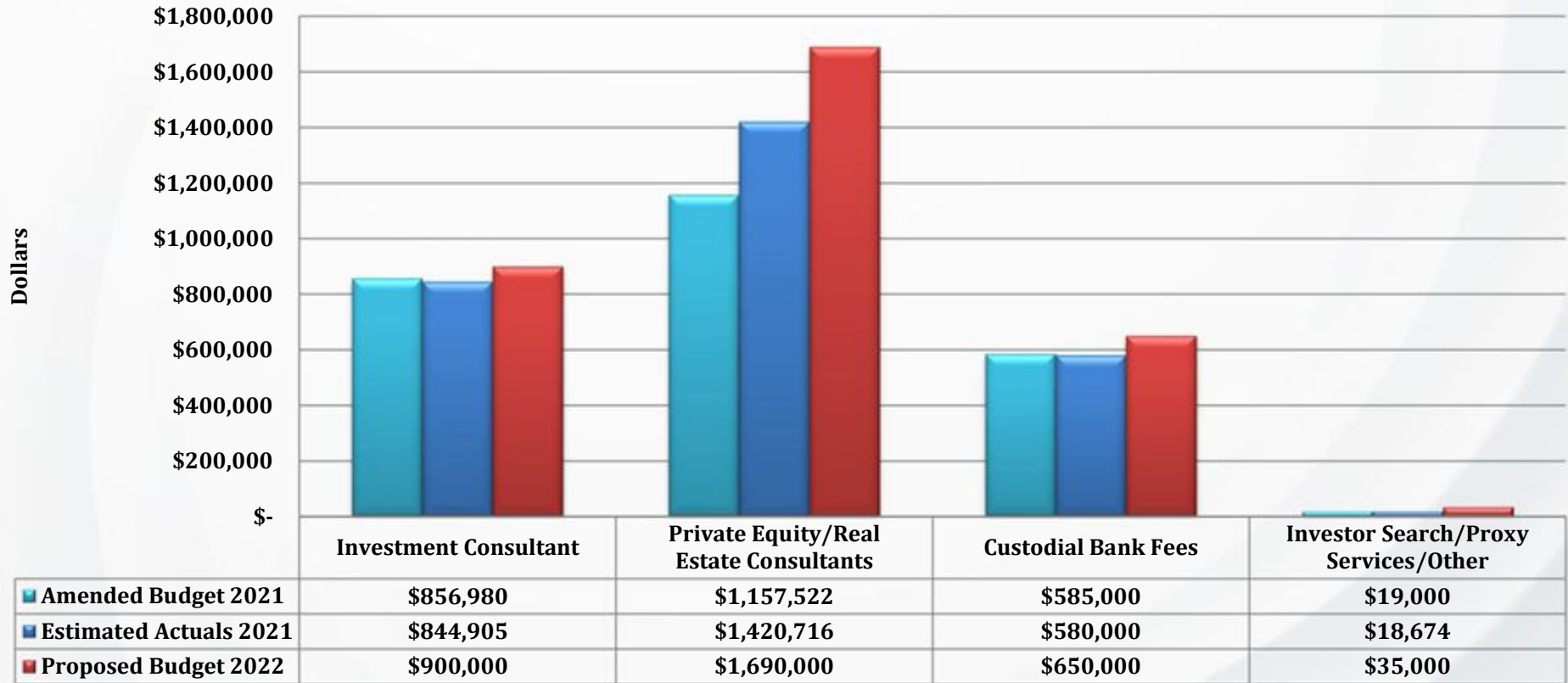


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Professional Services Investments

Professional Services-Investments \$3,275,000

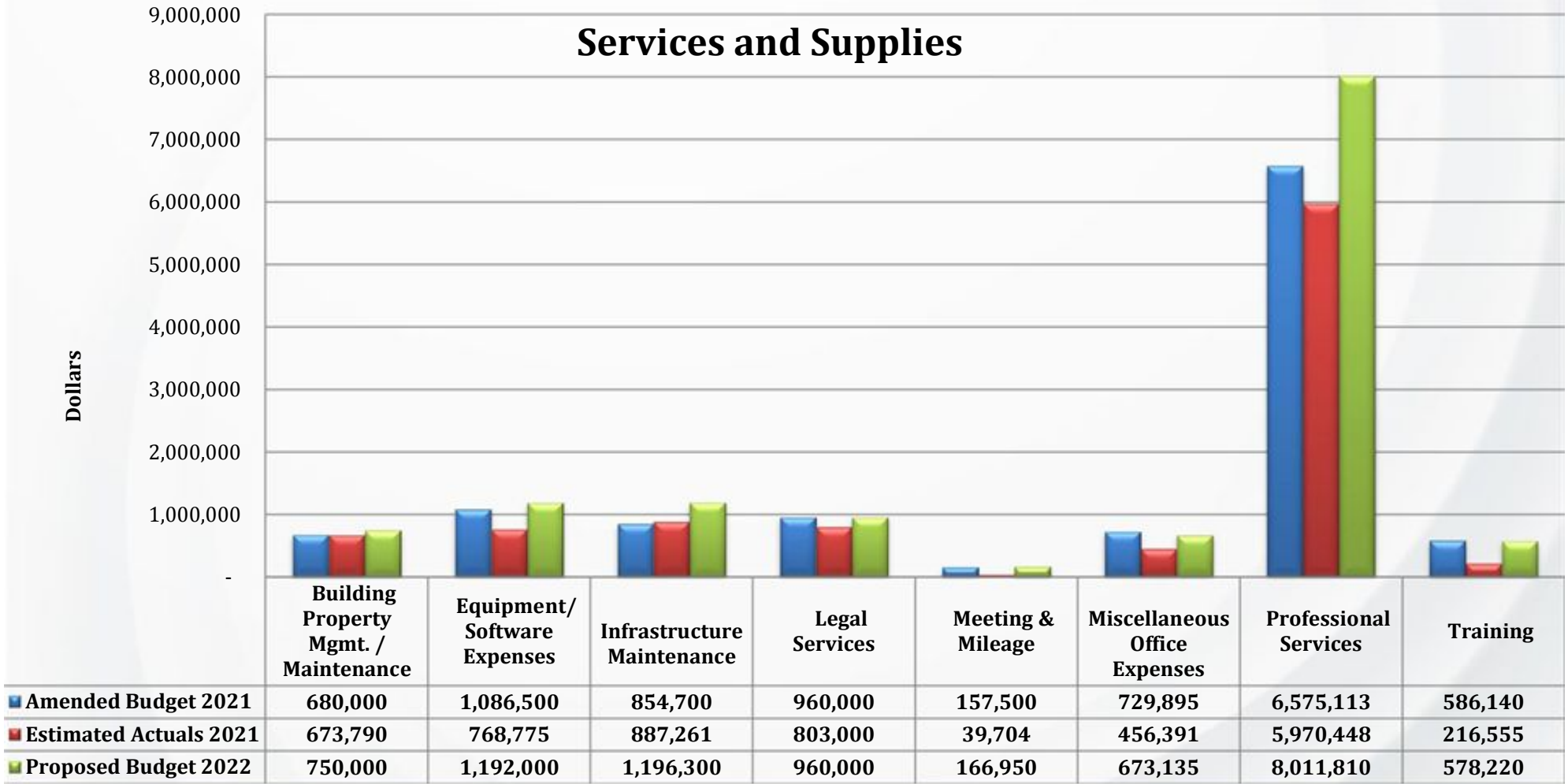


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Services and Supplies Proposed versus Estimated Actuals



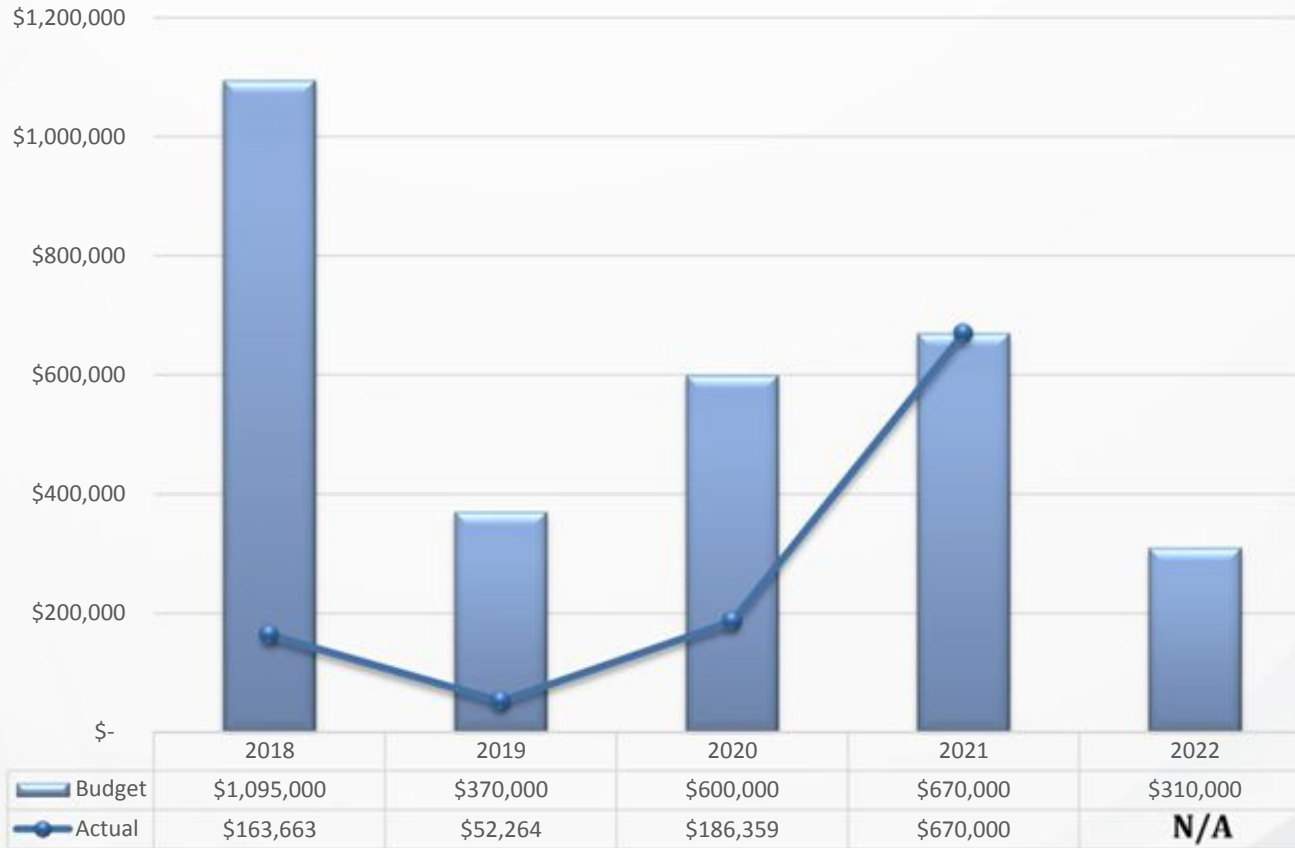


Capital Expenditures

\$310,000



Budget vs. Actuals Trend Capital Expenditures

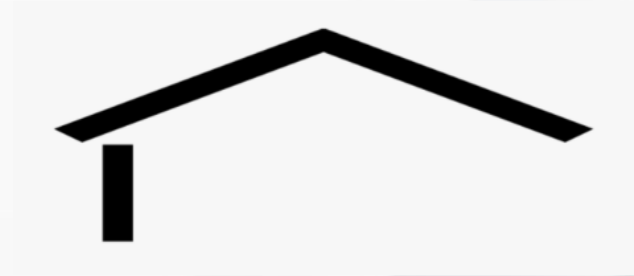


Actual to Budget % **14.95%** **14.13%** **31.06%** **100.00%** **N/A**



Capital Expenditures

➤ Data Center SAN Replacement	\$200,000
➤ Roof Replacement	<u>\$110,000</u>
Total	\$310,000





21 Basis Points Test

**Orange County Employees Retirement System
21 Basis Points for Budget Year 2022**

Projected actuarial accrued liability as of December 31, 2021	\$23,948,799,000
21 basis points of projected actuarial accrued liability	50,292,478
FY22 proposed budget amount subject to 21 basis points limitation ¹	23,340,324
Amount under 21 basis points	\$26,952,154
Budgeted amount expressed as basis points of projected actuarial accrued liability-FY22	9.75
Budgeted amount expressed as basis points of projected actuarial accrued liability-FY21	8.86

¹ Reconciliation of amount subject to 21 basis points limitation:

Total FY22 proposed budget	\$ 33,100,984
Less: Investment-related costs	(7,430,660)
Total FY22 proposed administrative budget	25,670,324
Less: IT Capital expenses	(200,000)
Computer hardware/software	(505,000)
Information Security-Professional services consulting	(205,000)
Information Technology-Professional services consulting	(1,420,000)
FY22 proposed budget amount subject to 21 basis points limitation	\$ 23,340,324

21 Basis Point History					
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
21 Basis Points	9.31	8.93	9.04	8.86	9.75



End of Presentation

Questions?

Brenda Shott, Assistant CEO
Tracy Bowman, Director of Finance

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2022
ADMINISTRATIVE BUDGET

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ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

SECTION I – INTRODUCTION

The 2022 Administrative Budget was developed based on the 2022 Business Plan which is directly linked to the 2022-2024 Strategic Plan. OCERS' Mission Statement and Vision Statement and Values are the foundation for all three documents:

Mission Statement:

“We provide secure retirement and disability benefits with the highest standards of excellence.”

Vision Statement:

“To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.”

Values:

*Open and Transparent
Commitment to Superior Service
Engaged and Dedicated Workforce
Reliable and Accurate
Secure and Sustainable*

The 2022 Administrative Budget reflects OCERS' continued commitment to:

- *Strengthen the long-term stability of the pension fund*
- *Achieve excellence in the service and support we provide to our members and employers*
- *Cultivate a risk-intelligent organization*
- *Recruit, retain and inspire a high-performing workforce*
- *Improve the effectiveness and efficiency of the Board and staff by clarifying roles and responsibilities, improving oversight, clarifying accountability and improving decision making*

These strategic goals were outlined in the 2022 Business Plan presented to the Board at the Strategic Planning Meeting held on September 8-9, 2021 and formally adopted by the Board at the Regular Board Meeting held on October 18, 2021. In addition to the 2022 Business Plan, the

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

Board also adopted the 2022 Staffing Plan as recommended by the Personnel Committee. The Board also approved the Personnel Committee's recommendation to approve changes to OCERS Compensation Policy including a pay philosophy, new salary ranges, pay structure and pay adjustments as a result of the outcomes of the compensation study at the Regular Board Meeting held on June 21, 2021. The 2022 Staffing Plan and OCERS Compensation Policy were used as the basis for developing the personnel costs portion of the proposed Administrative Budget.

The 2022 Administrative Budget was prepared while the majority of operations continued to be performed in a telework environment due to the ongoing COVID-19 pandemic. Despite these challenges, the proposed 2022 Administrative Budget was developed to include the funding of business plan initiatives to help OCERS achieve its strategic goals without disruption. Many of the business plan initiatives focus on providing excellent service and support and align with the long-term strategic goal of 100% benefit accuracy by leveraging technology and using some form of Robotic Process Automation (RPA), Machine Learning (ML) and/or Artificial Intelligence (AI). As part of this long-term initiative (referred to as "Vision 2030"), the budget includes funding for a pilot project that will use RPA to streamline routine tasks; funding for a consultant to assist with the procurement of a next generation pension administration system that will utilize RPA, ML and AI; and an initiative to evaluate options for a new imaging system for storing member documents in support of providing accurate and timely benefits. The budget includes costs carried over from 2021 associated with the talent management goal and objective to develop and empower every member of the team by developing a comprehensive standardized library of business processes and procedure manuals across the organization. This will ensure consistent application of rules and procedures by OCERS staff, as well as lay a foundation for programming a new pension administration system that will support Vision 2030 and the goal of 100% benefit accuracy.

Other business plan initiatives with a budget impact include initiatives that focus on risk management, including replacement of web application firewalls to continue protecting personally identifiable information; phase 2 of the migration to the cloud-based platform Microsoft 365; and the completion of a data classification study. The budget also includes an initiative to continue implementing Diversity, Equity and Inclusion (DEI) strategies to reduce turnover and meet the objective of cultivating a collaborative, inclusive and creative culture.

2022 Administrative Budget Summary

Staff recommends a 2022 Administrative Budget of \$33,100,984 which is:

- \$4.5 million or 15.9% greater than the 2021 Budget
- \$7.2 million or 27.9% greater than 2021 estimated actuals

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

SECTION II – BUDGET POLICIES AND PROCESS***Budget Policies***

OCERS budgeting policies are based on legal statutes required for 1937 Act Systems as well as policies set by OCERS Board of Retirement. Budgeted items are on an accrual basis in accordance with Generally Accepted Accounting Principles (GAAP).

OCERS budgeting authority is regulated by California Government Code Sections 31580.2 and 31596.1. A notable provision within the regulations is that OCERS' budget for administrative expenses (which excludes investment-related costs and expenditures for computer software, hardware and related technology consulting services) is limited to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system (commonly referred to as the 21 basis point test). The FY22 Administrative Budget represents 9.75 basis points of the projected actuarial accrued liability. See *Appendix D* for the 21 basis point test calculation.

The OCERS' Budget Approval Policy provides the purpose, roles and guidelines related to approving the annual budget for covering the expenses of administering the retirement system including the authority of the Chief Executive Officer, or the Assistant CEO, to transfer funds within the three broad categories of the budget: 1) Personnel Costs, 2) Services and Supplies, and 3) Capital Expenditures. Funds may not be moved from one category to another without approval from the Board of Retirement. In addition, any increases to the total approved budget resulting in a budget amendment must be approved by the Board of Retirement.

Budget Process

In August, each department head begins the process of completing their budget requests for the following fiscal year. The Director of Finance and Finance Manager-Budgeting compile the budget requests and draft the budgets for each department. The department heads then meet individually with the CEO, Assistant CEO of Internal Operations, and the Director of Finance to review, discuss and determine the necessity of each line item of their draft budget, which may go through several review cycles.

Once the CEO agrees upon the budget requests, any proposed business plan goals/initiatives with a budget impact are incorporated into the Business Plan for the upcoming fiscal year and presented to the Board at its annual Strategic Planning Meeting in September for discussion and feedback and the final version of the Business Plan is approved in October. The Personnel Committee meets to consider changes to the OCERS staffing plan, as well as to make recommendations to the Board regarding OCERS' direct employee salary and range adjustments. The Board is provided the opportunity to discuss the Personnel Committee's meeting outcomes at a regularly scheduled meeting. The Board's feedback is incorporated into the proposed final version of the administrative budget and submitted for final adoption at the regularly scheduled Board Meeting held in November.

SECTION III – EXECUTIVE SUMMARY - 2022 ADMINISTRATIVE BUDGET

The overall administrative budget for 2022 is summarized by the following categories of expenses:

- Personnel Costs
- Services and Supplies
- Capital Expenditures

The 2022 Administrative Budget is based on estimates of anticipated expenses for personnel costs, services and supplies, and capital expenditures. It includes the costs of carrying out the current level of services, activities, initiatives and projects approved by OCERS' Board, as well as the Board approved 2022 Staffing Plan.

Notable components in the 2022 Administrative Budget include:

Personnel Costs:

- Salaries to support the Board approved 2022 Staffing Plan consisting of 108 budgeted positions. Staffing changes include adding two Information Technology Managers; two Benefit Analysts; two Retirement Supervisors; four Senior Retirement Program Specialists; and two Retirement Program Specialists - \$11,078,000
- An average fringe benefit rate of 59.4% of total salaries - \$6,951,000
- Performance based salary adjustments for OCERS' direct employees eligible to participate in the annual Performance Management Program based on OCERS Compensation Policy:
 - A base salary increase of 4.2%, equal to the increase in the Employer Cost Index for Salaries and Wages for the previous 12-month period ending September 30, 2021, as published by the U.S. Department of Labor, Bureau of Labor Statistics, for employees whose performance meet expectations; a base increase of 4.2% plus a merit increase of 2.75% for employees whose performance exceeds expectations; and a base increase of 4.2% plus two merit increases totaling 5.50% (2.75% x2) for employees whose performance was exceptional. The estimated annual cost for these salary adjustments is \$461,000
- Step increases for approximately eight County staff not at the top of the established salary range and across the board salary increases for all County staff as dictated by County MOU - \$115,000
- Accrued Annual Leave - \$387,000
- Temporary help - \$117,000
- Pay item of 5.5% of salary for employees obtaining the designations of Chartered Financial Analyst, and Certified Professional Accountant- \$82,000
- Overtime - \$71,000

Services and Supplies:

- New recurring expenses include the following 2022 Business Plan Initiatives:
 - Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency - \$50,000
 - Equipment/software related to the implementation of an Information Security Governance, Risk & Compliance system - \$40,000
 - Postal Processing Service - \$25,000
 - Investigate options for an enhanced member survey platform - \$10,000

- Non-recurring expenses, including
 - 2022 Business Plan Initiatives with an associated implementation cost:
 - Execute a pilot project for the use of RPA to streamline routine tasks - \$350,000
 - Project manager and technical writer to develop a comprehensive standardized library of business processes and procedure manuals across the organization - \$330,000
 - Evaluate options for new Imaging System for member document repository and implement if appropriate - \$250,000
 - Issue a Request for Proposal for next generation pension administration system - \$200,000
 - Replace Web Application Firewalls to continue protecting Personally Identifiable Information - \$180,000
 - Continue Phase 2 implementation of Microsoft 365 - \$110,000
 - Complete Data Classification Study in support of the risk management objective to ensure compliance with industry frameworks and best practices - \$100,000
 - Procure and implement a new helpdesk solution for internal use - \$100,000
 - Continue to implement DEI strategies to reduce turnover and meet the objective of cultivating a collaborative, inclusive and creative culture - \$47,000
 - Complete implementation and post-implementation of new ERP/Accounting Software system - \$43,000
 - Review and rewrite where appropriate classification specifications and compensation ranges of County level team members - \$35,000
 - Create comprehensive overview of applicable Memorandum of Understandings (MOU) that documents, in a consistent format, OCERS interpretation of the employers MOUs - \$25,000
 - Continue creating videos and other online educational resources to enhance education to members and stakeholders about OCERS benefits, administrative operations and investments - \$25,000
 - Consultant to assist with implementation of an Information Security Governance, Risk & Compliance system - \$10,000

- Identify, develop and implement V3 Data Validation and Clean Up procedures - \$10,000
- Conduct LEAN process on the investment reporting function - \$10,000
- Other non-recurring professional services expenses including:
 - Internal Audit consultants to support IT related audit projects - \$162,000
 - Additional IT programming, report development and support consultant - \$135,000

Capital Expenditures:

Business Plan initiative that has costs that meet the criteria for being a capitalized expense:

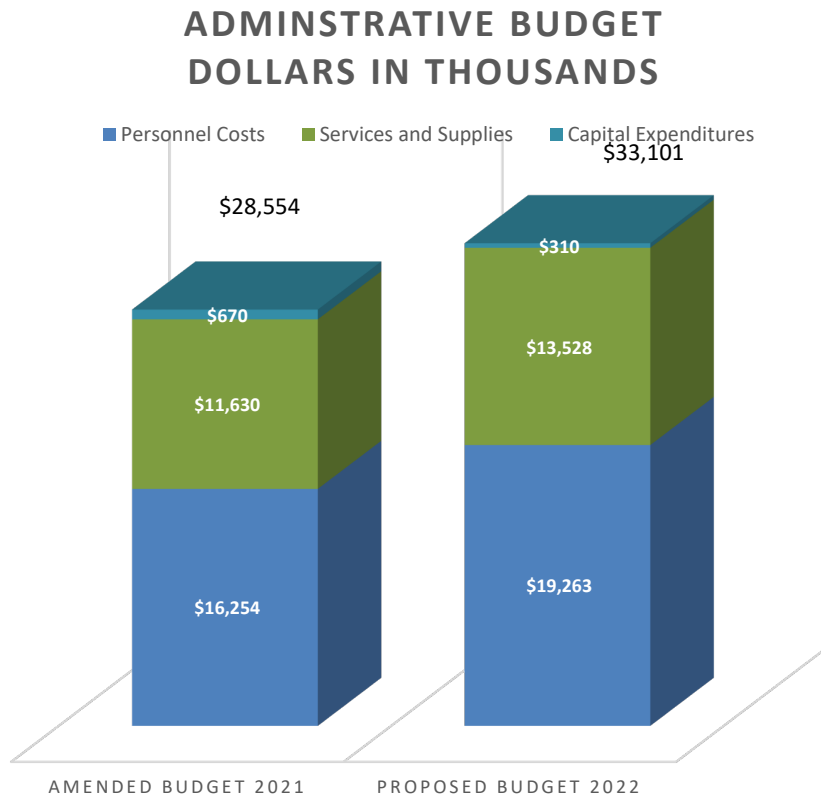
- Replace roof on existing OCERS Headquarters - \$110,000

Regularly scheduled data center upgrades meeting the criteria for being a capitalized expense include:

- Data Center Storage Area Network (SAN) replacement -\$200,000

SECTION IV –2022 ADMINISTRATIVE BUDGET

Comparison to 2021 Administrative Budget



The total administrative budget for 2022 is \$33.1 million, representing a total increase of \$4.5 million or 15.9% from the 2021 Amended Budget of \$28.6 million. The increase can be attributed to an increase in personnel costs of \$3.0 million primarily due to the addition of 12 new positions approved as part of the 2022 Staffing Plan, as well as an increase in the retirement contribution rate and funding for FY22 salary adjustments. Additionally, services and supplies increased \$1.9 million primarily related to professional services and infrastructure maintenance. Capital expenditures decreased by \$0.4 million due to planned capital projects in FY22 costing less than capital projects completed in the prior year. A detailed comparison between the FY22 Proposed Administrative Budget and FY21 Administrative Budget, as well as FY21 estimated actuals, are discussed further in the following *Administrative Budget Summary*.

Administrative Budget Summary

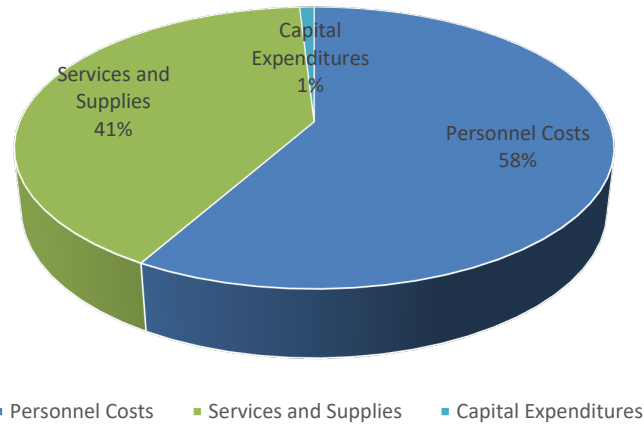
The Administrative Budget is prepared in accordance with the limits of Section 31580.2 of the County Employees Act of 1937 which limits the budget to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system (commonly referred to as the 21 basis point test), excluding investment-related costs of \$7.4 million and expenditures for computer software, hardware and related technology consulting services totaling \$2.3 million in the FY22 Administrative Budget. The 2022 Administrative Budget, at 9.75 basis points, is \$26.9 million under the cap limit of \$50.3 million (see *Appendix D – 21 Basis Points for Budget Year 2022*).

A summary of the FY21 Administrative Budget compared to FY21 estimated actuals and the FY22 Proposed Administrative Budget compared to FY21 estimated actuals is provided below:

	Budget 2021	Estimated Actuals 2021	2021 Over/(Under) Budget	Proposed Budget 2022	2022 Proposed Budget vs. 2021 Actuals Over/(Under)	
Personnel Costs	\$16,254,052	\$15,404,545	(\$849,507)	\$19,262,569	\$3,858,024	25.0%
Services and Supplies						
Building Prop Mgmt/Maint	680,000	673,790	(6,210)	750,000	76,210	11.3%
Equipment/Software Expenses	1,086,500	768,775	(317,725)	1,192,000	423,225	55.1%
Infrastructure Maintenance	854,700	887,261	32,561	1,196,300	309,039	34.8%
Legal Services	960,000	803,000	(157,000)	960,000	157,000	19.6%
Meetings & Mileage	157,500	39,704	(117,796)	166,950	127,246	320.5%
Miscellaneous Office Expense	729,895	456,391	(273,504)	673,135	216,744	47.5%
Professional Services	6,575,113	5,970,448	(604,665)	8,011,810	2,041,362	34.2%
Training	586,140	216,555	(369,585)	578,220	361,665	167.0%
Services and Supplies	11,629,848	9,815,924	(1,813,924)	13,528,415	3,712,491	37.8%
Capital Expenditures*	670,000	670,000	0	310,000	(360,000)	-53.7%
Administrative Expense Total	\$28,553,900	\$25,890,469	(\$2,663,431)	\$33,100,984	\$7,210,515	27.9%

*Capital expenditures represent purchases of assets to be amortized in future periods.

2022 Proposed Administrative Budget



Personnel Costs

A summary of the FY21 budgeted personnel costs compared to FY21 estimated actuals and the FY22 proposed budgeted personnel costs compared to FY21 estimated actuals is provided below:

	Budget 2021	Estimated Actuals 2021	2021 Over/(Under) Budget	Proposed Budget 2022	2022 Proposed Budget vs. 2021 Actuals Over/(Under)	
Personnel Costs:						
Annual Salary	\$9,842,245	\$9,401,161	(\$441,084)	\$11,059,785	\$1,658,624	17.6%
Fringe Benefits	5,577,070	5,268,556	(308,514)	6,950,908	1,682,352	31.9%
Salary Adjustments*	108,129	108,129	0	576,482	468,353	433.1%
Leave Payout	410,001	422,010	12,009	387,327	(34,683)	-8.2%
Temp Help	134,482	8,430	(126,052)	116,728	108,298	1284.7%
Overtime	87,000	107,099	20,099	71,000	(36,099)	-33.7%
Certification Pay	76,225	74,910	(1,315)	82,339	7,429	9.9%
Board Allowance	18,900	14,250	(4,650)	18,000	3,750	26.3%
Total Personnel Costs	\$16,254,052	\$15,404,545	(\$849,507)	\$19,262,569	\$3,858,024	25.0%

*All salary adjustments are budgeted in Human Resources Department until awarded.

Personnel Costs for 2022 are \$19.3 million and represent 58% of the total Administrative Budget. Personnel costs are detailed by department in *Appendix C - OCERS Personnel Cost Budget 2022* and include salaries, fringe benefits (e.g., health insurances, pension, retiree medical plan, deferred compensation, and tuition reimbursement), salary adjustments, leave payout,

temporary help costs, overtime, certification pay for Board approved certifications, and Board allowance for meeting attendance.

The total budget for personnel costs is \$3.9 million or 25.0% higher than the FY21 estimated actuals for personnel costs. The increase can be attributed to the addition of 12 new positions approved as part of the 2022 Staffing Plan, which increased the budget by \$1.7 million. The additional positions are in support of OCERS Vision 2030 and achieving and maintaining 100% benefit calculation accuracy. The increase in personnel costs can also be attributed to fringe benefits which increased by \$1.7 million primarily due to higher employer pension contribution rates and health care costs, as well as the impact of higher salaries and the added positions. In addition, there were vacant positions that remained unfilled for most of FY21, including a Senior Manager-Operations Support Services, an Accountant Auditor, and a Staff Assistant.

The FY22 Administrative Budget for personnel costs includes the following components:

- Salaries to support the Board approved 2022 Staffing Plan consisting of 108 budgeted positions. Staffing changes include adding two Information Technology Managers; two Benefit Analysts; two Retirement Supervisors; four Senior Retirement Program Specialists; and two Retirement Program Specialists - \$11,078,000
- An average fringe benefit rate of 59.4% of total salaries - \$6,951,000
- Performance based salary adjustments for OCERS' direct employees eligible to participate in the annual Performance Management Program based on OCERS Compensation Policy:
 - A base salary increase of 4.2%, equal to the increase in the Employer Cost Index for Salaries and Wages for the previous 12-month period ending September 30, 2021, as published by the U.S. Department of Labor, Bureau of Labor Statistics, for employees whose performance meet expectations; a base increase of 4.2% plus a merit increase of 2.75% for employees whose performance exceeds expectations; and a base increase of 4.2% plus two merit increases totaling 5.50% (2.75% x2) for employees whose performance was exceptional. The estimated annual cost for these salary adjustments is \$461,000
- Step increases for approximately eight County staff not at the top of the established salary range and across the board salary increases for all County staff as dictated by County MOU - \$115,000
- Accrued Annual Leave - \$387,000
- Temporary help - \$117,000
- Pay item of 5.5% of salary for employees obtaining the designations of Chartered Financial Analyst, and Certified Professional Accountant- \$82,000
- Overtime - \$71,000

Current vacant positions have been budgeted on a prorated basis based on the planned timing of when the vacancy will be filled. The full list of budgeted positions and the related budgeted costs can be found in *Appendix C- OCERS Personnel Cost Budget 2022*.

Salary Ranges

In accordance with OCERS' Compensation Policy, adopted October 21, 2013 and revised on June 21 2021, the CEO will be responsible for ensuring that the Board-approved salary ranges are reviewed at least every five years to ensure that they remain competitive, and will promptly inform the Board of the results of each such review. The CEO may retain a compensation consultant for purposes of undertaking this review. If the CEO believes adjustments to the salary ranges may be necessary, the CEO will promptly present his or her recommendations to the Board for the Board's approval of any adjustments to the salary ranges. In each year in which salary ranges are not reviewed, the salary ranges will be automatically increased by the amount, if any, of the increase in the Employer Cost Index for Salaries and Wages for the previous 12-month period, as published by the U.S. Department of Labor, Bureau of Labor Statistics. Salary adjustments are made through the Performance Management Program as discussed above. For details of all OCERS' direct salary ranges please refer to *Appendix G – OCERS' Direct Employees Salary Ranges (adopted June 21, 2021)*

Services and Supplies

Services and Supplies costs for 2022 are \$13.5 million, which is 41% of the total Administrative Budget. Included in services and supplies are administrative and investment professional services, legal services, equipment expenses (other than those that are capitalized on OCERS' books as assets that will be depreciated over time and budgeted as a capital expenditure), infrastructure maintenance costs, office expenses, training, and meetings & mileage costs. The expenses that are included in these line items are detailed in *Appendix B – Administrative Budget Detail by Expense Category* and summarized below:

- **Building Management and Maintenance** budgeted at \$750,000 represents 2.3% of the overall Administrative Budget and is related to funds provided to the property manager of OCERS' Headquarters building to manage and maintain the building. Expenses include property management fees, security, utilities, property taxes, insurance, and maintenance contracts. FY21 estimated costs were less than the budget by \$6,000. The FY22 budget is \$61,000 higher than FY21 estimated actuals due to expected higher costs for utilities and building maintenance related to the anticipated return of OCERS staff to the headquarters building in FY22. In addition, rental revenue, which helps offset building management and maintenance costs, has been reduced due to the recent vacancy of a tenant in office space that will be utilized for OCERS operations.
- **Equipment/Software Expenses** budgeted at \$1,192,000 represent 3.6% of the total Administrative Budget and consists of computers, laptops, monitors, Board meeting online portal expenses, IT Helpdesk, data and Cloud backup solutions, information security related software/tools and other miscellaneous hardware and software expenses. The increase of \$423,000 from FY21 estimated actuals or 55.1% is primarily due

to costs to support business plan initiatives related to excellent service and support and risk management, including \$250,000 for evaluating options for a new imaging system for member document repository, \$165,000 to replace web application firewalls, and \$100,000 to procure and implement a new IT Helpdesk solution for internal use.

- **Infrastructure Maintenance** budgeted at \$1,196,000 represents 3.6% of the total Administrative Budget and has increased from FY21 estimated actuals by approximately \$309,000 or 34.8%, primarily due to anticipated increases in maintenance renewals. This budget category includes: increased fees for V3 licensing and support of \$488,000 and other ongoing V3 related costs including Oracle maintenance of \$70,000; data center maintenance costs of \$135,000; Microsoft related software licensing of \$120,000; subscription fees of \$70,000 for the new ERP/accounting software; and several other smaller line items for various software, hardware and mobile device licensing, maintenance, support and security.
- **Legal Services** budgeted at \$960,000 are 2.9% of the total Administrative Budget and consist of fees paid to OCERS' external fiduciary counsel, labor attorney, litigation counsel, tax attorney, and investment related legal services. These fees are budgeted for use on an as-needed basis and in FY21 legal fees came in less than anticipated for general counsel and investment-related legal services. The FY22 budget has remained unchanged from the FY21 budget and is \$157,000 higher than FY21 estimated actuals.
- **Meetings and Mileage** budgeted at \$167,000 represents 0.5% of the total Administrative Budget. The majority of the expenses relates to Board meeting and due diligence costs. The budget has increased by \$127,000 or 320.5% compared to FY21 estimated actuals primarily due to the ongoing impact of the COVID-19 pandemic on all board-related meetings and investment due diligence meetings and the continuation of holding these meetings virtually. The FY22 budget assumes that in-person meetings will resume at the beginning of 2022. The amount budgeted is slightly higher than the amount budgeted for FY21 by approximately \$9,000.
- **Miscellaneous Office Expense** budgeted at \$673,000 represents 2.0% of the total Administrative Budget and consists of routine office expenses such as postage, printing costs, telephone, equipment leases, office supplies and periodicals. In FY21, telephone costs and postage came in less than anticipated. The FY22 budget is less than the FY21 budget by \$57,000 and increased from FY21 actuals by approximately \$217,000 or 47.5%, primarily due to budgeting for a planned increase in postage rates and contingency for unplanned mailings.
- **Professional Services** budgeted at \$8.0 million represents the largest percentage of Services and Supplies and comprises 24.2% of the total Administrative Budget. This category includes investment-related consulting fees, actuarial and audit fees, medical panel reviews, pension administration system consultants, and other IT related consulting and professional services fees. The overall increase of approximately \$2.1 million or

35.7% from FY21 estimated actuals is due to anticipated increases in costs for recurring items such as insurance premiums and medical panel reviews, as well as private equity consultants due to growth in the private equity co-investments program. The increase can also be attributed to new non-recurring costs that support OCERS' strategic goals, including the following implementation costs to enhance excellent service and support: \$350,000 for a consultant to assist with a pilot project for the use of RPA to streamline routine tasks; \$200,000 for a consultant to assist with the procurement of a next generation pension administration system that will utilize RPA, ML and AI; \$43,000 to complete implementation and post-implementation of the new ERP/Accounting Software system; the continuation of a FY21 initiative to create videos that will provide education to members and stakeholders about OCERS' benefits on the website at an estimated cost of \$25,000; and \$25,000 to create a comprehensive overview of applicable Memorandum of Understandings (MOU) that documents, in a consistent format, OCERS interpretation of the employers MOUs. Other non-recurring expenses included in the budget consist of business initiatives related to both risk management and talent management, including \$110,000 for a consultant to complete phase 2 of the Office 365 migration project; \$100,000 for a consultant to assist with the completion of a data classification study; \$330,000 to develop a comprehensive standardized library of business processes and procedure manuals across the organization; and \$35,000 to review and rewrite classification specifications and compensation ranges of County level team members.

- **Training** budgeted at \$578,000 represents 1.7% of the total Administrative Budget and encompasses training and conferences attended by the Board and staff. The budget for this line is above the FY21 estimated actuals by approximately \$364,000 or 170.3%. During 2021, travel for work-related training continued to be limited due to the ongoing COVID-19 pandemic. Most conferences remained virtual, resulting in a significant reduction in costs. For FY22, training and conferences are assumed to resume after the first quarter. The FY22 budget also includes costs to support talent management business initiatives including: \$50,000 to design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency; and \$47,000 to continue implementing DEI strategies to reduce turnover and meet the objective of cultivating a collaborative, inclusive and creative culture. In addition, \$100,000 has been budgeted for executive coaching for OCERS' senior executives as part of continued succession planning efforts.

Capital Expenditures

Capital Expenditures for 2022 are \$310,000 and are 0.9% of the total Administrative Budget. The 2022 Administrative Budget is approximately \$360,000 lower than FY21 estimated actuals primarily due the completion of the board room audio visual upgrades and enterprise back-up solutions budgeted in FY21. The FY22 budget includes \$200,000 for a scheduled data center SAN replacement, and carryover of funding for roof replacement on existing OCERS Headquarters at an estimated cost of \$110,000.

APPENDIX

**Appendix A
2022 Budget Detail by Department**

Department	Account Group	Description	Total	
0001 - BOARD	Personnel Cost	Annual Salary	18,000	
	Personnel Cost Total		\$ 18,000	
	Professional Svcs	Board Election	85,000	
		Security	15,120	
	Professional Svcs Total		\$ 100,120	
	Training	Board Approved Conferences	45,000	
		CALAPRS	14,000	
		NASRA	16,000	
		SACRS	16,000	
		Strategic Planning	35,000	
	Training Total		\$ 126,000	
	Mtg/Mileage Total	Miscellaneous Meetings	20,000	
			\$ 20,000	
	Membership	CALAPRS	2,500	
		Coalition to Preserve Retirement Security	3,000	
		NASRA	3,000	
		NCPERS	2,050	
	NIRS	3,500		
	SACRS	6,000		
Membership Total		\$ 20,050		
0001 - BOARD Total			\$ 284,170	
0010 - EXECUTIVE	Personnel Cost	Annual Salary	893,027	
		Certification Pay	14,291	
		Fringe Benefits	582,184	
		Leave P/O	91,774	
		Overtime	1,000	
		Temp Help	15,000	
	Personnel Cost Total		\$ 1,597,276	
	Professional Svcs	CEM Benchmarking	25,000	
		CEO Contingency	75,000	
		Lean Process Consultant/Study	10,000	
		Technical Writer-Procedures	330,000	
	Professional Svcs Total		\$ 440,000	
	Training	CALAPRS	6,400	
		CEM Conference	6,000	
		GFOA Conference	4,000	
		IFEBP	4,800	
		LCW Employment Law Conference	1,800	
		Miscellaneous Conferences/Training	10,000	
		NASRA/NIRS	4,500	
		NCPERS - General & Safety	4,500	
		Public Pension Financial Forum	2,800	
		SACRS	6,300	
	Training Total		\$ 51,100	
	Mtg/Mileage	CEO Visit to Federal Legislature	1,500	
		CEO Visit to State Legislature	750	
		CEO/Manager visits to Cal Retirement Systems	7,500	
		Membership Committee Meetings	1,000	
		Miscellaneous Meetings	4,000	
	Mtg/Mileage Total		\$ 14,750	
	Membership	AICPA	600	
		American Express	220	
		CalCPA	535	
		California Board of Accountancy	250	
		GFOA	420	
		International Foundation (IFEBP)	1,065	
		Miscellaneous Memberships	1,500	
		National Pension Education Assoc. (NPEA)	750	
		Notary	1,000	
		P2F2 - Public Pension Financial Forum	200	
	Membership Total		\$ 6,540	
	Periodicals	Miscellaneous periodicals	800	
	Periodicals Total		\$ 800	
	7670 - Actuarial Fees	Actuarial Fees	375,000	
	Actuarial Fees Total		\$ 375,000	
	0010 - EXECUTIVE Total			\$ 2,485,466
	0011 - INVESTMENTS	Personnel Cost	Annual Salary	1,581,941
			Certification Pay	38,997
		Fringe Benefits	960,155	
		Leave P/O	47,567	
		Overtime	1,000	
Personnel Cost Total			\$ 2,629,660	
Professional Svcs		7650 Proxy Services	35,000	
		7660 Consulting Fees-Investment Consultant	900,000	
		7661 Consulting Fees-Private Equity and Real Assets	1,390,000	
		7662 Consulting Fees-Real Estate	300,000	
		Custodial Bank Fees	650,000	
Professional Svcs Total			\$ 3,275,000	
Due Diligence		Due Diligence	100,000	
Due Diligence Total		\$ 100,000		

**Appendix A
2022 Budget Detail by Department**

Department	Account Group	Description	Total
	Training	Conferences	8,000
	Training Total		\$ 8,000
	Mtg/Mileage	Investment Committee Meetings	16,000
	Mtg/Mileage Total		\$ 16,000
	Membership	Other Memberships	27,000
	Membership Total		\$ 27,000
	Periodicals	Miscellaneous periodicals	35,000
	Periodicals Total		\$ 35,000
	Equipment / Software	Benchmark Subscriptions	25,000
	Equipment / Software Total		\$ 25,000
0011 - INVESTMENTS Total			\$ 6,115,660
0015 - COMMUNICATIONS	Personnel Cost	Annual Salary	191,256
		Fringe Benefits	123,767
		Leave P/O	9,847
		Overtime	500
	Personnel Cost Total		\$ 325,370
	Professional Svcs	White Board / Animated Videos	25,000
	Professional Svcs Total		\$ 25,000
	Training	CALAPRS	1,500
		Miscellaneous Conferences/Training	3,000
		SACRS	500
	Training Total		\$ 5,000
	Mtg/Mileage	Miscellaneous Meetings	150
	Mtg/Mileage Total		\$ 150
	Printing Svcs	Annual Financial Report	12,000
		Brochures	17,000
		Quarterly newsletters	25,000
	Printing Svcs Total		\$ 54,000
	Postage	Miscellaneous Mailing/Mass Mailing	40,000
		Quarterly Newsletters - All Members	35,000
	Postage Total		\$ 75,000
	Office Supplies	Public Relation Materials	10,000
	Office Supplies Total		\$ 10,000
	Equipment / Software	Video Camera / Video Equipment	1,000
	Equipment / Software Total		\$ 1,000
0015 - COMMUNICATIONS Total			\$ 495,520
0020 - LEGAL	Personnel Cost	Annual Salary	975,042
		Fringe Benefits	580,518
		Leave P/O	47,796
		Overtime	1,000
	Personnel Cost Total		\$ 1,604,356
	Professional Svcs	Admin. Hearing Process Fees	175,000
		Court Filing Fees	1,000
		Court Reporter Fees	25,000
		Subpoena Fees	1,000
	Professional Svcs Total		\$ 202,000
	Legal Svcs	Board/Fiduciary	125,000
		Dept of Ed vs OCERS	50,000
		Other Litigation	150,000
		Tax Attorney/Outside Counsel	35,000
	Legal Svcs Total		\$ 360,000
	Training	CALAPRS	3,000
		MCLE and other training	5,000
		NAPPA Meetings	7,500
		SACRS	4,500
	Training Total		\$ 20,000
	Mtg/Mileage	Membership Committee Meetings	1,500
		Miscellaneous Meetings	500
	Mtg/Mileage Total		\$ 2,000
	Membership	Miscellaneous Memberships	5,000
	Membership Total		\$ 5,000
	Periodicals	Legal Publications, Daily Journal, Law Book Updates, Reference Books	12,500
	Periodicals Total		\$ 12,500
	7690 - Legal Svcs	Investment Legal Services	600,000
	7690 - Legal Svcs Total		\$ 600,000
0020 - LEGAL Total			\$ 2,805,856
0030 - MEMBER SERVICES	Personnel Cost	Annual Salary	3,464,406
		Fringe Benefits	2,164,338
		Leave P/O	84,856
		Overtime	15,000
		Temp Help	91,728
	Personnel Cost Total		\$ 5,820,328
	Professional Svcs	Death Records Match	24,000
		Review of MOUs	25,000
	Professional Svcs Total		\$ 49,000
	Training	CALAPRS	2,500
		SACRS	2,500
		Staff Development Training	12,000
	Training Total		\$ 17,000
	Mtg/Mileage	Miscellaneous Meetings	250
	Mtg/Mileage Total		\$ 250

**Appendix A
2022 Budget Detail by Department**

Department	Account Group	Description	Total
0030 - MEMBER SERVICES Total			\$ 5,886,578
0040 - FINANCE	Personnel Cost	Annual Salary Certification Pay Fringe Benefits Leave P/O Overtime	899,590 22,343 571,638 22,590 1,000
	Personnel Cost Total		\$ 1,517,161
	Professional Svcs	Accounting Software Consulting Annual Report Bank Charges Certificate Application Fees Financial Audit Cost	47,000 20,000 30,000 1,400 129,000
	Professional Svcs Total		\$ 227,400
	Training	Conferences SACRS Staff Training/Continuing Education	6,000 500 4,000
	Training Total		\$ 10,500
	Mtg/Mileage	Miscellaneous Meetings	250
	Mtg/Mileage Total		\$ 250
	Membership	Miscellaneous Memberships	4,800
	Membership Total		\$ 4,800
	Periodicals	Miscellaneous periodicals	1,000
	Periodicals Total		\$ 1,000
0040 - FINANCE Total			\$ 1,761,111
0050 - DISABILITY	Personnel Cost	Annual Salary Fringe Benefits Leave P/O Overtime	362,419 277,120 11,012 1,000
	Personnel Cost Total		\$ 651,551
	Professional Svcs	Copy Service Medical Panel Reviews	20,000 490,000
	Professional Svcs Total		\$ 510,000
	Training	CALAPRS Miscellaneous Conferences/Training SACRS	1,770 5,300 800
	Training Total		\$ 7,870
	Mtg/Mileage	Miscellaneous Meetings	250
	Mtg/Mileage Total		\$ 250
0050 - DISABILITY Total			\$ 1,169,671
0060 - HUMAN RESOURCES	Personnel Cost	Annual Salary Fringe Benefits Leave P/O Overtime Salary Adjustments Temp Help	535,330 412,203 20,152 500 576,483 10,000
	Personnel Cost Total		1,554,668
	Professional Svcs	Compensation/Classification Study CWCAP(County Wide Cost Allocation Plan) HR Consulting Contingency Recruitment Costs Volunteer Program Costs	35,000 50,000 30,000 30,000 500
	Professional Svcs Total		145,500
	Training	CALAPRS DEI Executive Coaching HR Conferences and Training Learning and Development Program SACRS	250 47,000 100,000 8,000 75,000 600
	Training Total		230,850
	Mtg/Mileage	Civic Center Parking Cards EE Recognition/Educational Seminar/Qtrly Meetings Miscellaneous Meetings	250 9,500 250
	Mtg/Mileage Total		10,000
	Membership	Miscellaneous Memberships	12,000
	Membership Total		12,000
0060 - HUMAN RESOURCES Total			1,953,018
0065 - OPERATIONS SUPPORT SERVIC	Personnel Cost	Annual Salary Fringe Benefits Leave P/O	286,138 155,459 5,000
	Personnel Cost Total		446,597
	Professional Svcs	Architect/Design Consultant BC/DR Avaluation Exercise Facilitation Credit Safe Cyber Security Vendor Monitoring Service Insurance Premiums Iron Mountain Plant Maintenance Postal Processing Service Universal Protection Security (UPS)	40,000 25,500 350 31,000 280,000 19,500 3,600 25,000 4,000
	Professional Svcs Total		428,950
	Training	Miscellaneous Conferences/Training	4,000
	Training Total		4,000
	Mtg/Mileage	Miscellaneous Meetings	200
	Mtg/Mileage Total		200
	Membership	Miscellaneous Memberships	500
	Membership Total		500
	Printing Svcs	Printing	7,000
	Printing Svcs Total		7,000
	Postage	Pony Mail Services Postage Expense	4,000 55,000
	Postage Total		59,000

**Appendix A
2022 Budget Detail by Department**

Department	Account Group	Description	Total
	Office Supplies	General Office Expense- Includes: Ergos, Safety items	60,000
		Office Furniture	40,000
	Office Supplies Total		100,000
	Capital Expenditures	Roof Replacement	110,000
	Capital Expenditures Total		110,000
	Equipment Lease	Postage Machine	14,500
	Equipment Lease Total		14,500
	Bldg. Prop. Mgmt./Maintenance	Property Management	750,000
	Bldg. Prop. Mgmt./Maintenance Total		750,000
0065 - OPERATIONS SUPPORT SERVICES	Total		1,920,747
0070 - INFORMATION TECHNOLOGY	Personnel Cost	Annual Salary	1,255,494
		Fringe Benefits	748,505
		Leave P/O	21,068
		Overtime	50,000
	Personnel Cost Total		\$ 2,075,067
	Professional Svcs	Additional Consulting	135,000
		Colocation Facilities (monthly service)	80,000
		County VPN Access	170,000
		Data Classification Study	100,000
		External 1099 Printing	15,000
		External SOC2 Assessments	10,000
		Gartner Consulting	206,000
		Internet Access	125,000
		Office 365 Migration Consulting	110,000
		Online Data Storage	42,000
		Oracle Consulting	94,000
		PAS Consulting	200,000
		RPA Pilot Project	350,000
		Vitech Adtl. Support - Cos	200,000
	Professional Svcs Total		\$ 1,837,000
	Training	CALAPRS	500
		Conferences	5,000
		Instructor Led Training - IT Staff (no travel)	5,000
		Miscellaneous Training Materials	2,500
		Online Training - IT Staff	25,000
	Training Total		\$ 38,000
	Mtg/Mileage	Miscellaneous Meetings	2,500
	Mtg/Mileage Total		\$ 2,500
	Membership	Miscellaneous Memberships	1,500
	Membership Total		\$ 1,500
	Equipment / Software	Asset Mangement Tool	30,000
		Azure Data Gateway	25,000
		Computers/Laptops/Monitors	50,000
		Imaging System	250,000
		IT Help Desk Solution	100,000
		Miscellaneous Hardware & Software Supplies	50,000
	Equipment / Software Total		\$ 505,000
	Equipment / Software (Investment Related)	Backstop	125,000
		Bloomberg	50,000
		Risk Management System	165,000
	Equipment / Software Total (Investment Related)		\$ 340,000
	Capital Expenditures	Data Center SANS replacement	200,000
	Capital Expenditures Total		\$ 200,000
	Equipment Lease	Copier/Printer Lease	40,000
	Equipment Lease Total		\$ 40,000
	Telephone	AT & T Telecom Services	32,000
		Cellular/Mobile Services	45,000
		Satellite Phone Minutes	5,000
		VOIP Services	100,000
	Telephone Total		\$ 182,000
	Infrastructure Maintenance	Accounting Software Maintenance	70,000
		Adobe License & Support	24,000
		Anti-Virus License & Support	12,000
		Audio Visual License and Support	15,000
		Board Portal Licensing and Support	55,000
		Catalyst-Bullhorn License & Support	5,500
		Computer Room AC/Humidifier Maintenance	5,000
		Computer Room UPS Battery Replacement2	5,000
		Computer Room UPS Maintenance	5,000
		Data Center Hardware/Software License and Support	135,000
		Database Access License and Support	5,000
		Digital Content Subscription	500
		Electronic Signatures and forms	10,000
		Email Security License & Support	10,500
		Enterprise Backup Solution License and Support	15,000
		Enterprise Remote Access License and Support	5,000
		Ethics and Fraud Reporting License and Support	1,800
		IBM DejaView One License and Support - V3	7,000
		Microsoft Software Assurance	120,000

**Appendix A
2022 Budget Detail by Department**

Department	Account Group	Description	Total
		MSDN License and Support	6,000
		NTIS Certification Fees	3,000
		Oracle License and Support - V3	70,000
		Patch Management Licensing and Support	8,000
		Pressure Sealer Maintenance and Support	1,500
		Printer & Microfiche Maintenance	2,500
		Server Hardware Support	10,000
		SmartBear License and Support	1,000
		Software Development Version Control License and Support	2,000
		SSL Certificates	15,000
		V3 License and Support	488,000
		Vendor Management System License	45,000
		Web Conferencing License and Support	4,000
		Website Hosting	24,000
		Work Station Hardware Support	10,000
	Infrastructure Maintenance Total		\$ 1,196,300
0070 - INFORMATION TECHNOLOGY Total			\$ 6,417,367
0080 - INTERNAL AUDIT	Personnel Cost	Annual Salary	296,650
		Certification Pay	6,708
		Fringe Benefits	186,464
		Leave P/O	12,037
	Personnel Cost Total		\$ 501,859
	Professional Svcs	Audit consultant / specialist / expert	161,840
	Professional Svcs Total		\$ 161,840
	Training	Assoc. Pension Fund Audit	3,000
		Miscellaneous Conferences/Training	9,700
		SACRS	1,200
	Training Total		\$ 13,900
	Mtg/Mileage	Miscellaneous Meetings	100
	Mtg/Mileage Total		\$ 100
	Membership	Miscellaneous Memberships	1,345
	Membership Total		\$ 1,345
	Periodicals	Reference books / research materials	100
	Periodicals Total		\$ 100
0080 - INTERNAL AUDIT Total			\$ 679,144
0090 - INFORMATION SECURITY	Personnel Cost	Annual Salary	318,490
		Certification Pay	-
		Fringe Benefits	188,558
		Leave P/O	13,628
	Personnel Cost Total		\$ 520,676
	Professional Svcs	DNS Security Implementation Services	5,000
		Governance, Risk and Compliance System Implementation Services	10,000
		Info Sec Implementation Services Contingency	25,000
		Information Security Policy Development Services	5,000
		Managed Security / Detection & Response Services	80,000
		Network/Server Monitoring Software Implementation	5,000
		Penetration Testing Services	75,000
		Privileged Account Management (PAM) System Implementation	5,000
		Security Awareness Training	5,000
		Single Sign-On (SSO) Implementation Services	5,000
		Web Application Firewall Implementation Services	15,000
	Professional Svcs Total		\$ 235,000
	Training	CALAPRS Conference	1,000
		Gartner Enterprise IT Leader Peer Forums	5,000
		Gartner Security & Risk Management Summit	6,000
		Information Security Conferences	4,000
		Information Security Training	25,000
		PRISM Conference	5,000
	Training Total		\$ 46,000
	Mtg/Mileage	Miscellaneous Meetings	500
	Mtg/Mileage Total		\$ 500
	Membership	Information Security Memberships	3,000
	Membership Total		\$ 3,000
	Periodicals	Miscellaneous periodicals	500
	Periodicals Total		\$ 500
	Equipment / Software	DNS Security Software	20,000
		Governance, Risk and Compliance System	40,000
		Network/Server Monitoring Software	10,000
		Privileged Account Management (PAM)	25,000
		Security Equipment / Software Contingency	25,000
		Single Sign-On (SSO) & Multi-Factor Authentication (MFA)	25,000
		Vulnerability Management System	11,000
		Web Application Firewalls	165,000
	Equipment / Software Total		\$ 321,000
0090 - INFORMATION SECURITY Total			\$ 1,126,676
	GRAND TOTAL		\$ 33,100,984

Appendix B
2022 Administrative Budget Detail by Expense Category

Account Group	Description	Total
Personnel Cost	Annual Salary	\$ 11,077,783
	Certification Pay	82,339
	Fringe Benefits	6,950,909
	Overtime	71,000
	Leave P/O	387,327
	Temp Help	116,728
	Salary Adjustments	576,483
Personnel Cost Total		\$ 19,262,569
Professional Svcs	Accounting Software Consulting	47,000
	Actuarial Fees	375,000
	Additional Consulting	135,000
	Admin. Hearing Process Fees	175,000
	Annual Report	20,000
	Architect/Design Consultant	40,000
	Audit consultant / specialist / expert	161,840
	Bank Charges	30,000
	BC/DR Avaluation Exercise Facilitation	25,500
	Board Election	85,000
	CEM Benchmarking	25,000
	CEO Contingency	75,000
	Certificate Application Fees	1,400
	Colocation Facilities (monthly service)	80,000
	Compensation/Classification Study	35,000
	Consulting Fees-Investments	2,590,000
	Copy Service	20,000
	County VPN Access	170,000
	Court Filing Fees	1,000
	Court Reporter Fees	25,000
	Credit Safe	350
	Custodial Bank Fees	650,000
	CWCAP(County Wide Cost Allocation Plan)	50,000
	Cyber Security Vendor Monitoring Service	31,000
	Data Classification Study	100,000
	Death Records Match	24,000
	DNS Security Implementation Services	5,000
	External 1099 Printing	15,000
	External SOC2 Assessments	10,000
	Financial Audit Cost	129,000
	Gartner Consulting	206,000
	Governance, Risk and Compliance System Implementation Services	10,000
	HR Consulting Contingency	30,000
	Info Sec Implementation Services Contingency	25,000
	Information Security Policy Development Services	5,000
	Insurance Premiums	280,000
	Internet Access	125,000
	Iron Mountain	19,500
	Lean Process Consultant/Study	10,000
	Managed Security / Detection & Response Services	80,000
	Medical Panel Reviews	490,000
	Network/Server Monitoring Software Implementation	5,000
	Office 365 Migration Consulting	110,000
	Online Data Storage	42,000
	Oracle Consulting	94,000
	PAS Consulting	200,000
	Penetration Testing Services	75,000
Plant Maintenance	3,600	
Postal Processing Service	25,000	
Privileged Account Management (PAM) System Implementation	5,000	
Proxy Services	35,000	
Recruitment Costs	30,000	
Review of MOUs	25,000	
RPA Pilot Project	350,000	
Security	15,120	
Security Awareness Training	5,000	
Single sign-on (SSO) Implementation Services	5,000	

Appendix B
2022 Administrative Budget Detail by Expense Category

Account Group	Description	Total
	Subpoena Fees	1,000
	Technical Writer-Procedures	330,000
	Universal Protection Security (UPS)	4,000
	Vitech Addl. Support - Cos	200,000
	Volunteer Program Costs	500
	Web Application Firewall Implementation Services	15,000
	White Board / Animated Videos	25,000
Professional Svcs Total		\$ 8,011,810
Equipment / Software	Asset Management Tool	30,000
	Azure Data Gateway	25,000
	Backstop	125,000
	Bloomberg	50,000
	Benchmark Subscriptions	25,000
	Computers/Laptops/Monitors	50,000
	DNS Security Software	20,000
	Governance, Risk and Compliance System	40,000
	Imaging System	250,000
	IT Help Desk Solution	100,000
	Miscellaneous Hardware & Software Supplies	50,000
	Network/Server Monitoring Software	10,000
	Privileged Account Management (PAM)	25,000
	Risk Management System	165,000
	Security Equipment / Software Contingency	25,000
	Single Sign-On (SSO) & Multi-Factor Authentication (MFA)	25,000
	Video Camera / Video Equipment	1,000
	Vulnerability Management System	11,000
	Web Application Firewalls	165,000
Equipment / Software Total		\$ 1,192,000
Infrastructure Maintenance	Accounting Software Maintenance	70,000
	Adobe License & Support	24,000
	Anti-Virus License & Support	12,000
	Audio Visual License and Support	15,000
	Board Portal Licensing and Support	55,000
	Catalyst-Bullhorn License & Support	5,500
	Computer Room AC/Humidifier Maintenance	5,000
	Computer Room UPS Battery Replacement2	5,000
	Computer Room UPS Maintenance	5,000
	Data Center Hardware/Software License and Support	135,000
	Database Access License and Support	5,000
	Digital Content Subscription	500
	Electronic Signatures and forms	10,000
	Email Security License & Support	10,500
	Enterprise Backup Solution License and Support	15,000
	Enterprise Remote Access License and Support	5,000
	Ethics and Fraud Reporting License and Support	1,800
	IBM DejaView One License and Support - V3	7,000
	Microsoft Software Assurance	120,000
	MSDN License and Support	6,000
	NTIS Certification Fees	3,000
	Oracle License and Support - V3	70,000
	Patch Management Licensing and Support	8,000
	Pressure Sealer Maintenance and Support	1,500
	Printer & Microfiche Maintenance	2,500
	Server Hardware Support	10,000
	SmartBear License and Support	1,000
	Software Development Version Control License and Support	2,000
	SSL Certificates	15,000
	V3 License and Support	488,000
	Vendor Management System License	45,000
	Web Conferencing License and Support	4,000
	Website Hosting	24,000
	Work Station Hardware Support	10,000
Infrastructure Maintenance Total		\$ 1,196,300
Legal Svcs	Board/Fiduciary	125,000
	Dept of Ed vs OCERS	50,000

Appendix B
2022 Administrative Budget Detail by Expense Category

Account Group	Description	Total
	Investment Legal Services	600,000
	Other Litigation	150,000
	Tax Attorney/Outside Counsel	35,000
Legal Svcs Total		\$ 960,000
Bldg. Prop. Mgmt./Maintenance	Property Management	750,000
Bldg. Prop. Mgmt./Maintenance Total		\$ 750,000
Training	Assoc. Pension Fund Audit	3,000
	Board Approved Conferences	45,000
	CALAPRS	30,920
	CEM Conference	6,000
	Conferences	19,000
	DEI	47,000
	Executive Coaching	100,000
	Gartner Enterprise IT Leader Peer Forums	5,000
	Gartner Security & Risk Management Summit	6,000
	GFOA Conference	4,000
	HR Conferences and Training	8,000
	IFEBP	4,800
	Information Security Conferences	4,000
	Information Security Training	25,000
	Instructor Led Training - IT Staff (no travel)	5,000
	Learning and Development Program	75,000
	LCW Employment Law Conference	1,800
	MCLE and other training	5,000
	Miscellaneous Conferences/Training	32,000
	Miscellaneous Training Materials	2,500
	NAPPA Meetings	7,500
	NASRA	16,000
	NASRA/NIRS	4,500
	NCPERS - General & Safety	4,500
	Online Training - IT Staff	25,000
	PRISM Conference	5,000
	Public Pension Financial Forum	2,800
	SACRS	32,900
	Staff Development Training	12,000
	Staff Training/Continuing Education	4,000
	Strategic Planning	35,000
Training Total		\$ 578,220
Telephone	AT & T Telecom Services	32,000
	Cellular/Mobile Services	45,000
	Satellite Phone Minutes	5,000
	VOIP Services	100,000
Telephone Total		\$ 182,000
Postage	Miscellaneous Mailing/Mass Mailing	40,000
	Pony Mail Services	4,000
	Postage Expense	55,000
	Quarterly Newsletters - All Members	35,000
Postage Total		\$ 134,000
Office Supplies	General Office Expense- Includes: Ergos, Safety items	60,000
	Office Furniture	40,000
	Public Relation Materials	10,000
Office Supplies Total		\$ 110,000
Due Diligence	Due Diligence	100,000
Due Diligence Total		\$ 100,000
Membership	AICPA	600
	American Express	220
	CALAPRS	2,500
	CalCPA	535
	California Board of Accountancy	250
	Coalition to Preserve Retirement Security	3,000
	GFOA	420
	Information Security Memberships	3,000
	International Foundation (IFEBP)	1,065
	Miscellaneous Memberships	53,645
	NASRA	3,000

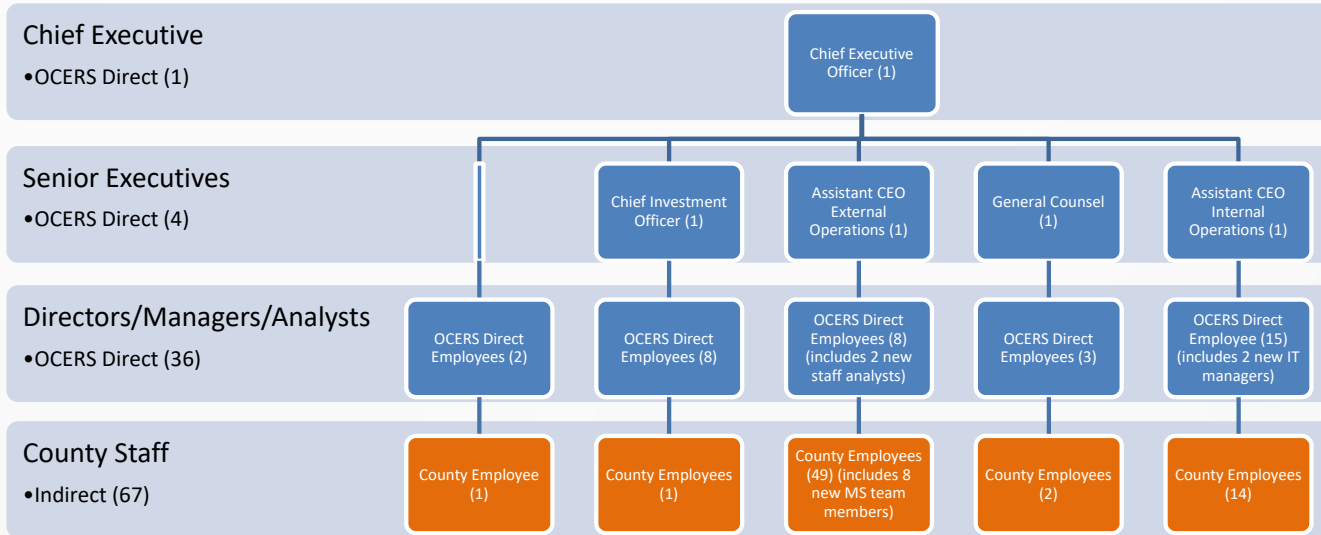
Appendix B
2022 Administrative Budget Detail by Expense Category

Account Group	Description	Total
	National Pension Education Assoc. (NPEA)	750
	NCPERS	2,050
	NIRS	3,500
	Notary	1,000
	P2F2 - Public Pension Financial Forum	200
	SACRS	6,000
Membership Total		\$ 81,735
Mtg/Mileage	CEO Visit to State Legislature	750
	CEO Visit to Federal Legislature	1,500
	CEO/Manager visits to Cal Retirement Systems	7,500
	Civic Center Parking Cards	250
	EE Recognition/Educational Seminar/Qtrly Meetings	9,500
	Investment Committee Meetings	16,000
	Membership Committee Meetings	2,500
	Miscellaneous Meetings	28,950
Mtg/Mileage Total		\$ 66,950
Printing Svcs	Brochures	17,000
	Annual Financial Report	12,000
	Printing	7,000
	Quarterly newsletters	25,000
Printing Svcs Total		\$ 61,000
Equipment Lease	Copier/Printer Lease	40,000
	Postage Machine	14,500
Equipment Lease Total		\$ 54,500
Periodicals	Legal Publications, Daily Journal, Law Book Updates, Reference Books	12,500
	Miscellaneous periodicals	37,300
	Reference books / research materials	100
Periodicals Total		\$ 49,900
Capital Expenditures	Data Center SANS Replacement	200,000
	Roof Replacement	110,000
Capital Expenditures Total		\$ 310,000
Grand Total		\$ 33,100,984



OCERS 2022 Organization Chart

(108 team members, 106.5 FTE)



Staffing Plan
108 Budgeted Positions
114 Approved Classifications

"We provide secure retirement and disability benefits with the highest standards of excellence."

Appendix C

OCERS
Personnel Cost Budget
2022

Department	Position	Employee Count	Regular Salary	Certification Pay	Fringe Benefits	Salary Adjustments	Overtime	Leave Payout	Temporary Help	Grand Total
Board										
	Board Member	-	18,000.00	-	-	-	-	-	-	-
Board Total			\$ 18,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 18,000.00
Executive										
	Chief Executive Officer	1	297,336.00	-	189,302.19	-	-	-	-	-
	Assistant Chief Executive Officer	2	519,667.20	14,290.85	349,321.95	-	-	-	-	-
	Executive Secretary II	1	76,024.00	-	43,560.39	-	-	-	-	-
	Extra Help-Program Manager	-	-	-	-	-	-	-	-	-
	Temporary Help	-	-	-	-	-	-	-	15,000.00	-
Executive Total		4	\$ 893,027.20	\$ 14,290.85	\$ 582,184.53	\$ -	\$ 1,000.00	\$ 91,774.30	\$ 15,000.00	\$ 1,597,276.88
Investments										
	Chief Investment Officer	1	352,705.60	19,398.81	225,610.80	-	-	-	-	-
	Director of Investments	2	429,689.60	-	267,879.82	-	-	-	-	-
	Senior Investment Analyst	1	119,863.90	-	68,986.73	-	-	-	-	-
	Senior Investment Officer	2	335,982.40	9,047.90	193,382.57	-	-	-	-	-
	Investment Analyst	3	275,808.00	10,549.97	166,809.73	-	-	-	-	-
	Staff Specialist	1	67,891.20	-	37,487.20	-	-	-	-	-
Investments Total		10	\$ 1,581,940.70	\$ 38,996.67	\$ 960,156.84	\$ -	\$ 1,000.00	\$ 47,567.20	\$ -	\$ 2,629,661.41
Communications										
	Communications Manager	1	115,918.40	-	76,377.18	-	-	-	-	-
	Staff Specialist	1	75,337.60	-	47,388.54	-	-	-	-	-
Communications Total		2	\$ 191,256.00	\$ -	\$ 123,765.72	\$ -	\$ 500.00	\$ 9,846.64	\$ -	\$ 325,368.36
Legal										
	General Counsel	1	294,382.40	-	193,705.94	-	-	-	-	-
	Staff Attorney	3	533,291.20	-	293,043.89	-	-	-	-	-
	Paralegal	1	75,337.60	-	54,450.70	-	-	-	-	-
	Executive Secretary I	1	72,030.40	-	39,317.74	-	-	-	-	-
Legal Total		6	\$ 975,041.60	\$ -	\$ 580,518.27	\$ -	\$ 1,000.00	\$ 47,795.60	\$ -	\$ 1,604,355.47

Appendix C

OCERS
Personnel Cost Budget
2022

Department	Position	Employee Count	Regular Salary	Certification Pay	Fringe Benefits	Salary Adjustments	Overtime	Leave Payout	Temporary Help	Grand Total
Member Services										
	Director of Member Services	1	162,614.40	-	95,079.19					
	Member Services Manager	2	235,768.00	-	159,371.89					
	Retirement Analyst	1	149,552.00	-	80,137.31					
	Staff Analyst	2	187,200.00	-	105,799.70					
	Retirement Benefits Supervisor	5	414,710.40	-	257,471.45					
	Sr. Retirement Program Specialist	8	605,300.80	-	372,787.90					
	Sr. Staff Development Specialist	1	96,283.20	-	65,698.24					
	Retirement Program Specialist	14	927,472.00	-	581,887.13					
	Retirement Benefits Technician	4	208,499.20	-	120,049.17					
	Accounting Technician	5	293,363.20	-	194,133.99					
	Office Specialist	1	53,768.00	-	37,002.48					
	Office Technician	3	129,875.20	-	93,589.39					
	Extra Help-Retirement Program Specialist	3	-	-	1,330.06				91,728.00	
Member Services Total		50	\$ 3,464,406.40	\$ -	\$ 2,164,337.89	\$ -	\$ 15,000.00	\$ 84,856.40	\$ 91,728.00	\$ 5,820,328.69
Finance										
	Director of Finance	1	176,820.80	9,725.14	120,887.07					
	Finance Manager	2	263,120.00	7,235.80	155,346.04					
	Sr. Accountant / Auditor I	1	96,512.00	-	64,680.79					
	Staff Analyst	1	97,864.00	5,382.52	66,310.37					
	Accountant Auditor II	2	169,020.80	-	98,903.94					
	Accountant Auditor I	1	38,032.80	-	19,467.10					
	Accounting Technician	1	58,219.20	-	46,043.97					
Finance Total		9	\$ 899,589.60	\$ 22,343.46	\$ 571,639.30	\$ -	\$ 1,000.00	\$ 22,590.00	\$ -	\$ 1,517,162.37
Disability										
	Disability Manager	1	104,208.00	-	75,942.10					
	Disability Investigator	2	150,675.20	-	110,113.42					
	Office Specialist	2	107,536.00	-	91,063.78					
Disability Total		5	\$ 362,419.20	\$ -	\$ 277,119.30	\$ -	\$ 1,000.00	\$ 11,012.00	\$ -	\$ 651,550.50
Human Resources										
	Director of Human Resources	1	168,937.60	-	101,000.12					
	Learning and Organization Development Manager	1	104,208.00	-	51,021.41					
	Staff Analyst	2	199,576.00	-	126,313.50					
	Staff Assistant	1	62,608.00	-	33,867.64					
	Salary Adjustments	-	-	-	-	576,482.42				
	Temporary Help	-	-	-	-	-			10,000.00	
	Tuition Reimbursements	-	-	-	100,000.00					
Human Resources Total		5	\$ 535,329.60	\$ -	\$ 412,202.67	\$ 576,482.42	\$ 500.00	\$ 20,152.40	\$ 10,000.00	\$ 1,554,667.08

Appendix C

OCERS
Personnel Cost Budget
2022

Department	Position	Employee Count	Regular Salary	Certification Pay	Fringe Benefits	Salary Adjustments	Overtime	Leave Payout	Temporary Help	Grand Total
Operations Support Services										
	Senior Manager Operations Support Services	1	105,240.75	-	50,676.37					
	Contracts, Risk & Performance Administrator	1	131,248.00	-	72,647.67					
	Store Clerk	1	49,649.60	-	32,134.09					
Operations Support Total		3	\$ 286,138.35	\$ -	\$ 155,458.14	\$ -	\$ -	\$ 5,000.00	\$ -	\$ 446,596.49
IT										
	Director of Information Technology	1	173,763.20	-	100,101.71					
	IT Manager	2	276,396.00	-	143,428.16					
	Sr. Retirement Programmer/Business Analyst	1	136,905.60	-	81,806.02					
	I.T. Operations Supervisor	1	123,281.60	-	91,348.48					
	Sr. Applications Developer	2	230,900.80	-	133,382.14					
	Network Engineer II	1	104,748.80	-	74,790.34					
	System Technologist II	1	104,748.80	-	68,609.51					
	Systems Engineer II	1	104,748.80	-	55,038.43					
IT Total		10	\$ 1,255,493.60	\$ -	\$ 748,504.78	\$ -	\$ 50,000.00	\$ 21,068.00	\$ -	\$ 2,075,066.38
Internal Audit										
	Director of Internal Audit	1	174,678.40	-	100,642.24					
	Internal Auditor	1	121,971.20	6,708.42	85,821.78					
Internal Audit Total		2	\$ 296,649.60	\$ 6,708.42	\$ 186,464.02	\$ -	\$ -	\$ 12,036.80	\$ -	\$ 501,858.83
Information Security										
	Director of Information Security	1	168,937.60	-	101,246.09					
	Information Security Manager	1	149,552.00	-	87,310.76					
Information Security Total		2	\$ 318,489.60	\$ -	\$ 188,556.85	\$ -	\$ -	\$ 13,628.00	\$ -	\$ 520,674.45
Grand Total		108	\$ 11,077,781.45	\$ 82,339.40	\$ 6,950,908.31	\$ 576,482.42	\$ 71,000.00	\$ 387,327.34	\$ 116,728.00	\$ 19,262,566.91

Appendix D

**Orange County Employees Retirement System
21 Basis Points for Budget Year 2022**

Projected actuarial accrued liability as of December 31, 2021	\$23,948,799,000
21 basis points of projected actuarial accrued liability	50,292,478
FY22 proposed budget amount subject to 21 basis points limitation ¹	23,353,619
Amount under 21 basis points	\$26,938,859
Budgeted amount expressed as basis points of projected actuarial accrued liability-FY22	9.75
Budgeted amount expressed as basis points of projected actuarial accrued liability-FY21	8.86

¹ Reconciliation of amount subject to 21 basis points limitation:

Total FY22 proposed budget	\$ 33,100,984
Less: Investment-related costs	(7,417,365)
Total FY22 proposed administrative budget	25,683,619
Less: IT Capital expenses	(200,000)
Computer hardware/software	(505,000)
Information Security-Professional services consulting	(205,000)
InformationTechnology-Professional services consulting	(1,420,000)
FY21 proposed budget amount subject to 21 basis points limitation	\$ 23,353,619

<u>21 Basis Point History</u>					
	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>
21 Basis Points	9.31	8.93	9.04	8.86	9.75



Exhibit E

5 Year Budget Comparison

	Budget 2018	Budget 2019	Budget 2020	Amended Budget 2021	Proposed Budget 2022	\$ Variance FY21-22	% Variance FY21-22
Personnel Costs	\$ 13,925	\$ 14,765	\$ 15,507	\$ 16,254	\$ 19,263	\$ 3,009	18.5%
Services and Supplies	\$ 10,488	\$ 11,298	\$ 11,077	\$ 11,630	\$ 13,528	\$ 1,899	16.3%
Capital Expenditures	\$ 1,095	\$ 370	\$ 600	\$ 670	\$ 310	\$ (360)	-53.7%
Total	\$ 25,508	\$ 26,433	\$ 27,185	\$ 28,554	\$ 33,101	\$ 4,547	15.9%

*"We provide secure retirement and disability benefits
 with the highest standards of excellence."*



Exhibit E

Actuals Compared to Proposed Budget



	Actuals 2018	Actuals 2019	Actuals 2020	Estimated Actuals 2021	Proposed Budget 2022	\$ Variance FY21-22	% Variance FY21-22
Personnel Costs	\$ 12,517,682	\$ 13,630,916	\$ 14,973,837	\$ 15,404,545	\$ 19,262,569	\$ 3,858,024	25.0%
Total Services and Supplies	\$ 7,886,743	\$ 8,159,215	\$ 8,318,994	\$ 9,815,924	\$ 13,528,415	\$ 3,712,491	37.8%
Total Capital Expenditures	\$ 163,663	\$ 52,264	\$ 186,359	\$ 670,000	\$ 310,000	\$ (360,000)	-53.7%
Total	\$ 20,568,087	\$ 21,842,395	\$ 23,479,190	\$ 25,890,470	\$ 33,100,984	\$ 7,210,514	27.9%

"We provide secure retirement and disability benefits with the highest standards of excellence."





Exhibit E

2022 Proposed Budget Compared to Actuals by Category



	Actuals 2018	Actuals 2019	Actuals 2020	Estimated Actuals 2021	Proposed Budget 2022	\$ Variance FY21-22	% Variance FY21-22
Personnel Costs	\$ 12,517,682	\$ 13,630,916	\$ 14,973,837	\$ 15,404,545	\$ 19,262,569	\$ 3,858,024	25.0%
Professional Services	4,480,145	4,782,275	5,523,002	5,970,448	8,011,810	2,041,362	34.2%
Legal Services	783,481	900,015	261,551	803,000	960,000	157,000	19.6%
Infrastructure Maintenance	722,048	691,482	741,295	887,261	1,196,300	309,039	34.8%
Miscellaneous Office Expenses	639,641	517,550	579,080	456,391	673,135	216,744	47.5%
Building Property Mgmt. / Maintenance	443,000	558,346	602,076	673,790	750,000	76,210	11.3%
Equipment/ Software Expenses	440,142	296,900	434,348	768,775	1,192,000	423,225	55.1%
Training	302,856	326,230	147,638	216,555	578,220	361,665	167.0%
Meeting & Mileage	75,430	86,417	30,004	39,704	166,950	127,246	320.5%
Total Services and Supplies	\$ 7,886,743	\$ 8,159,215	\$ 8,318,994	\$ 9,815,924	\$ 13,528,415	\$ 3,712,491	37.8%
Total Capital Expenditures	\$ 163,663	\$ 52,264	\$ 186,359	\$ 670,000	\$ 310,000	\$ (360,000)	-53.7%
Total	\$ 20,568,087	\$ 21,842,395	\$ 23,479,190	\$ 25,890,470	\$ 33,100,984	\$ 7,210,514	27.9%

*"We provide secure retirement and disability benefits
with the highest standards of excellence."*





Appendix F

Historical Statistics

	2017	2018	2019	2020	2021
Number of Full-Time Positions Budgeted	79	92	93	93	94.5
Number of Retirees - Beginning of Year	16,369	16,947	17,674	18,420	19,419
Number of Additional Retirements ¹	1,061	1,080	1,203	1,409	801
Number Removed from Payroll ¹	(483)	(353)	(457)	(410)	(482)
Payroll \$ (in thousands) * ²	\$ 764,344	\$ 828,278	\$ 900,902	\$ 973,325	\$ 1,041,437
Number of Members ** ¹	44,471	45,629	47,197	47,796	49,024
Number of New Members ** ¹	986	1,135	1,450	767	1,228
Seminars	46	56	65	29	35

¹ 2021 amounts are as of October 2021

² 2021 amounts are annualized estimates based on actuals through August 2021.

* Payroll represents retirement payroll, withdrawals and death benefits

** Number of members includes active, deferred and retired (including beneficiaries).

*"We provide secure retirement and disability benefits
with the highest standards of excellence."*

Appendix G
OCERS Direct Employees
Salary Ranges Approved by Board, June 2021

OCERS Employee Position	Current Annual Minimum	Current Annual Midpoint	Current Annual Maximum
Chief Investment Officer	\$293,641	\$374,393	\$455,144
General Counsel	\$204,538	\$260,786	\$317,034
Managing Director of Investments	\$204,538	\$260,786	\$317,034
Assistant Chief Executive Officer	\$176,994	\$225,667	\$274,340
Director of Investments	\$164,645	\$209,923	\$255,200
Deputy Legal Counsel	\$142,473	\$181,653	\$220,833
Senior Investment Officer	\$142,473	\$181,653	\$220,833
Director of Finance	\$132,533	\$168,980	\$205,426
Director of Human Resources	\$132,533	\$168,980	\$205,426
Director of Information Security	\$132,533	\$168,980	\$205,426
Director of Information Technology	\$132,533	\$168,980	\$205,426
Director of Internal Audit	\$132,533	\$168,980	\$205,426
Director of Member Services	\$132,533	\$168,980	\$205,426
Investment Officer	\$123,286	\$157,190	\$191,094
Staff Attorney	\$123,286	\$157,190	\$191,094
Finance Manager	\$106,684	\$136,022	\$165,360
Information Security Manager	\$106,684	\$136,022	\$165,360
Retirement Analyst	\$106,684	\$136,022	\$165,360
Senior Manager Operations Support Services	\$106,684	\$136,022	\$165,360
Contracts, Risk & Performance Administrator	\$99,241	\$126,532	\$153,823
Disability Manager	\$99,241	\$126,532	\$153,823
Learning and Organization Development Manager	\$99,241	\$126,532	\$153,823
Member Services Manager	\$99,241	\$126,532	\$153,823
Senior Investment Analyst	\$99,241	\$126,532	\$153,823
Communications Manager	\$92,317	\$117,704	\$143,091
Internal Auditor	\$82,876	\$107,992	\$133,108
Investment Analyst	\$79,885	\$97,859	\$115,833
Staff Analyst	\$79,885	\$97,859	\$115,833



Memorandum

DATE: November 03, 2021
TO: Members of the Board of Retirement
FROM: Sean Dewane, Board Chair
SUBJECT: COMPENSATION OF THE CHIEF EXECUTIVE OFFICER

OCERS' Chief Executive Officer Performance Evaluation Policy states that a formal evaluation will be conducted annually and the Board will consider compensation at the time the performance evaluation is conducted. The Brown Act code 54957 requires the Board to discuss the Chief Executive Officer's Compensation during an open session. In prior years, the Board has requested comparable CEO compensation data from other pension systems and organizations which are both close in proximity and size to OCERS, as well as base compensation history for Mr. Delaney. Attached are the CEO Compensation Performance Evaluation documents used to evaluate the CEO.

Attachments:

1. CEO Performance Evaluation Policy
2. CEO Charter
3. 2021 Business Plan
4. Blank CEO Evaluation Form
5. Steve Delaney Compensation History
6. CEO Salary Comparison 2021



OCERS Board Policy Chief Executive Officer Performance Evaluation Policy

Background and Objectives

1. The Board of Retirement supervises the Chief Executive Officer. Formal evaluation procedures and practices are required. This process shall be performed on an annual basis.
2. The objectives of this policy are to:
 - a. Assist the Board in arriving at and communicating clear and meaningful goals and performance targets for the Chief Executive Officer;
 - b. Ensure that the Chief Executive Officer receives meaningful, objective, and timely feedback that will allow the Chief Executive Officer to perform, over time, at the highest levels possible; and
 - c. Enable the Board to hold the Chief Executive Officer accountable for performance.

Roles

3. The Board will be responsible for evaluating the performance of the Chief Executive Officer.
4. The Chair and Vice Chair will be responsible for coordinating the evaluation process. The Board may use a third party to facilitate the process.

Policy Guidelines

Process and Timelines

5. The Chief Executive Officer will discuss the following items with the Chair during November each year:
 - a. Proposed CEO evaluation criteria for the coming calendar year;
 - b. Proposed weights for each of the above criteria; and
 - c. Proposed CEO Evaluation Form for the coming calendar year.
6. In addition, the CEO's performance for the prior twelve months may be based on the six categories below:
 - a. Achievement of performance targets established for the System as a whole;
 - b. Implementation of the annual Business Plan;
 - c. Implementation of Board policies and associated reporting to the Board;
 - d. Leadership and related qualities;
 - e. Ability to address special developments or situations that may arise; and
 - f. Other criteria that the Board may determine to be appropriate.



OCERS Board Policy

Chief Executive Officer Performance Evaluation Policy

7. The Board will attempt to ensure that the criteria:
 - a. Are objective and measurable; and
 - b. Pertain only to outcomes over which the Chief Executive Officer has a reasonable degree of control.
8. The Chair shall distribute the CEO Evaluation Package to each member of the Board in October of each year. The Evaluation Package will include copies of the Evaluation Form to be completed by each Board member, Business Plan, and the CEO's self-evaluation. The Chief Executive Officer's self-evaluation report is designed to assist the Board in the evaluation process. It should describe the extent to which the CEO believes the evaluation criteria were met over the past year, as well as all relevant supporting data. Supporting data may be confirmed by internal audit material where appropriate. The report may also describe any additional accomplishments during the year.
9. The Board shall treat this material as confidential. Completed individual Evaluation Forms will be returned to the Chair or the designated third party with a copy to the Vice Chair within the time frame specified. The Chair will ensure that all data is tabulated and summarized in a Master CEO Evaluation Form and treated as confidential until released to the Board.
10. Evaluation of the Chief Executive Officer will be completed by November each year. The evaluation process itself will be conducted in executive session. The Chair will distribute a copy of the Master CEO Evaluation Form and invite discussion by the Board. At the conclusion of discussion, the Chief Executive Officer will join the Board for review and discussion of his/her performance along with any suggestions for improvement. The Board may have preliminary discussions in October, but will complete the process by November.
11. Upon completion of the Master CEO Evaluation Form, the Chair and the Chief Executive Officer will sign the Master CEO Evaluation Form and cause it to be placed in the Chief Executive Officer's personnel file.

Documentation

12. The Individual and Master CEO Evaluation Form(s) may take any format the Board deems appropriate, but must allow Board members an opportunity to provide general comments.

Compensation

13. The Board of Retirement will consider the Chief Executive Officer's compensation at the time the performance evaluation is conducted.



OCERS Board Policy Chief Executive Officer Performance Evaluation Policy

Policy Review

14. The Board will review this policy at least every three years to ensure that it remains relevant and appropriate.

Policy History

15. This policy will be implemented in February 19, 2002. This policy was revised May 16, 2005, May 19, 2008, March 22, 2010, January 21, 2014 , November 14, 2016 and August 19, 2019.

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 rectangular box containing a handwritten signature in blue ink that reads "Steve Delaney".

Steve Delaney
Secretary of the Board

08/19/19

Date



OCERS Board Charter CEO Charter

Introduction

1. The Board of Retirement (Board) will appoint a Chief Executive Officer (CEO) who will serve at its pleasure. The CEO is the most senior executive of OCERS and is not subject to county civil service and merit system rules. This charter sets out the roles and responsibilities of the CEO.

Duties and Responsibilities

Leadership and Policy Analysis

2. The CEO will provide leadership for the OCERS staff in implementing the programs necessary to achieve the mission, goals and objectives established by the Board. The CEO will manage the day-to-day affairs of OCERS in accordance with policies established by the Board, and may delegate duties to senior management as necessary. In so doing, the CEO will solicit advice and counsel from the Board, the Board Chair, or individual Board members, as appropriate.
3. The CEO will provide support to the Board and its committees in establishing all policies of the Board including identifying and analyzing issues requiring Board policy, and providing well-supported policy recommendations for consideration by the Board or its committees.
4. The CEO will be responsible for ensuring that all policies of the Board and provisions of the County Employees Retirement Law, with the exception of governance policies pertaining to the conduct of the Board, are properly implemented.

Governance

5. The CEO will:
 - a. Recommend to the Governance Committee policies to help ensure appropriate governance practices;
 - b. Assist the Board in implementing its governance policies, charters, and By-Laws; and
 - c. Assist with Board member education and travel.
6. The CEO will serve as Secretary to the Board and, as such, will carry out the following duties:
 - a. Coordinate meetings, agendas, schedules and presentations for both Board and committee meetings in accordance with the Ralph M Brown Act (California Government Code §§54950, *et seq.*);
 - b. Maintain minutes of Board and committee meetings;
 - c. Sign minutes upon approval of the Board;
 - d. Sign subpoenas; and
 - e. Serve as OCERS' filing officer for purpose of compliance with the California Political Reform Act and regulations of the Fair Political Practices Commission.



OCERS Board Charter CEO Charter

Investments

7. The CEO will:
 - a. Employ a Chief Investment Officer (CIO) with appropriate education and experience in institutional investing;
 - b. Carry out the duties described in this section through the CIO and other professional investment staff;
 - c. Recommend to the Investment Committee an Investment Policy Statement which will include investment objectives;
 - d. Recommend to the Investment Committee strategies for achieving OCERS' investment objectives;
 - e. Ensure the implementation of the strategies approved by the Board by establishing manager structures for each asset class, which includes among other things determining:
 - i. The number of investment manager mandates to be established; and
 - ii. The size of each investment manager mandate.
 - f. Ensure execution of portfolio rebalancing and portfolio transitions;
 - g. Ensure that necessary research is performed into investment trends, issues and opportunities that may have implications for the OCERS investment program;
 - h. Ensure all necessary investment manager due diligence is performed in accordance with the Investment Policy Statement of the Board; and
 - i. Oversee the CIO's hiring and termination of investment managers.

Benefits Administration

8. The CEO will:
 - a. Recommend to the Board, as necessary, policies to ensure effective and efficient administration of member benefits;
 - b. Ensure accurate payment of benefits to members, and address problems or errors in accordance with established policies and procedures;
 - c. In consultation with medical evaluators and legal counsel, recommend disability applications to the Board and the Disability Committee for each of their consideration;
 - d. Maintain accurate records of member accounts;
 - e. Ensure delivery of high standards of service to members including calculations and counseling; and
 - f. Develop staff policies and procedures to ensure effective and efficient administration of member benefits.



OCERS Board Charter CEO Charter

Operations

9. The CEO will:
 - a. Recommend to the Board, as appropriate, Board policies designed to help ensure effective operations;
 - b. Develop and recommend to the Board a business plan and updates to the plan as necessary;
 - c. Recommend the annual Operating Budget to the Board;
 - d. Transfer funds within a category of expenditures (i.e., Salaries and Benefits; Services and Supplies; Capital Projects) within the approved Operating Budget;
 - e. Execute contractual agreements in accordance with the Procurement and Contracting Policy and authorize payments related to the administration of OCERS, consistent with the Operating Budget and OCERS' internal controls;
 - f. Account for and ensure appropriate collection, deposit and distribution of funds as required;
 - g. Implement internal operational control policies;
 - h. Ensure the appropriate design, acquisition, implementation, and maintenance of all technological systems required to administer OCERS;
 - i. Maintain the records of OCERS in a permanent and readily accessible format and in accordance with the Record Retention Policy and Guidelines;
 - j. Assist the Audit Committee in coordinating operational audits; and
 - k. Maintain an effective working relationship with the County and other plan sponsors of OCERS.

Finance, Actuarial and Accounting

10. The CEO will:
 - a. Recommend to the Audit Committee as appropriate, financial and accounting policies;
 - b. Implement appropriate internal financial controls to safeguard the assets of the OCERS;
 - c. Assist the Audit Committee in coordinating the annual financial audit;
 - d. Coordinate the actuarial valuation, actuarial experience studies, and actuarial audits;
 - e. Cause to be prepared a comprehensive annual financial report on the operations of OCERS for Board approval; and
 - f. File in the office of the County Auditor and with the Board of Supervisors a sworn statement which will exhibit the financial condition of the OCERS at the close of the preceding calendar year and its financial transactions for the year ending on that day as required by Government Code §31597.

Human Resources

11. The CEO will:
 - a. Recommend human resources and compensation policies to the Board;



OCERS Board Charter CEO Charter

- b. Assess the human resources needs of OCERS and establish and implement appropriate human resources programs and procedures, consistent with the human resources and compensation policies of the Board;
- c. Hire, manage and terminate senior management, and approve all personnel decisions concerning OCERS staff; and
- d. Implement and lead agency training, talent development and succession planning.

Legislation and Litigation

12. The CEO will:
- a. Recommend legislative proposals for approval by the Board;
 - b. Conduct and oversee the assigning, directing, and handling of litigation, claims, demands, disputes or legal proceedings involving OCERS and report material developments in these matters to the Board on a timely basis;
 - c. In consultation with legal counsel, provide recommendations to the Board concerning the initiation and settlement of litigation, including administrative appeals, involving OCERS; and
 - d. Oversee the development and implementation of plans to comply with newly enacted legislation and court rulings, as applicable.

Communications

13. The CEO will:
- a. Ensure effective and timely communications with stakeholders on matters relating to the administration of OCERS. Such communications may include press releases, newsletters, presentations, and internet communications; and
 - b. In situations that call for an official spokesperson to speak on behalf of OCERS, jointly determine with the Chair, on an issue-by-issue basis, who will act in such capacity.

Appointment of Service Providers

14. The CEO will cause the necessary due diligence to be performed for Named Service Providers, as listed in the Board Procurement and Contracting Policy, and will provide the Board with appropriate recommendations, in accordance with the Procurement and Contracting Policy and the Investment Policy Statement of the Board.
15. The CEO may hire other service providers, consistent with the Operating Budget and the Procurement and Contracting Policy and other policies of the Board, provided that the Board has not specifically retained the authority to hire such service providers.

Monitoring and Reporting

16. The CEO will provide the Board with relevant, appropriate and timely information to enable it to properly carry out its oversight and fiduciary responsibilities. Furthermore, the CEO will apprise the Board in a timely manner of all significant issues, problems, or



OCERS Board Charter CEO Charter

developments pertaining to OCERS and provide recommended courses of action as appropriate.

17. The CEO will:

- a. Oversee the regular review of all policies of OCERS to ensure they are being followed and continue to meet OCERS' needs;
- b. Oversee the activities of the Investment Division and report annually to the Board regarding the administrative oversight of the division, including identifying any issues that arose during the reporting period;
- c. Oversee the funded status of OCERS and all issues that may reasonably have a significant impact on such status;
- d. Oversee the investment performance of the Fund, the component asset classes, and the investment managers retained to manage the assets of the Fund;
- e. Oversee management's response to the findings of the annual financial audit, and of any internal audits that may be performed;
- f. Oversee employees and service providers of OCERS to ensure compliance with the OCERS policies;
- g. Oversee the activities and performance of key service providers including the actuary, financial auditor, investment consultant, legal counsel, and custodian on a regular basis;
- h. Oversee the activities and performance of senior management;
- i. Oversee the collection of all payments due to OCERS and the payment of all amounts due by OCERS to ensure accuracy and timeliness;
- j. Oversee OCERS' compliance with applicable laws and regulations; and
- k. In conjunction with legal counsel, oversee the status of all claims, demands, disputes and legal proceedings involving OCERS and report to the Board as appropriate.

Emergency Authority

18. In emergency situations, the CEO, after making reasonable attempts to contact the Board Chair and Vice Chair, will have the authority to act on matters not expressly stated within this charter provided that:
- a. The action is, in the CEO's judgment, necessary to protect the System, its employees, the Fund, or System assets from loss or harm that is reasonably likely to occur if action is delayed for the scheduling of a notices meeting of the Board or its committees; and



OCERS Board Charter CEO Charter

- b. The CEO promptly reports to the Board the emergency action taken, and the reasons why the CEO determined action was immediately necessary.

Charter Review

- 19. The Governance Committee will review this charter at least once every three (3) years and recommend any amendments to the Board for approval as necessary to ensure that the charter remains relevant and appropriate.
- 20. This charter was adopted by the Board on November 18, 2002, and amended on August 25, 2008, July 20, 2015, April 18, 2018, and March 18, 2019.

Secretary's Certificate

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

03/18/19

Steve Delaney
Secretary of the Board

Date

Orange County Employees Retirement System
2223 East Wellington Avenue | Santa Ana | 92701

2021 BUSINESS PLAN



MISSION, VISION AND VALUES

MISSION STATEMENT:

We provide secure retirement and disability benefits with the highest standards of excellence.

VISION STATEMENT:

To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

VALUES:

- **O**pen and Transparent
- **C**ommitment to Superior Service
- **E**ngaged and Dedicated Workforce
- **R**eliable and Accurate
- **S**ecure and Sustainable

2021-2023 STRATEGIC GOALS

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

FUND SUSTAINABILITY

GOAL: STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Business Plan Initiatives

Objective A: Mitigate the Risk of Significant Investment Loss

Executive Lead – Molly Murphy

1. Investment Consultant Contract Reviews
2. Complete implementation of an investment/risk management system (year two)

Objective B: Prudent Use and Security of Resources

Executive Lead – Molly Murphy

1. Investigate Custodial Bank Services options

EXCELLENT SERVICE AND SUPPORT

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

Business Plan Initiatives

Objective A: Provide Accurate and Timely Benefits

Executive Lead – Suzanne Jenike

1. Streamline the retirement process by implementing:
 - a. LEAN action items
 - b. Review and improve paper forms
 - c. Investigate options to initiate Disability applications online
2. Improve customer service standards by enhancing V3 workflows, monitoring and reporting (multi-year)
3. Investigate phone system options to improve service and reporting
4. Investigate options on developing a Mobile App/Enhanced Self-Service Portal

Objective B: Provide Education to our Members and Employers

Executive Lead – Suzanne Jenike

1. Update annual employer workshop to virtual format
2. Create videos and other online educational resources to enhance education to members and stakeholders about OCERS benefits, administrative operations and investments (multi-year)

Objective C: Continuously Improve Business Processes and Procedures to be Efficient and Effective

Executive Leads – Brenda Shott and Suzanne Jenike

1. Explore the process of obtaining LEAN certifications
2. Identify additional business process to implement LEAN principles
3. Implement new Enterprise Resource Planning (ERP) system
4. Migrate to Microsoft 365 infrastructure

RISK MANAGEMENT

GOAL: CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Business Plan Initiatives

Objective A: Enhance Governance of Technology Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Continue implementation plan for security and operational best practice controls (multi-year)
2. Develop and enhance information security policies
3. Implement project management tools and best practices for use throughout the organization

Objective B: Continuously Assess Technology Environment and Address Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement best practice security controls for Microsoft 365
2. Implement network access control to allow only authorized devices on the internal network
3. Implement network traffic analysis to observe internal network traffic and detect potential intrusions
4. Implement network/server/service monitoring to detect and alert on operational status of systems
5. Implement DNS security solution to protect computer endpoints
6. Evaluate alternative methods of exchanging member identification protocols

Objective C: Ensure Compliance with Industry Frameworks and Best Practices

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Conduct a data classification study
2. Implement automated inventories for tracking technology assets

Objective D: Provide a Robust Business Continuity Solution

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement new backup solutions to enhance recovery of on premise and cloud systems
2. Implement infrastructure to allow employees to work a hybrid in office and remote environment
3. Adopt policies to support a hybrid work environment

Objective E: Ensure a Safe and Secure Workplace and Public Service Facility

Executive Lead – Brenda Shott

1. Investigate and evaluate long term options for OCERS headquarters
2. Implement COVID-19 protocols and worksite plan
3. Upgrade the Board Room audio/visual equipment

TALENT MANAGEMENT

GOAL: RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

Business Plan Initiatives

Objective A: Recruit and Retain a Diverse High-Performing Workforce to Meet Organizational Priorities

Executive Leads – Steve Delaney and Cynthia Hockless

1. Review and implement necessary changes onboarding and transitioning of new hires into the organization during remote work conditions
2. Expand advertising and outreach sources in order to continue to encourage diversity in recruitments (multi-year)
3. Complete compensation study and implement recommendations as appropriate

Objective B: Develop and empower every member of the team

Executive Lead – Steve Delaney

1. Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency
2. Develop a comprehensive standardized library of process and procedure manuals across the organization

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture
Executive Lead – Steve Delaney

1. Continue to implement strategies that promote an inclusive workplace

EFFECTIVE GOVERNANCE

GOAL: IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Objective A: Employ a Governance Structure that Supports a Dynamic System
Executive Lead – Steve Delaney

1. Explore methods of focusing Board and staff time and effort on activities that support or advance OCERS' Strategic Goals

Objective B: Improve the Governance and Management of OCERS' Records (multi-year)
Executive Lead – Gina Ratto

1. Identify "best practices" in record retention
2. Develop and implement a records retention program that reflects best practices and identifies appropriate retention periods for each category of records
3. Establish storage protocols and automate destruction schedules for electronic mail
4. Establish an alternative "work space" and/or storage place for emails
5. Systematically bring each department within OCERS into compliance with the records retention program
6. Establish procedures to maintain and audit compliance with the record retention program



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
www.ocers.org

Chief Executive Officer 2021 Performance Evaluation

Please download and save this form to your computer prior to completing the form.

OCERS Mission, Vision & Values

Mission: We provide secure retirement and disability benefits with the highest standards of excellence.

Vision: To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

Values: Open and transparent; Commitment to superior service; Engaged and dedicated workforce; Reliable and accurate; Secure and sustainable

Criteria for 2021 Performance Evaluation

The CEO's performance evaluation will cover the following areas:

- Risk Management
- Talent Management

The CEO's performance evaluation will also cover the following areas:

- Direction and oversight of benefit administration
- Direction and oversight of the investment program
- Direction and oversight of internal operations
- Communications (membership, sponsors, Board, staff, public)
- Addressing exigent situations that arose during the year
- Addressing the opportunities to grow identified in this evaluation
- Overall leadership and development of the organization

1. Board Member Name (please select from dropdown):

Please click on the below link to access OCERS Strategic Plan
[OCERS 2021-2023 Strategic Plan](#)

Rating:	Definition
0. Does not Meet Performance Expectations	Performance improvement and/or skill development is needed to increase the overall effectiveness and meet performance expectations; requires substantial direction from the supervisor or manager.
1. Meets Performance Expectations	Proficient in the performance of responsibilities. Normally meets performance expectations. Requires some guidance and direction to complete tasks effectively.
2. Exceeds Expectations	Fully proficient in the performance of responsibilities. Normally exceeds performance expectations. Does not require significant guidance and direction to complete tasks effectively.
3. Exceptional Performance	Exceptional overall performance. Consistently performs above the standards that are expected of the position. Accomplishments make notable contributions to the organization and represent OCERS and the department in an exemplary fashion. Often functions as a model or mentor to others in this area.

Ør questions 2-11, please select the best rating and provide details to support your rating.

2. Fund Security and Sustainability

Comments:

3. Risk Management

Comments:

4. Talent Management

Comments:

5. Direction and oversight of benefit administration.

Comments:

6. Direction and oversight of the investment program.

Comments:

7. Direction and oversight of internal operations.

Comments:

8. Communications (membership, sponsors, Board, staff, public).

Comments:

9. Addressing exigent situations that arose during the year.

Comments:

10. Overall leadership and development of the organization (e.g., staff training and development, improvement of work processes, policy development, professionalism of the organization).

Comments:

11. Addressing the Opportunities to Grow identified in prior evaluation.

a. Fine-tune CIO and Investment Team Delegation, and reporting of Investment Consultants to the Board - Balancing Board's oversight with CIO's delegation and giving the Board the ability to trust, but verify. Have investment consultants prepare reports specifically for the Board.

b. Prepare to bring workforce back when it is safe to do so. Have a comprehensive strategy communicated to the Board on how you plan to assimilate the workforce back into the office.

c. Future facilities - Recommend a facility adequate to deal with the future workforce as well as possible pandemics or disasters. Work with the building committee to develop a plan for a new building or alternative approach.

Comments:

12. Overall Performance Rating Comments

13. Total Performance Rating (please add your total score from questions 2-11) 30 points possible.

_____ /30

14. Please add any performance evaluation criteria to focus on for the CEO's 2022 performance here.

Please remember to save your changes before closing this form.

11-15-2021 REGULAR BOARD MEETING - A-3 Compensaiton of the Chief Executive Officer

OCERS CEO Total Compensation Cost History

Name: Steve Delaney
Date of Hire: 1/2/2008

CEO Compensation										Total Base Salary Lump Sum Auto Allowance AL Cash Out, OBP
Year	Increase Effective Date	% Increase over prior year	Base Salary Increase	Base Salary	Lump Sum	Notes	Auto Allowance	Annual Leave (AL) Cash Out	Optional Benefit Plan (OBP)	Annualized
2021	1/1/2021	3%	\$8,660	\$297,335.18	\$5,773.50	3.0% Annual Salary Adjustment & 2.0% lump sum - 2020 Performance Evaluation	\$0	23,947.58	\$4,500	\$331,556
2020	1/3/2020	3%	\$8,408	\$288,675	\$5,605	3.0% Annual Salary Adjustment & 2.0% lump sum - 2019 Performance Evaluation	\$0	\$23,290	\$4,500	\$322,070
2019	1/4/2019	2.5%	\$6,836	\$280,267	\$6,836	2.5% Annual Salary Adjustment & 2.5% lump sum - 2018 Performance Evaluation	\$0	\$22,906	\$4,500	\$314,509
2018	1/5/2018	5%	\$12,006	\$273,437	\$0	5% Annual Salary Adjustment - 2017 Performance Evaluation	\$0	\$22,348	\$4,500	\$300,285
2017	1/6/2017	3%	\$7,614	\$261,431	\$0	3% Annual Salary Adjustment - 2016 Performance Evaluation	\$0	\$20,739	\$4,500	\$286,670
2016	None for 2016	0%	\$0	\$253,817	\$0	Last increase effective date 1/2/2015	\$0	\$10,982	\$4,500	\$269,299
2015	1/9/2015	0%	\$0	\$253,817	\$5,076	One time 2% non-base building performance award	\$0	\$20,745	\$4,500	\$284,138
2014	12/27/2013	2%	\$4,977	\$253,817	\$0	Annual Merit	\$0	\$20,745	\$4,500	\$279,062
2013	6/2/2013	3%	\$7,248	\$248,840	\$0	Annual Merit	\$0	\$10,454	\$4,500	\$263,794
2012	1/13/2012	14%	\$29,640	\$241,592	\$0	Stop employee contribution pick up move to salary	\$0	\$0	\$4,500	\$246,092
2012	12/16/2011	4%	\$8,154	\$211,952	\$0	Annual Merit	\$0	\$0	\$0	\$211,952
2011	12/17/2010	5%	\$9,194	\$203,798	\$0	Stop auto allowance move to salary	\$0	\$0	\$4,500	\$208,298
2011	12/17/2010	4%	\$7,488	\$194,405	\$0	Annual Merit	\$9,180	\$0	\$0	\$203,785
2010	12/18/2009	5%	\$13,874	\$187,117	\$0	Annual Merit	\$9,180	\$0	\$4,500	\$200,797
2009	12/19/2008	5%	\$8,258	\$173,243	\$0	Annual Merit	\$9,180	\$0	\$4,500	\$186,923
2008	1/2/2008			\$164,986	\$0	Starting Salary	\$9,180	\$0	\$4,500	\$178,666

County 401(a)			OCERS 401(a)*		Total Employee's Deferred Comp County and OCERS 401(a)	Total Base Salary, Lump Sum, Annual Leave, Cash Out, 401(a), OBP
Year	% of Salary	Annualized	% of Salary	Annualized	Annualized	Annualized
2021	5%	\$14,867	3%	\$8,920	\$23,787	\$355,343
2020	5%	\$14,434	3%	\$8,660	\$23,094	\$345,164
2019	5%	\$14,013	3%	\$8,408	\$22,421	\$336,930
2018	5%	\$13,672	3%	\$8,203	\$21,875	\$322,160
2017	5%	\$13,072	3%	\$7,843	\$20,914	\$307,584
2016	5%	\$12,691	3%	\$7,614	\$20,305	\$289,604
2015	5%	\$12,691	3%	\$7,614	\$20,305	\$304,443
2014	5%	\$12,691	3%	\$7,614	\$20,305	\$299,367
2013	5%	\$12,442	3%	\$7,465	\$19,907	\$283,701
2012	5%	\$12,080	3%	\$7,248	\$19,327	\$265,419
2011	5%	\$10,190	3%**	\$4,114	\$14,304	\$224,602
2010	5%	\$9,354	3%	\$5,614	\$14,969	\$215,766
2009	5%	\$8,662	3%	\$5,197	\$13,859	\$200,783
2008	5%	\$8,249	3%	\$4,950	\$13,199	\$191,864

OCERS 2.7@55 Retirement Employer Contributions			Employer Pickup of Employee Contributions			
Fiscal Year	Employer contribution % of Salary	Employer Contribution Amount Annualized	Calendar Year	Gov't Code Section 31581.2 Pick up	Gov't Code Section 31581.1 Pick up	Combined Total
7/1/21 - 1/1/21 - 6/30/21	40.50%	\$117,105	2021	\$0	\$0	\$0
7/1/20 - 1/1/20 - 6/30/20	38.27%	\$106,406	2020	\$0	\$0	\$0
7/1/19 - 1/1/19 - 6/30/19	35.45%	\$95,641	2019	\$0	\$0	\$0
7/1/18 - 1/1/18 - 6/30/18	32.80%	\$91,301	2018	\$0	\$0	\$0
7/1/17 - 1/1/17 - 6/30/17	33.98%	\$87,749	2017	\$0	\$0	\$0
7/1/16 - 1/1/16 - 6/30/16	33.15%	\$87,491	2016	\$0	\$0	\$0
7/1/15 - 1/1/15 - 6/30/15	35.79%	\$90,359	2015	\$0	\$0	\$0
7/1/14 - 1/1/14 - 6/30/14	35.79%	\$84,445	2014	\$0	\$0	\$0
7/1/13 - 1/1/13 - 6/30/13	31.13%	\$71,840	2013	\$0	\$0	\$0
7/1/12 - 1/1/12 - 6/30/12	26.61%	\$62,669	2012	\$0	\$0	\$0
7/1/11 - 1/1/11 - 6/30/11	25.27%	\$49,085	2011	\$14,219	\$11,011	\$25,230
7/1/10 - 12/31/10	22.90%	\$41,379	2010	\$13,662	\$10,644	\$24,306
7/1/09 - 12/31/09	19.26%	\$34,679	2009	\$12,636	\$9,628	\$22,264
7/1/08 - 12/31/08	18.76%	\$32,874	2008	\$10,771	\$8,802	\$19,573

Grand Total Annual Compensation Cost to OCERS									
Calendar Year	Base Salary	Lump Sum/401(a)/Car Allowance	OCERS Annualized Cost of Retirement Benefit (Pension)	Retiree Medical Benefit (annualized cost)	Health Care, Life and Disability Insurance	Optional Benefit Plan	Annual Leave (AL) Cash Out	Employer Portion of Medicare Tax (1.45%)	Total Compensation
2021	\$297,335	\$29,560	\$117,105	\$11,596	\$10,777	\$4,500	\$23,948	\$4,724	\$499,545
2020	\$288,675	\$28,699	\$106,406	\$11,258	\$10,777	\$4,500	\$23,290	\$4,589	\$478,193
2019	\$280,267	\$29,257	\$95,641	\$10,930	\$10,340	\$4,500	\$22,906	\$4,461	\$453,303
2018	\$273,437	\$21,875	\$91,301	\$10,793	\$10,320	\$4,500	\$22,348	\$4,354	\$438,928
2017	\$261,431	\$20,914	\$87,749	\$10,445	\$10,528	\$4,500	\$20,739	\$4,157	\$420,463
2016	\$253,817	\$20,305	\$87,748	\$9,684	\$10,449	\$4,500	\$10,982	\$3,905	\$401,391
2015	\$253,817	\$25,382	\$90,359	\$8,630	\$11,208	\$4,500	\$20,745	\$4,046	\$418,686
2014	\$253,817	\$20,305	\$84,445	\$9,340	\$11,262	\$4,500	\$20,745	\$4,046	\$408,461
2013	\$248,840	\$19,907	\$71,840	\$9,854	\$11,314	\$4,500	\$10,454	\$3,825	\$390,534
2012	\$241,592	\$19,327	\$62,669	\$4,784	\$10,735	\$4,500	\$0	\$3,568	\$347,175
2011	\$203,798	\$25,484	\$74,315	\$5,329	\$9,067	\$4,500	\$0	\$3,020	\$325,514
2010	\$187,117	\$24,149	\$65,685	\$4,800	\$6,173	\$4,500	\$0	\$2,778	\$295,202
2009	\$173,243	\$23,039	\$56,942	\$3,681	\$5,839	\$4,500	\$0	\$2,577	\$269,823
2008	\$164,986	\$22,379	\$52,446	\$5,807	\$6,207	\$4,500	\$0	\$2,458	\$258,782

*Separate & in addition to the County 401(a)
**No OCERS 401(a) contributions were made on the portion of salary that was added by eliminating auto allowance

11-15-2021 REGULAR BOARD MEETING - A-3 Compensation of the Chief Executive Officer

2021 CEO Salary Comparison

Retirement System	Net Assets (\$Billion)	CEO Salary Range	CEO Current Salary	CEO Auto Allow/mo	Est. Annual Auto Allow Amount	ER Contributions for Deferred Comp	*Est. Annual Def Comp Total By ER	Defined Benefit EE Pickup By ER	Annual Optional Benefit Plan (OBP)/ Flexible Spending Dollars (FSA) or Additional Salary	**Est. Total = Base, Auto, Deferred Comp and OBP/Flex or Additional Salary	CEO Last Increase	Notes
OCERS	21.0	Salary set by the Board	\$297,335	None	\$0	OCERS 401(a) = 5% of salary County 401(a) = 3% of salary	\$23,787	None	\$4,500	\$325,622	1/11/2021	Eligible for 170 Annual Leave Cashout (approx. \$24,301)
Alameda CERA	10.2	\$206,811 - \$310,502	\$306,883	\$691	\$8,292	457(b): \$19,500	\$19,500	Employer picks up total contribution	\$3,300	\$337,975	10/10/2021	
Kern CERA	5.4	\$181,047 - \$221,046	\$221,046	\$599	\$7,188	\$12,057	\$12,057	None	\$12,042	\$252,333	1/30/2021	
LACERS (City)	22.6	\$178,148 - \$315,768	\$308,119	\$500	\$6,000	None	\$0	None	\$0	\$314,119	7/1/2021	Contact Lin Lin noted "No additional salary, no flex dollars. City pays \$1,649.86 medical/Dental \$44.60 monthly"
San Diego County ERA	17.08	\$182,644.80 - \$336,377.60	\$325,520	\$600	\$7,200	None	\$0	None	\$0	\$332,720	11/2020 (hire date)	7% flex credits
San Joaquin CERA	3.5	\$178,744 - \$217,265	\$217,265	\$585	\$7,020	457(b): 5% of salary	\$10,863	None	\$4,345	\$239,494	10/26/2020	
San Bernardino CERA	13.4	\$ 229,652.80 - \$335,129.60	\$335,129	\$1,216.67	\$14,600.04	457(b) = SBCERA contribution 1 times employee contribution, up to 1% 401(k) = SBCERA contribution 2 times employee contribution, up to 8%	\$30,162	ER picks up full 7% (2%R55)	\$3,440	\$383,331	2/1/2021	Additionally Salary = \$1,040 FSA + 2,400 annual cell allowance
LACERA (County)	73.8	Salary set by the Board	\$418,200	725.00	\$8,700	LACERA 401(k) = 4% of salary LACERA 457(b) = 4% of salary	\$33,456	ER Picks up 9.1%	\$79,458	\$539,814	1/1/2021	Annual Optional Benefit Plan (OBP)/Flexible Spending Dollars (FSA) or Additional Salary = 19% Cafeteria Allowance
Sonoma CERA	3.07	\$199,695.64 - \$242,711.11	\$242,711	\$430	\$5,160	401(a): 4% salary	\$9,708	None	\$11,460	\$269,039	6/1/2021	Cell phone allowance: \$50/month HRA - \$153/month Additional Compensation - \$752/month (\$400 = hourly cash allowance & \$152 = Staff development/wellness benefit spend annually)
Sacramento CERS	12.0	\$207,109 - \$264,341	\$251,780	\$500	\$6,000	1% match	\$2,518	None	\$650	\$260,948	6/20/2021	COLA step increase due December, 2021 OBP/FSA - 3.35% management differential (separate pay; not included in annual salary)
Contra Costa CERA	10.2	Salary set by the Board	\$287,880	None	\$0	457(b) = \$235 monthly	\$2,820	None	\$0	\$290,700	4/1/2021	
Los Angeles City Fire & Police ERS	31.3		\$315,768	None	\$0				\$6,000	\$321,768		CEO Salary Survey by Retirement System Size Note: Survey results exclude employer paid medical benefits and employer contributions to DB and DC plans

Additional Considerations:

Organization	Name	Title	Current Salary	Auto Allow/mo	Est. Annual Auto Allow Amount	ER Contributions for Deferred Comp	*Est. Annual Def Comp Total By ER	Defined Benefit EE Pickup By ER	Annual Optional Benefit Plan (OBP)/ Flexible Spending Dollars (FSA) or Additional Salary	**Est. Total = Base, Auto, Deferred Comp and OBP/Flex or Additional Salary	CEO Last Increase	Notes
County of Orange	Frank Kim	CEO	\$322,441	\$765	\$9,180	401(a) = 5% of salary	\$16,122	None	\$15,326	\$363,069	7/2/2021	OBP - \$4500 Holiday Pay - \$10,824.95
OC Superior Court	David Yamasaki	CEO	\$291,000	None	\$0	None	\$0	None	\$4,500	\$295,500	10/8/2021	
OCFA	Brian Farnessy	Fire Chief	\$264,000	Uses OCFA vehicle	\$0	401(a) = 4.5% base salary	\$11,880	None	\$3,500	\$279,380	5/24/2019	Received \$20,000 non-base building "Discretionary Bonus" in 2020; will likely receive the same bonus in 2021 but not yet confirmed (as of 11/3/21)
OCSD	James Herberg	General Manager	\$332,737	\$700	\$8,400	457(b) = \$11,000 annually	\$11,000	None	\$27,214	\$379,351	7/2021	Per contract: Louise Klingler, additional salary = \$6,000 annual medical allowance + Investment Incentive Salary (\$1,250 + 6% of base salary)
OCTA	Darrell Johnson	CEO	\$373,152	\$765	\$9,180	401(a) = 5% of base pay + \$25,000 annually	\$43,658	None	\$0	\$425,990	7/26/2021	Per HR contact: EE contribution paid 100% by employee; ER only pays full ER contribution CEO currently waives FSA (voluntary benefit and OCTA does not contribute to it)
TCA	Samuel Johnson	CEO	\$275,000	\$765	\$9,180	401(a) = \$26,000 annually	\$26,000	100% employer paid	\$0	\$310,180	11/1/2020	

*Estimated amount assumes employee is receiving the full annual match on base salary.

**Estimated total includes Annual Base Salary, Annual Auto Allowance and Annual Deferred Comp.

This salary comparison may not include all pay incentive given. Information submitted by agency's human resources department.



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant Chief Executive Officer, External Operations
SUBJECT: ANNUAL EMPLOYER REPORT

Presentation

OCERS Staff has been preparing this employer report annually since May 2014. The purpose of the report is to provide the Board with information regarding the Employers financial position to ascertain their capacity to meet their ongoing financial obligations to OCERS. The report captures financial information from publically posted financial information as of the prior fiscal year, in this case FY19/20, as well as OCERS most recent approved actuarial valuation, December 31, 2020.

County of Orange

- The total assets of the County exceeded total liabilities at June 30, 2020 by \$2.8 billion

City of San Juan Capistrano

- Transition of sewer and water services to the Santa Margarita Water District was effective November 15, 2021

Children and Families Commission of Orange County

- Reflecting their priority of putting families first CFCOC recently began using the name "First 5 OC", referring to the Agency's focus on the education, health and child development programs for children in Orange County from the prenatal stage through age 5

Orange County Cemetery District

- An additional 283.3 acres of land was received from the County of Orange for developing a fourth public cemetery, including land set aside for a State Veterans Cemetery.

OCFA

- \$108.25 million total in additional payments towards OCERS UAAL as of FY 19/20

Submitted by:



SJ – APPROVED

Suzanne Jenike
Assistant CEO, External Operations



OCERS' 2021 Annual Employer Report

Report Date: November 15, 2021

**Suzanne Jenike
Assistant CEO
External Operations**

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Executive Summary

The Orange County Employees Retirement System (OCERS) is a public pension plan that partners with 13 active Employers to provide a defined benefit lifetime pension to many of Orange County's public servants. As of December 31, 2020, OCERS manages a \$19.3 billion fund from which members received pension benefit payments totaling \$960.8 million for the year ending December 31, 2020. The pension benefits our members receive are funded from three main sources; fund earnings (54%), member contributions (15%) and employer contributions (31%).

The OCERS 2021 Annual Employer Report (Employer report) provides the OCERS Board of Retirement with a summary of key financial information on OCERS' Employers based upon information provided by their 2020 audited financial statements and 2020 budget and forecast documents.

- All of the audited financial statements obtained from the Employers contained an external auditor's unmodified ("clean") opinion. In addition, no external auditor disclosed any "Going Concern" issues in regards to the Employer's ability to continue as a governmental entity.
- All OCERS' Employers have made their required OCERS contribution payments since the prior year's report.
- In addition, a number of Employers have continued to make additional payments toward their unfunded actuarial accrued liability (UAAL).
- Upon review of the reported financial information from the Employers, no further action is planned from OCERS' Executive Management.

Although this report includes financial information on OCFA and the Orange County Sheriff's Department, it does not include financial information from the cities that contract with OCFA and/or the Orange County Sheriff's Department. A financial summary of the 19 contract cities that contract with OCFA and/or the Orange County Sheriff's Department would require a separate report.

Introduction

At its May 19, 2014 Regular Meeting, the OCERS Board of Retirement (Board) directed the OCERS Team to start creating this report of key financial information such as revenue sources and net position of OCERS Employers.

Background

Scope

This report includes financial information on OCERS' Employers for fiscal year ending June 30, 2020, if publicly available. There were 21,559 active members within OCERS' thirteen Employers as of December 31, 2020, and 6,818 deferred members.

Background

Active Member Count for year ending December 31 2020:					
Employer	2016	2017	2018	2019	2020
Orange County	16,756	16,780	17,048	17,154	16,474
Superior Court	1,486	1,455	1,419	1,418	1,399
OCTA	1,372	1,313	1,279	1,350	1,322
OCFA	1,263	1,288	1,262	1,417	1,457
Sanitation District	578	592	616	608	618
OCERS	68	70	84	87	87
City of San Juan Capistrano	80	81	78	76	67
TCA	68	64	62	61	54
In-Home Supportive Services	23	24	26	25	24
Cemetery District	22	25	25	24	25
Law Library	15	14	14	14	14
Children & Families Commission	9	10	11	12	14
LAFCO	6	5	5	5	4
Total:	21,746	21,721	21,929	22,257	21,559

Annual revenues for OCERS' Five Largest Employers:

Revenues, as of Year Ending June 30 (000's):					
Employer	6/30/2016	6/30/2017	6/30/2018	6/30/2019	6/30/2020
Orange County	\$ 4,008,000	\$ 4,186,000	\$ 4,404,000	\$ 4,503,000	\$ 4,802,000
OCTA	\$ 794,000	\$ 892,000	\$ 860,000	\$ 954,000	\$ 913,000
OCFA	\$ 357,000	\$ 374,000	\$ 422,000	\$ 414,000	\$ 473,000
Sanitation District	\$ 423,000	\$ 432,000	\$ 422,000	\$ 477,000	\$ 492,000
Superior Court	\$ 201,000	\$ 193,000	\$ 202,000	\$ 202,000	\$ 204,000
Total	\$ 5,783,000	\$ 6,077,000	\$ 6,310,000	\$ 6,550,000	\$ 6,884,000

Primary Revenue Sources for OCERS' Five Largest Employers - Year Ending June 30, 2020:

Revenue Category	Orange County	OCFA	Superior Court	OCTA	OCSD
Monies from CA/Federal	55%	7%	100%	20%	2%
Property Tax/Other Tax	26%	60%	-	11%	29%
Sales Tax	-	-	-	59%	0%
Service Charges	19%	33%	-	10%	69%
% of Total Revenues	100%	100%	100%	100%	100%
Total Revenues:	\$4.8 billion	\$473 million	\$197 million	\$913 million	\$492 million

Net Position - Total assets less total liabilities, as of June 30 for OCERS' five largest Employers:

Net Position, as of Year Ending June 30 (000's):					
Employer	6/30/2016	6/30/2017	6/30/2018	6/30/2019	6/30/2020
Orange County*	\$ 2,185,709	\$ 2,505,151	\$ 2,464,735	\$ 2,527,108	\$ 2,844,388
OCTA	\$ 1,417,477	\$ 1,580,417	\$ 1,611,223	\$ 1,751,910	\$ 1,793,191
OCFA	\$ (160,664)	\$ (176,774)	\$ (299,453)	\$ (298,070)	\$ (274,665)
Sanitation District	\$ 1,918,572	\$ 2,041,225	\$ 2,194,789	\$ 2,360,502	\$ 2,539,010
Superior Court**	-	-	-	-	-

*The Unrestricted Fund portion of County's Net Position actually has a deficit of \$2.9 billion.

**Superior Court's financial statements are blended within those of the State of California.

Employers' Bond Ratings, Purpose of Debt, and Form of Security (where applicable):

Orange County	OCTA	Sanitation District	Toll Roads	City of SJC
AA+/AA for \$470 MM of Revenue Bonds. AA for \$3 MM of Pension Obligation Bonds. County's Default Rating is AAA.	AA- for \$104 MM of Toll Road Revenue Bonds. AA+ for \$310 MM of M2 Tax Revenue Bonds.	AAA for \$1 BB of Certificate of Participation Notes and Revenue Bonds.	A-/BBB+ for \$4.7 BB of Toll Road Revenue bonds.	AAA for \$28 MM in General Obligation Bonds. \$25 MM in Certificates of Participation Notes/Water Refunding Bonds.
Debt issued to make pension prepayments, construction of facilities, and to finance the Teeter plan.	Debt issued to pay for Measure M2 projects and acquisition of 91 Express Toll Roads.	Debt issued to pay for treatment plant upgrades and water recycling facilities.	Debt issued to construct the 73, 241, & 261 toll roads.	Debts issued to acquire, preserve, and improve land; and to construct a ground water recovery plant.
Secured by lease payments from the County, general purpose revenues, airport revenues, and waste management revenues.	Secured by M2 sales tax revenues and 91 Express Lanes toll fees.	Secured by sewer usage fees.	Secured by toll road revenues.	Secured by property tax revenues and water usage fees.

Pension Debt - Net Pension Liability (NPL) is the accounting-based equivalent of UAAL that Employers must report on their financial statements (GASB 68). The Employers' NPL for the fiscal years ending 2016 through 2020 calculated by OCERS actuary, Segal Consulting using an actuarial measuring date of December 31 (chart below). Total NPL decreased approximately \$1 million, from \$5.1 million as of December 31, 2019 to \$4.2 million as of December 31, 2020, as a result of a 12.79% return on the market value of assets during 2020 that was higher than OCERS targeted investment earnings rate is 7.0%. The gain was offset to some extent by an experience loss of \$162.3 million and a loss of \$19 million from changes in actuarial assumptions.

GASB 68 Net Pension Liability (in '000s), per Segal Consulting:					
Employer	12/31/16	12/31/17	12/31/18	12/31/19	12/31/20
Orange County	4,043,856	3,983,695	4,918,576	4,124,212	3,547,545
OCFA	469,431	370,675	466,731	354,395	181,122
Superior Court	349,174	332,590	392,761	336,766	299,663
OCTA	230,260	212,117	269,789	224,285	186,024
Sanitation District	(10,385)	(39,571)	29,029	(49,447)	(68,643)
City of San Juan Capistrano	25,089	26,139	32,142	26,192	20,116
OCERS	21,886	21,427	28,845	26,824	24,954
TCA	12,423	10,243	13,254	(1,753)	(3,881)
LAFCO	1,341	1,268	1,583	1,490	1,248
In-Home Supportive Services	783	706	1,097	719	304
Cemetery District	222	(174)	962	(228)	(145)
Children & Families Commission	3,158	962	631	(646)	(612)
Law Library	1,770	(36)	573	(75)	(949)
UCI *	36,114	27,645	34,809	30,214	25,337
Dept of Education *	4,415	2,530	3,517	3,099	2,661
Vector Control *	1,670	1,167	2,493	(626)	(1,681)
Cypress Recreation and Parks*	-	718	409	262	185
Rancho Santa Margarita *	9	(2)	1	(2)	(2,733)
Net Pension Liability	\$5,191,216	\$4,952,099	\$6,197,202	\$5,075,682	4,210,515

Gray-shaded employers represent 82% of the total pension liability.

* Denotes an inactive Employer

Contributions - OCERS' five largest Employers paid 98% of employer and employee contributions received by OCERS for the year ending December 31, 2020. The County is OCERS' largest Employer and paid 84% of employer and employee contributions received by OCERS for the year ending December 31, 2020.

OCERS Employers have paid all actuarially required contribution payments.

County of Orange

A five-member Board of Supervisors, who each serve four-year terms, and annually elect a Chair and Vice-Chair, governs the County of Orange (the County). A County Executive Officer, who reports to the Board of Supervisors, oversees 15 County departments, and elected department heads oversee six County departments.

The County is OCERS' largest Employer, with 16,474 active members or 76% of OCERS' total active members. The County and its employees contributed \$716 million to OCERS for the year ended December 31, 2020 (representing 74% of total contributions received by OCERS in that period).

Although the County's Net Position is a positive \$2.8 billion entity wide, the Unrestricted Fund portion of the Net Position has a deficit of \$3 billion primarily due to the recognition of the net pension liability on its Balance Sheet and OPEB liability on the financial statements.

As of County Fiscal Year Ending:

	6/30/17	6/30/18	6/30/19	06/30/20
Total Assets	\$9.2 billion	\$9.6 billion	\$10.3 billion	\$10.6 billion
Total Liabilities	\$6.7 billion	\$7.1 billion	\$7.8 billion	\$7.8 billion
Net Position	\$2.5 billion	\$2.5 billion	\$2.5 billion	\$2.8 billion
Cash and Cash Equivalents	\$3.0 billion	\$3.0 billion	\$3.2 billion	\$3.9 billion
Net Pension Liability	\$4.0 billion	\$4.0 billion	\$4.9 billion	\$4.1 billion

Pension Contribution Rates, per Segal's actuarial valuation dated:

	12/31/17	12/31/18	12/31/19	12/31/20
Employer Contribution Rate - Safety	52%/62%*	55%/65%*	59%/67%*	56%/63%*
Avg. Member Contribution Rate - Safety	17%	17%	17%	17%
Employer Contribution Rate - General	35%	37%	39%	40%
Avg. Member Contribution Rate - General	11%	11%	11%	11%

*OC Probation Department / OC Sheriff's Department

Revenues

The County's total governmental activities and business-type activities revenues (which exclude draws from reserves and intra-governmental fund transfers) were \$4.8 billion for the year ending June 30, 2020.

The County's governmental activities rely on several sources of revenue to finance ongoing operations. Operating/capital grants and contributions comprised the largest revenue source for

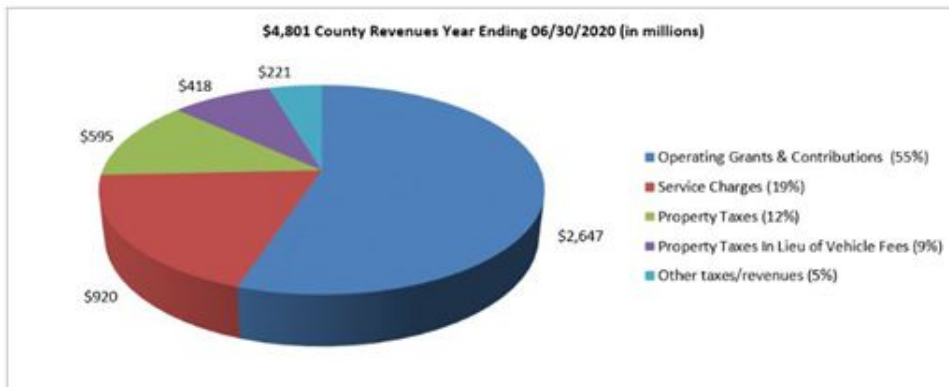
the County at \$2.6 billion, followed by charges for services at \$920 million, property taxes at \$595 million, property taxes (in lieu of motor vehicle license fees) at \$418 million, and \$221 million in other taxes/general revenue sources.

Operating Grants and Contributions (\$2.6 billion) are monies received from parties outside the County and are generally restricted to one or more specific programs such as State and Federal revenues for public assistance programs and for health care programs.

Charges for services (\$920 million) are revenues that arise from charges to customers or applicants who purchase, use, or directly benefit from the goods, services, or privileges provided. Examples of the types of services that fall under this category include engineering services provided to cities under contract, park and recreation fees, and law enforcement services provided to cities under contract.

Property taxes (\$595 million) are levied by the County. The 1% tax rate is the general levy for property tax based on assessed property values within the County.

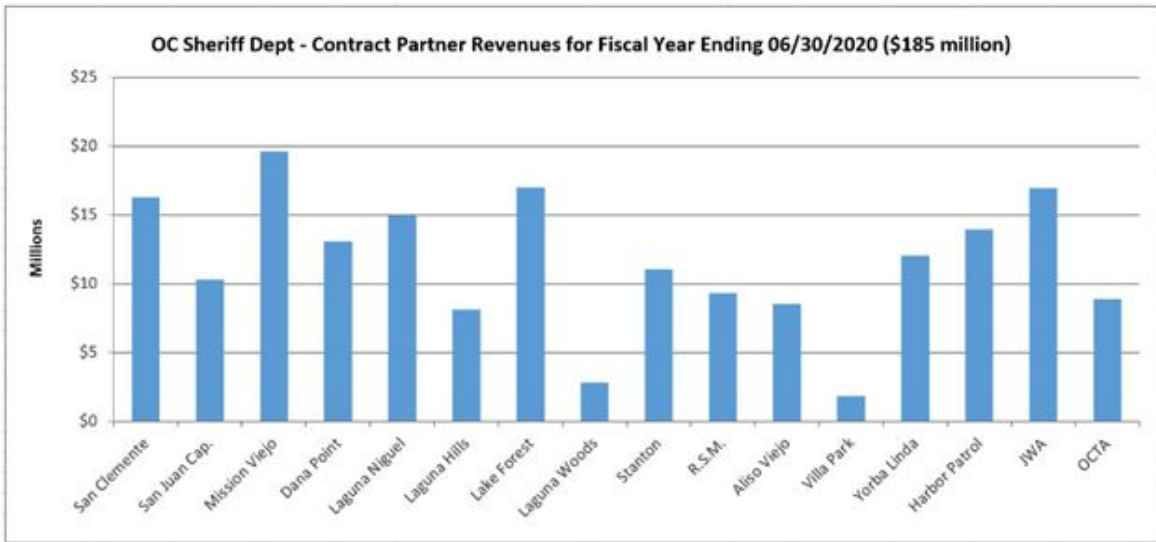
The County receives property taxes “In-Lieu of Motor Vehicle License Fees” (\$418 million in 2020) as part of the California State Budget Act of 2004. The Legislature reduced the backfill to cities and counties for reductions in the Vehicle License Fee and in return gave cities and counties additional property tax revenue.



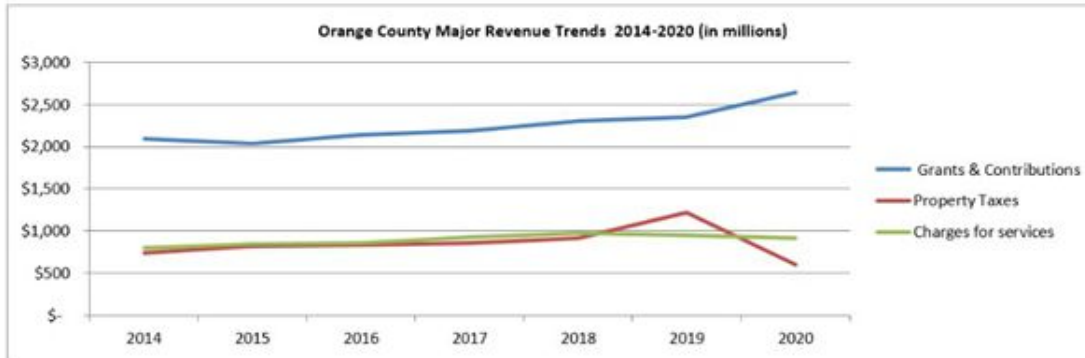
Sheriff's Department

Public safety is a large component of the services provided by the County of Orange through the Orange County Sheriff's Department (Department) on behalf of the 13 contract cities, unincorporated areas of the County, Orange County Transportation Authority, Harbor Patrol and John Wayne Airport. The Department has approximately 3,800 sworn and professional staff members in addition to over 800 reserve personnel. The Department receives financial support from the Proposition 172 Public Safety ½ Cent Sales Tax which provided approximately \$260 million for fiscal 2019-2020. For fiscal year ending June 30, 2020, 13 contract cities also paid approximately \$145 million to obtain the services of the Department. Service charges for law enforcement services provided to contract cities are budgeted to increase by an average of 1.4% for next fiscal year ending June 30, 2021.

The Sheriff's Department has annual and multi-year contracts with the cities, and either party can terminate the agreement with 180 days written notice.



County Revenue Trends



County’s Long-Term Debt and Bond Ratings (Non-UAAL liability), as stated in its 2020 Comprehensive Annual Financial Report:

The County has \$594 million in long-term debt as of June 30, 2020. Most of this debt were lease revenue bonds of \$474 million with AA ratings from Standard & Poor’s.

LONG-TERM DEBT RATINGS June 30, 2020			
	S&P	Moody’s	Fitch
2016 Lease Revenue Bonds	AA	NR	NR
Teeter Plan Notes	NR	NR	NR
1997A Pension Obligation Bonds	NR	Aa1	AA+
Airport 2019A Revenue Refunding Bonds	AA-	NR	NR
Airport 2019B Revenue Refunding Bonds	AA-	NR	NR

Net Position as of June 30, 2020

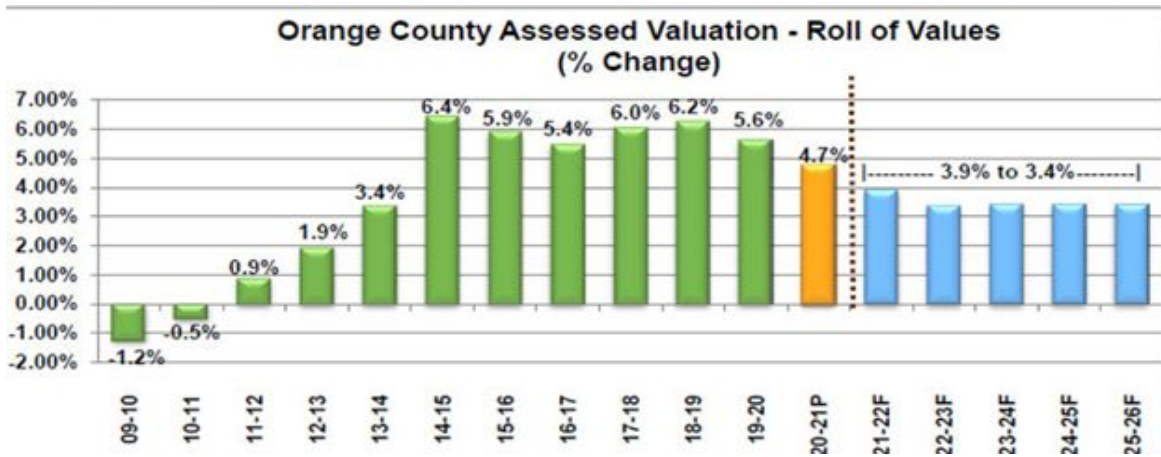
The total assets of the County exceeded total liabilities at June 30, 2020 by \$2.8 billion. The County’s Net Position was comprised of the following:

- **Net Investments in capital assets** of \$4.2 billion includes buildings, equipment, and land, construction in progress, structures, equipment, software, and infrastructure.
- **Restricted** was \$1.6 billion, which combined amounts constrained to specific purposes by their providers (such as grantors, bondholders, and higher levels of government) through constitutional provisions or by enabling legislation and was primarily for social services/welfare grants, pension obligation bonds, future capital projects, and the County’s debt service.
- **Unrestricted** has a deficit of \$2.9 billion. The unrestricted fund balance is to be made available for any purpose approved by the Board of Supervisors, but is negative due to the recognition of the net pension liability (GASB 68).

Budgeting and Forecasting by the County

On June 25, 2019, the budget for the fiscal year ending June 30, 2020 was adopted by the Board of Supervisors. On January 26, 2021, the County Executive Office presented to the Board of Supervisors the 2020 Strategic Financial Plan, which included its forecast and key indicators utilized to prepare the plan. The Strategic Financial Plan is influenced by several economic factors, measuring the County against the nation and other counties and against its own past performance.

According to the Orange County Assessor’s Office, the County’s most recent total net taxable value on the Roll (listing of all taxable county property) is \$655 billion. The Roll of Values is up 4.72% or \$30 billion more than last year. Each of the County’s 34 cities and the unincorporated areas had a year-to-year increase in net taxable value. Within the County’s “2020 Strategic Financial Plan”, the following chart illustrates the history of the percent change in Orange County’s Secured Assessment Roll of Value and the County’s forecast for upcoming years:



Orange County Fire Authority (OCFA)

OCFA was formed on March 1, 1995, transitioning from the Orange County Fire Department to a Joint Powers Authority (JPA). The OCFA is an independent special district that services twenty-three member cities and the unincorporated areas of Orange County. The OCFA Board of Directors consists of elected officials appointed by the member cities. This Board also includes two representatives from the County Board of Supervisors. An appointed Fire Chief who reports to the Board of Directors manages the OCFA. Emergency response services are provided to 2.0 million residents in a 593 square mile area of Orange County.

OCFA is one of OCERS' five largest Employers. OCFA has 1,457 active employees, or 6% of OCERS' active membership. OCFA and its employees contributed \$127 million to OCERS for the year ended December 31, 2020 (representing 13% of total contributions received by OCERS in that period).

OCFA's Net Position has a deficit of \$275 million entity-wide; the unrestricted portion of the Net Position has a deficit of \$499 million primarily due to the recognition of the net pension liability (GASB 68).

As of OCFA's Fiscal Year Ending:

	6/30/2017	6/30/2018	6/30/2019	6/30/2020
Total Assets and Deferred Outflows of Resources	\$530 million	\$541 million	\$595 million	\$578 million
Total Liabilities and Deferred Inflows of Resources	\$707 million	\$840 million	\$893 million	\$853 million
Net Position	\$(177 million)	\$(299 million)	\$(298 million)	\$(275 million)
Cash and Investments	\$178 million	\$176 million	\$180 million	\$189 million
Net Pension Liability	\$470 million	\$371 million	\$467 million	\$354 million

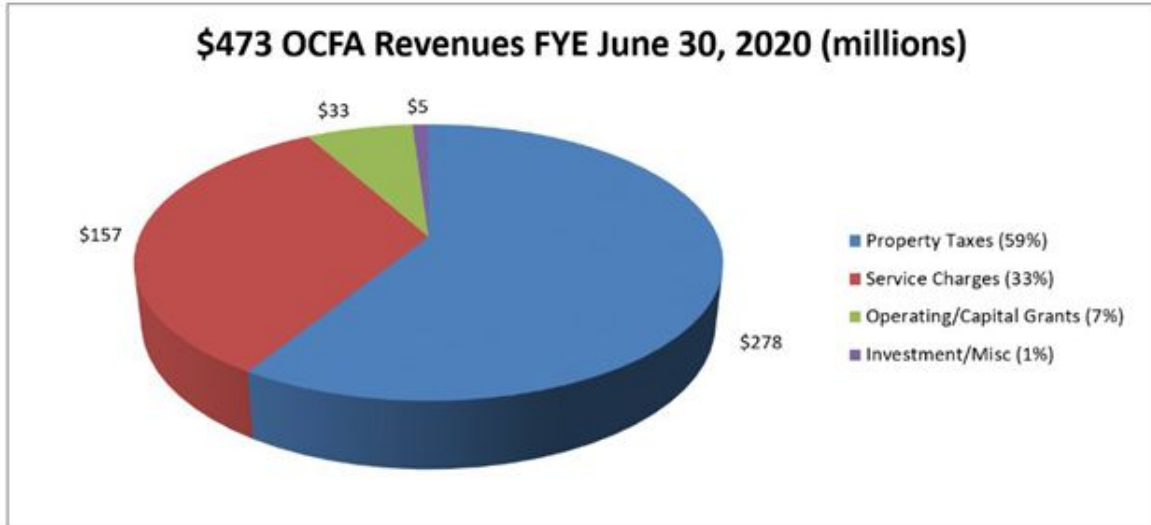
Pension Contribution Rates, per Segal's actuarial valuation dated:

	12/31/17	12/31/18	12/31/19	12/31/20
Employer Contribution Rate - Safety	46%	49%	49%	41%
Avg. Member Contribution Rate - Safety	16%	16%	16%	16%
Employer Contribution Rate - General	29%	28%	27%	24%
Avg. Member Contribution Rate - General	12%	12%	12%	11%

Revenues

OCFA's total revenues were \$473 million for the year ending June 30, 2020.

Two primary sources of OCFA revenue are the Structural Fire Fund (SFF) and contract cities as outlined in the Joint Powers Agreement for the OCFA. The majority of revenues came from \$278 million in property taxes from the SFF, and \$157 million in service charges paid by contract cities, the State of California and other revenue sources (i.e. John Wayne Airport Contract, ambulance transport, planning and development/inspection fees). OCFA also received \$33 million in both operating grants and capital grants from other governmental agencies. There were \$5 million in miscellaneous revenues and investment income.

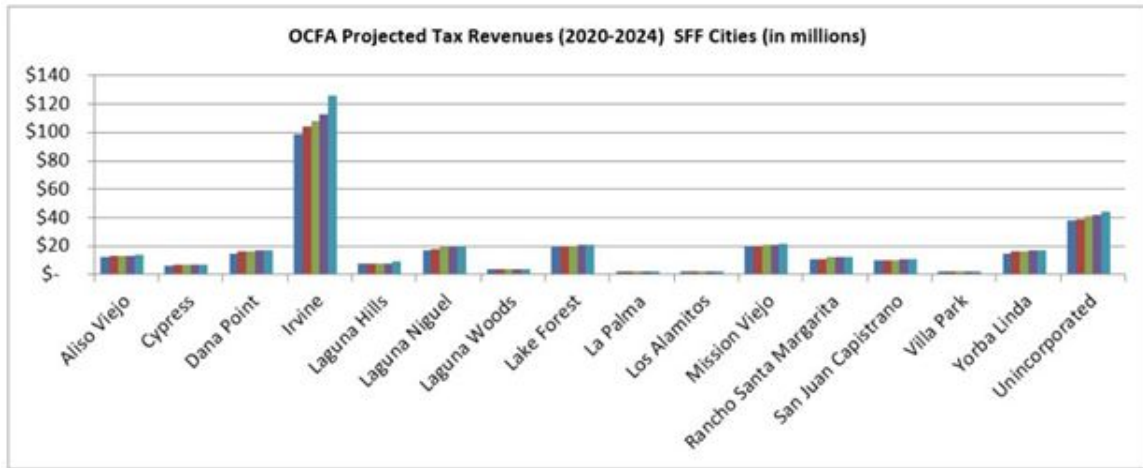


Structural Fire Fund (SFF)

The County of Orange remits a portion of property taxes collected from SFF cities to OCFA in accordance with the County’s tax apportionment procedures and schedules. In fiscal year ending June 30, 2020, the effective weighted rate of 11.52% of the county’s 1% general levy tax was remitted to OCFA from SFF cities. Rates by SFF city ranged from a low of 8.64% in the City of Cypress to 12.52% in the city of Irvine (Irvine alone provides 36% of total property tax revenue).

SFF members currently include Aliso Viejo, Cypress, Dana Point, Irvine, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, La Palma, Los Alamitos, Mission Viejo, Rancho Santa Margarita, San Juan Capistrano, Villa Park, Yorba Linda, and unincorporated areas of the County.

Below is OCFA’s multi-year projection of forecasted property tax revenues for each of the SFF cities, according to OCFA’s consultant for property tax forecasting, RSG Inc. RSG expects an average 4.3% annual increase in property tax revenues through 2024.

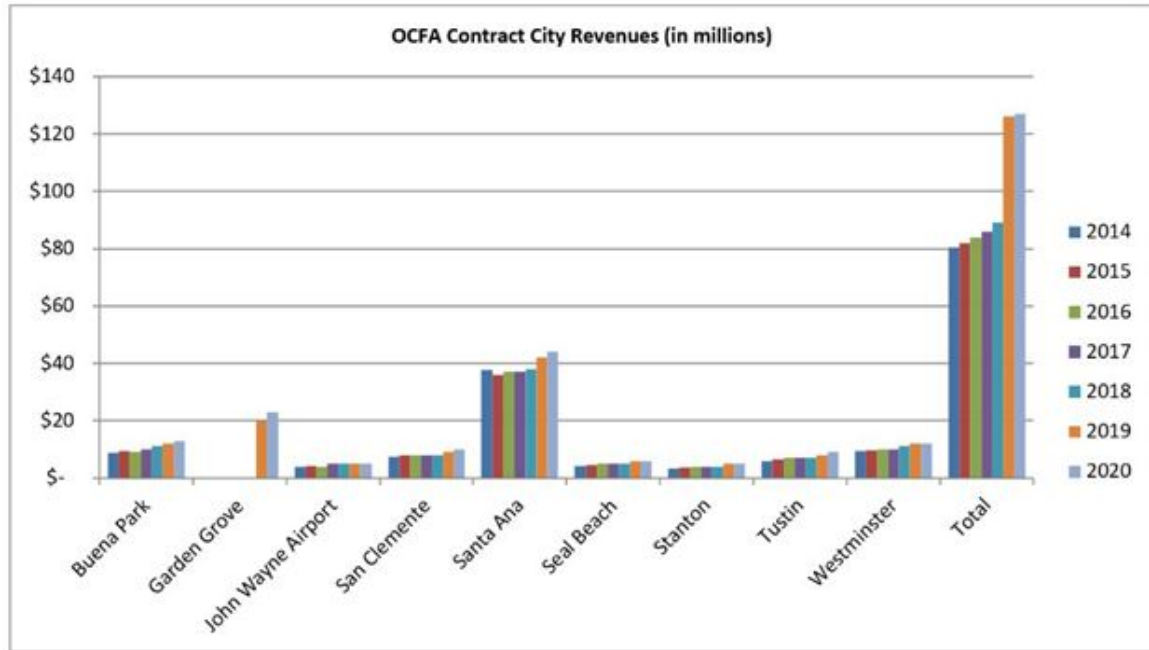


Contract Cities

Contract cities pay the OCFA for fire services out of their general funds. Contract cities currently include Buena Park, Garden Grove, San Clemente, Santa Ana, Seal Beach, Stanton, Tustin, and Westminster. There is also a contract with the State Department of Forestry (CAL FIRE) that renews every three years and a contract with John Wayne Airport that has renewed in varying intervals ranging from one-year intervals to five-year intervals.

Annually, OCFA calculates the total fire service charges for each contract city. The charge includes a base service charge, vehicle replacement costs, and station maintenance costs. The base service charge is the sum of the prior year total service charge plus cost increases capped at no more than 4.5%. Generally, salary and benefits historically account for more than 90% of the base service charge. Thus, increases in salary and benefits have been the general drivers of the annual increase in base service charges.

Periodically, OCFA compares actual operational costs for the fiscal year against the annual service charge of each contract city. Depending on the size of the variance, the contract city may potentially end up paying to OCFA the entire difference in the current year or amortizing payment over a specified length of time.



OCFA’s Long-Term Liabilities

OCFA’s long-term liabilities as of June 30, 2020 were \$723 million composed of the following: \$354 million in net pension liability, \$104 million in accrued workers’ compensation claims, \$245 million in other post-employment benefits (OPEB), and \$20 million in compensated balances for vacation and sick pay.

OCFA’s Fund Balances

At FYE June 30, 2020, OCFA’s governmental funds reported combined ending fund balances of \$233 million. Approximately \$34 million or 14.7% constitutes unassigned fund balance, which is available for spending for any purpose. The remaining \$199 million or 85.3% of fund balance has already been restricted, committed, or assigned for specific purposes, or it is in a non-spendable form.

OCFA’s “Expedited Pension UAAL Payment Plan”

In September 2013, the OCFA Board of Directors approved an “Expedited Pension UAAL Payment Plan” with an expected payment of the entire UAAL balance over 13 years by 2026-2027.

OCFA has made the following additional payments towards its UAAL:

- FY 13/14 \$5.2 million
- FY 14/15 \$21.3 million
- FY 15/16 \$15.4 million
- FY 16/17 \$13.5 million
- FY 17/18 \$19.9 million
- FY 18/19 \$19.2 million
- FY 19/20 \$13.7 million
- **Total of \$108.25 million in additional payments towards its UAAL.**

Segal Consulting reports that OCFA has saved \$34.4 million in interest by making the above additional payments towards its UAAL (as of December 2019) and has achieved 87.7% funding as of December 31, 2020. Segal is currently updating the analysis for OCFA to show when 100% funding is anticipated, taking into consideration the positive results of 2020.

Net Position as of June 30, 2020

The total liabilities of OCFA exceeded its total assets at June 30, 2020 by \$275 million. The negative net position is in part due to the GASB 68 requirement to include long-term unfunded pension liabilities in the Statement of Net Position, implemented in 2015; and the GASB 75 requirement to include the liability for other postemployment benefits (OPEB) in the Statement of Net Position, implemented in 2018.

The Unrestricted Fund portion of the Net Position has a deficit of \$499 million.

Contract Cities Agreements and UAAL

Neither the original March 1995 OCFA Joint Powers Authority Agreement, nor the March 2000 amendment, nor the July 2010 amendment renewing the OCFA membership of contract cities, structural fire fund cities (SFFs), and the County, explicitly mentions any requirement for a member city to pay a portion of OCFA's unfunded actuarial accrued liability to OCERS upon the member city's withdrawal from OCFA. However, the March 2012 "Fire Services and Medical Services Agreement" between the City of Santa Ana and OCFA (executed when the City of Santa Ana initially joined OCFA) states:

Upon termination or expiration of this Agreement or other cessation of city's membership in OCFA, city agrees to pay OCFA the amount of the unfunded pension liability that had accrued during the term of this Agreement for the number of OCFA employees serving the city. In the event of any dispute regarding the amount of the unfunded pension liability at that time, the parties agree that the amount shall be determined by an independent actuary selected either by mutual agreement of the

parties, or failing that, by the actuary used by the Orange County Employees Retirement System (OCERS).

This same language was included in the Fire and Emergency Medical Services Agreement between the City of Garden Grove and OCFA.

Withdrawing from the JPA

Under the OCFA joint powers agreement, both SFF and contract cities are members of OCFA for a twenty-year term commencing July 1, 2010. Twenty-year membership terms automatically renew in 2030. However, a city may give written notice of withdrawal prior to July 1 of the second to last year of every ten-year interval of a twenty-year term. So for the current ten-year interval, notice must be given by June 30, 2028 to withdraw by July 1, 2030.

Impact on OCERS from Withdrawal or Termination of Members from or Dissolution of the OCFA JPA

Under joint powers authority law, the “debts, liabilities, and obligations of the agency shall be debts, liabilities, and obligations of the parties to the agreement, unless the agreement specifies otherwise.” Govt. Code sec. 6508.1. Although the OCFA joint powers agreement expressly disclaims members’ liability for debts incurred by OCFA, Government Code section 6508.1 was amended effective January 1, 2019 to state that the JPA agreement cannot “specify otherwise” with respect to the retirement liabilities of the JPA. As a result of the amendment, JPA agreements can no longer relieve the members of the JPA entirely from the retirement liabilities of the JPA. The apportionment of the retirement liability of the JPA among the member agencies in the event of JPA termination is subject to the provisions set forth in Government Code section 6508.2 (described in detail below).

As stated above, SFF cities, contract cities and the County all have a contractual right to withdraw from OCFA at July 1, 2030. Additionally, each participating city may be terminated by OCFA for non-payment of its annual obligations to OCFA. In the event of a member withdrawal or termination, OCFA remains liable to OCERS for the full amount of OCFA’s UAAL. In the event of JPA termination, the then-current and former member agencies are subject to potential apportionment of the retirement liability of the JPA under provisions set forth in Government Code section 6508.2 (see below). Cities that joined the JPA within the last ten years (Santa Ana and Garden Grove) remain liable to OCFA for their share of those liabilities generated during the period of their membership in OCFA.

The withdrawal or termination by OCFA of a SFF city would not alter the County’s obligation to pay into OCFA that city’s share of annual property taxes collected by the County, subject to applicable law such as SB 302, which was passed in 2017. Senate Bill 302 (2017-2018) amended the California Revenue and Taxation Code to provide additional protections for SFF property tax

revenues by conditioning transfers of SFF property tax revenues on approval of the County Board of Supervisors, the city councils of a majority of member cities, and the agency currently receiving those funds for fire protection services (i.e., OCFA). In this manner, these approving parties could condition any approval of a transfer of SFF property tax revenues upon (at a minimum) retaining a continuous flow of ongoing property tax revenue with OCFA sufficient to meet OCFA's anticipated UAAL payments to OCERS into the future. Further, OCFA has the authority to impose new special taxes or assessments in order to make up any funding shortage. Finally, under the County Employees Retirement Law (CERL), the California Constitution and OCERS' policies, OCERS has the right to accelerate the amortization of OCFA's UAAL so that it could become immediately due and payable in the event of a threatened dissolution of OCFA.

Assembly Bill 1912 (2017-2018) amended the Joint Exercise of Powers Act to add a provision (Government Code section 6508.2) to require, prior to a decision by the governing body of a JPA to dissolve or to cease operations, the member agencies of the JPA to mutually agree to the apportionment of the JPA's retirement obligations, provided that the agreement equals 100 percent of retirement liability of the JPA. If the member agencies are unable to mutually agree, the board of the retirement system shall apportion the retirement liability of the JPA to each member agency based on the share of service received from the JPA or the population of each member agency, such that the apportionment equals 100 percent of the retirement liability of the JPA. Section 6508.2 (a)(2) sets forth a process by which member agencies may appeal the board's determination to apportion the retirement liability. Such an appeal would be referred to an arbitrator for apportionment at the arbitrator's discretion. The mutual agreement among the member agencies or the determination by the board of the retirement system as to the apportionment of the JPA's retirement liability may include apportionment of the liability to a former member of the JPA. The decision of the JPA to dissolve or cease to operate does not become effective until the determination as to apportionment of the retirement liability is final.

Accordingly, if OCFA were to cease operations, new section 6508.2 of the Government Code provides OCERS with the authority to force an apportionment of the UAAL (\$275.6 million as of December 31, 2020) among the current and former members of OCFA before OCFA could cease operations. OCERS would then be entitled to proceed directly against any SFF or contract city for its apportioned share of the pension obligations.

Orange County Superior Court

The State of California has 58 superior courts—one in each of the state’s 58 counties. Based on the number of authorized judicial officers, the Superior Court of Orange County is the third largest of the 58 courts (with 144 authorized judicial positions). The County of Orange mostly funded the Orange County Superior Court until January 1998 when it transitioned to being funded by the State of California. In 2004, the Court became an Employer in OCERS.

Orange County Superior Court is one of OCERS’ five largest Employers. Orange County Superior Court has 1,397 active employees, or 6% of OCERS’ active membership. The Court and its employees contributed \$51 million to OCERS for the year ended December 31, 2020 (representing 5% of total contributions received by OCERS in that period).

Orange County Superior Court does not issue stand-alone audited financial statements. Instead, Internal Audit used information provided by the Court’s adopted budget for FYE June 30, 2020.

As Noted for Superior Court Fiscal Year Ending:

	12/31/17	12/31/18	12/30/19	12/30/20
Net pension liability	\$333 million	\$393 million	337 million	300 million

Pension Contribution Rates, per Segal’s actuarial valuation dated:

	12/31/17	12/31/18	12/31/19	12/31/20
Employer Contribution Rate	35%	37%	39%	40%
Avg. Member Contribution Rate	11%	11%	12%	11%

Trial courts in California are predominantly state-funded entities, whose funding appropriations are included in the State of California Budget under the Judicial Branch State Trial Court Funding. Consequently, the trial courts are subject to the level of funding that is negotiated between the Governor and the state Legislature. Since the recession of 2008, funding for the entire state’s Judicial Branch has decreased by \$1 billion.

Revenue Allocation from the State

In 2012, the Governor and Legislature tasked the Judicial Branch with developing a new funding methodology to more equitably distribute funding to the 58 trial courts. In 2013, the new methodology named the Workload-Based Allocation and Funding Methodology (WAFM) established a baseline funding formula for each court using data such as total court filings, filing-driven costs, and U.S. Bureau of Labor Statistics labor cost data.

The funding need is updated annually and can change depending on actual filing trends, workload costs, and other various adjustments. WAFM also established a method for allocating

new funding and reallocating pre-WAFM historical funding from less underfunded courts like Orange County Superior Court to more severely underfunded courts.

During the five-year period when WAFM was in effect, Orange County Superior Court lost about \$13 million or 7% of its ongoing base funding. In FY 2018-19, WAFM ended and was replaced by the Workload Formula. While the Workload Formula keeps the funding need calculation established by WAFM, it eliminates the drastic reallocation of historical funding that affected the Court greatly. The Workload Formula will instead use the Court's funding level percentage relative to its funding need. This percentage will then be compared to the statewide average funding ratio to determine each court's funding share given various funding scenarios. For FYE June 30, 2020, the Orange County Superior Court received 82.5% of its calculated funding need. The statewide average funding ratio was 82.3%.

Due to these funding limitations and a 3% cap on unrestricted ending fund balance Orange County Superior Court does not participate in OCERS' prepayment plan for discounted employer contributions.

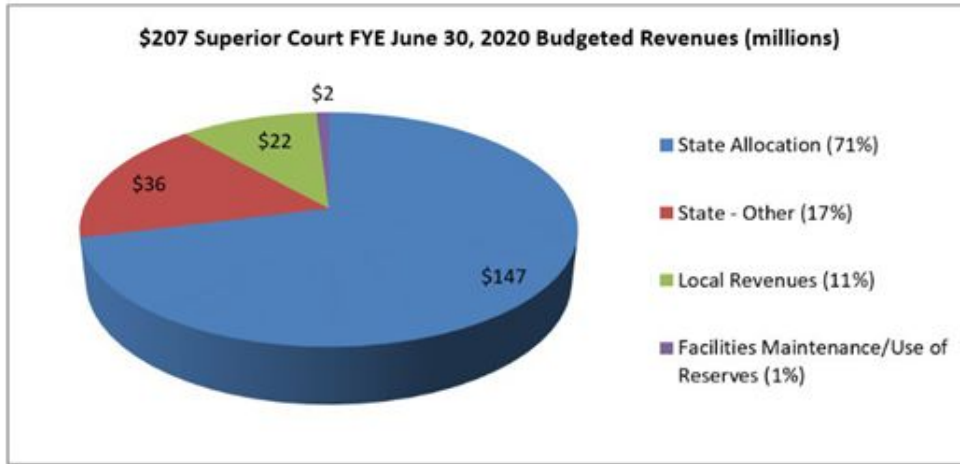
Revenues

Orange County Superior Court's total revenues were budgeted for \$207 million for the fiscal year ending June 30, 2020. \$147 million of the total budget (71%) was from California's state base allocation of revenues to the Court.

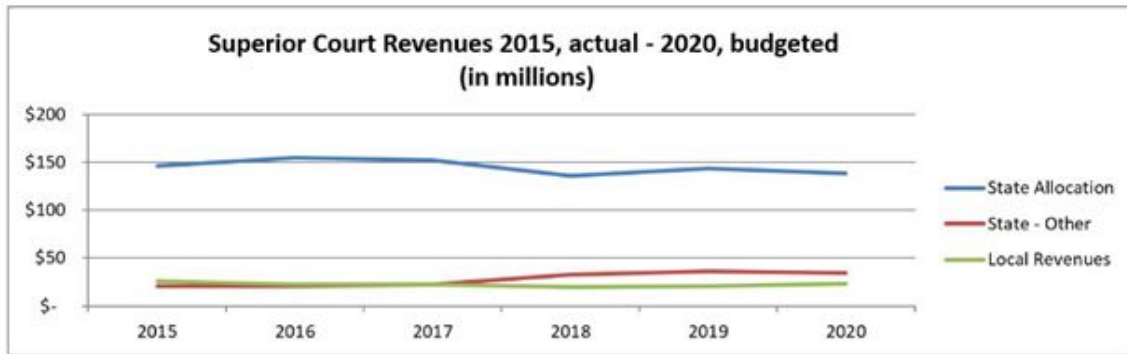
"Other State Revenue" was budgeted at \$36 million. This includes state grants and dollar for dollar reimbursements of expenditures for language interpreters, jury pay expenditures, and self-help programs.

Local Revenues were budgeted for \$22 million and includes donations, reimbursements for services provided to the County; cost recovery for the Enhanced Collections program, and local fees, such as for copies of documents. Typically, local revenues remain consistent and fluctuate little from year to year. These are dollar in – dollar out reimbursement of expenses.

Facilities Maintenance revenues were budgeted at \$2 million; this is a program in which the Court is reimbursed for facility maintenance and modifications, also a dollar in – dollar out reimbursement.



Superior Court’s Past Revenue Trend



Orange County Transportation Authority (OCTA)

State law established OCTA on June 20, 1991. OCTA is governed by an 18-member Board of Directors that includes of five members of the Orange County Board of Supervisors, ten city representatives, two public members selected by the OCTA Board, and a non-voting representative appointed by the Governor of California. A Chief Executive Officer manages OCTA and acts in accordance with the directions, goals, and policies approved by the OCTA Board of Directors. OCTA serves County residents and commuters by providing countywide bus and paratransit service, Metrolink commuter rail service, freeway improvements, street and road improvements, the 91 Express Lanes, motorist aid services, and taxi program regulation.

OCTA is one of OCERS' five largest Employers. OCTA has 1,322 active employees, or 6% of OCERS' active membership. OCTA and its employees contributed \$39 million to OCERS for the year ended December 31, 2020 (representing 4% of total contributions received by OCERS in that period).

As of OCTA's Fiscal Year Ending:

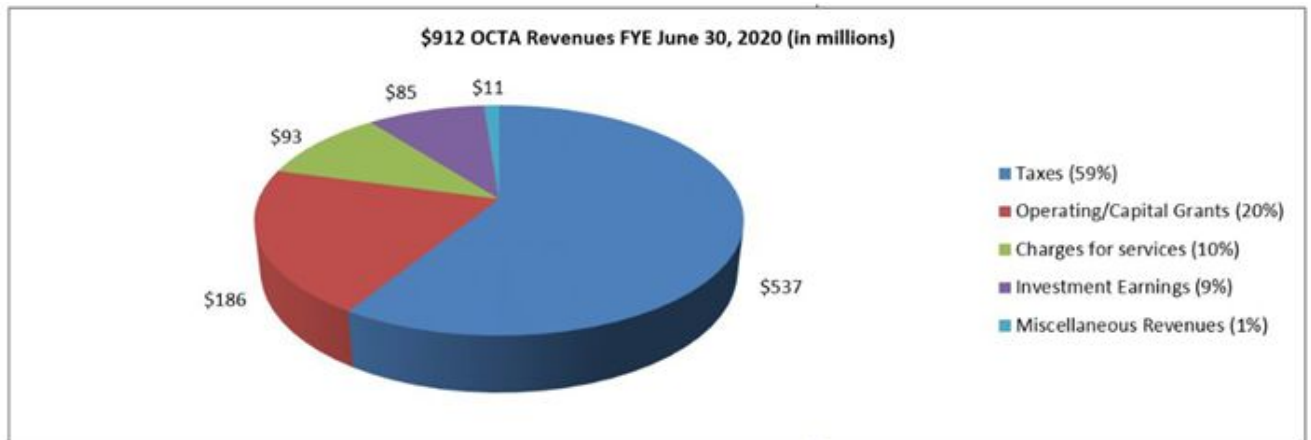
	6/30/17	6/30/18	6/30/19	6/30/20
Total Assets	\$2.5 billion	\$2.6billion	\$3.3 billion	\$3.3 billion
Total Liabilities	\$0.9 billion	\$1.0 billion	\$1.6 billion	\$1.5 billion
Net Position	\$1.6 billion	\$1.6 billion	\$1.87 billion	\$1.8 billion
Cash and Investments	\$1.4 billion	\$1.5 billion	\$2.1 billion	\$2 billion
Net Pension Liability	\$230 million	\$213 million	\$272 million	\$226 million

Pension Contribution Rates, per Segal's actuarial valuation dated:

	12/31/17	12/31/18	12/31/19	12/31/20
Employer Contribution Rate	28%	31%	31%	31%
Avg. Member Contribution Rate	10%	10%	10%	10%

2020 Revenues

OCTA's total revenues were \$913 million. Most revenues were tax revenues, totaling \$537 million for the year ended June 30, 2020. Other revenues included \$186 million in operating and capital grants from the State of California and the Federal Government and \$93 million in charges for services. Finally, OCTA earned \$85 million in investment earnings and received \$11 million in miscellaneous revenues.



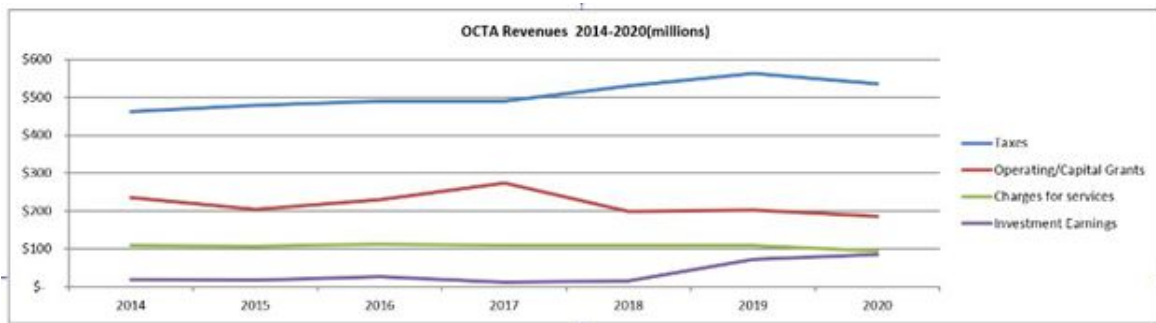
Tax revenues noted above were comprised of Orange County's Measure M2, California's Transportation Development Act, and State Transit Assistance programs:

- Measure M ½-cent local sales tax - In 2006, Orange County voters renewed the M2 ½-cent sales tax for an additional 30 years (2011-2041). Allocation of M2 funds remains the same as the original M1 program with 43% slated for freeway improvements, 32% for streets and roads, and 25% for transit projects and programs.
- California's Transportation Development Act (TDA) ¼-cent state sales tax - TDA provides funding for public transportation via the Local Transportation Fund (LTF). This fund exists for the development and support of public transportation needs that exist in California and are allocated to areas of each county based on population, taxable sales, and transit performance.
- State Transit Assistance (STA) revenue is generated by the state sales tax on diesel fuel as specified under the gas tax swap enacted in March 2010. STA revenues are then distributed based on several demographic factors.

Operating and capital grants noted above include Federal Operating Assistance Grants, Federal Capital Assistance Grants, and other federal or state grants. These funds are available for para-transit operating assistance, preventive maintenance, capital cost of contracting, demonstration projects, transportation planning, and acquisition and construction of facilities, transit vehicles and related support equipment. Federal grant funds are allocated on a formula and competitive basis for capital projects. The decrease in capital grants and contributions is due to federal capital assistance grants received in the prior year for the purchase of transit vehicles.

Charges for services noted above include toll revenues from the 91 Freeway Express Lanes and revenues from operating bus routes and Metrolink railway routes.

OCTA’S Past Revenue Trends

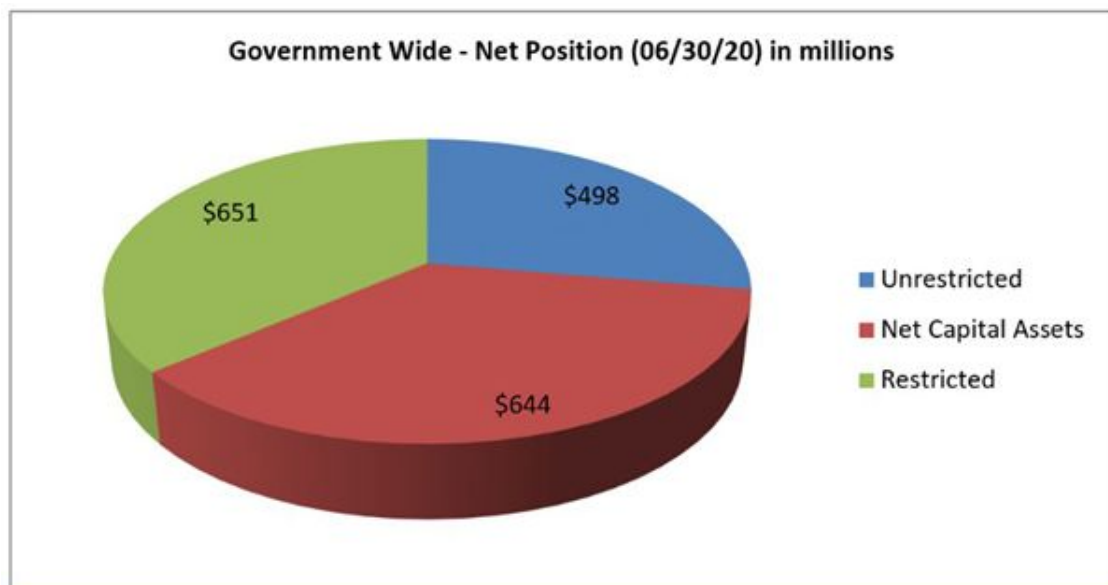


Net Position as of June 30, 2020

The total assets of OCTA exceeded its total liabilities at June 30, 2020 by \$1.8 billion. Of this amount, \$498 million is unrestricted and may be used to meet OCTA’s ongoing obligations to citizens and creditors.

The OCTA’s Net Position was assigned or restricted to the funds listed below:

- **Net Investments in capital assets** of \$644 million includes buildings and improvements, machinery, equipment, furniture, transit vehicles, and transponders.
- **Restricted** was \$651 million, represents net position that is not accessible for general use because their use is subject to restrictions enforceable by third parties. This is mostly comprised of \$535 million of net assets restricted by Measure M2 legislation.
- **Unrestricted** was \$498 million. These are available for any purpose approved by the Board of Directors.



Budgeting and Forecasting by OCTA

In 2011, when M2 was initiated, the revenue forecast at that time assumed M2 would generate \$24.3 billion during the 30-year program. However, OCTA's current economic assumptions and forecasting methodology anticipates that total taxable sales available for the M2 Program will be \$11.6 billion over the same 30-year period. In addition, according to OCTA's tax forecasting methodology, the forecasted average annual growth rate of taxable sales from 2021 through 2041 is estimated at 2.88%. This rate is a blended rate based on forecasts from Chapman University, California State University, Fullerton, and University of California, Los Angeles, plus an outside consultant (MuniServices).

Despite the forecasted decrease in M2 sales tax revenue, OCTA anticipates being able to deliver on all projects in the M2 Program. Currently construction is underway on the I-405 Freeway Improvement Project, which is a \$2.1 billion-dollar project to improve traffic on the nation's busiest freeway. In addition, construction is underway on OC Streetcar, which is being built in Santa Ana and Garden Grove and will be the first streetcar in Orange County.

Furthermore, the 91 Express Lanes grew and exceeded expectations with traffic volumes and toll revenue reaching all-time highs in fiscal year 2018-19. In fiscal year 2019-20, traffic volume decreased by 14.6%, from 17.5 million to 15 million, due to economic impacts associated with the coronavirus (COVID-19) pandemic. Fiscal year 2020-21 traffic volume is anticipated to reach 15.4 million.

The Orange County Transportation Authority has been awarded approximately \$357 million in grant funding from the Federal Transit Administration to help continue providing safe and reliable public transit services during the COVID-19 pandemic. OCTA receive funds from the U.S. Department of Transportation through three different legislations including the Coronavirus Aid, Relief, and Economic Security Act, CARES Act, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA), and the American Rescue Plan Act of 2021 (ARPA). OCTA will continue to utilize the funding to help sustain bus operations in Orange County and to comply with state and federal requirements for public health and safety. The funding will make up for a sharp decline in revenue that corresponded with plummeting bus ridership when OC Bus service was temporarily reduced beginning in March 2020 to protect the health and safety of the public and coach operators and to coincide with stay-at-home orders issued by the state.

OCTA responded quickly to the COVID-19 crisis and has continued to adapt operations, as necessary. On March 23, 2020, OCTA temporarily reduced OC Bus service to Sunday service levels – about 40 percent of regular service – on all days of the week. In June 2020, as Orange County started to gradually reopen under the state's guidance, ridership also showed corresponding increases, and OCTA added some service back, operating on a modified Saturday

schedule – or about 60 percent of regular service. As of June 2021, service levels have increased slightly, but remain 27 percent below pre-pandemic levels.

The OCTA board approved funding for the 2021-22 fiscal year, which began July 1, 2020, with pre-COVID-19 levels of bus service, made possible with federal grant funding. Service will be added back based on ridership demand and with public health and safety as the guiding principle. In addition, OCTA continues to maintain the capital replacement fund for the bus program, which funds all bus related capital expenditures without the use of debt financing. OCTA continues to maintain no use of debt for the bus program.

Long-Term Obligations and Bond Ratings (Non-Pension Related)

As of FYE June 30, 2020, OCTA has \$627 million in outstanding sales tax revenue bonds. M2 sales tax revenues is the revenue source assigned to pay down this debt. OCTA maintains an “AA+” rating from Standard & Poor’s, an “AA+” rating from Fitch and an “Aa2” rating from Moody’s for its sales tax revenue bonds.

As of FYE June 30, 2020, OCTA has \$92 million in outstanding revenue refunding bonds. The 91 Express Lane toll revenue is the revenue source assigned to pay down this debt. OCTA has ratings of “A1” by Moody’s, “A+” from Fitch, and “AA-” by Standard & Poor’s for its revenue refunding bonds.

As of FYE June 30, 2020, OCTA has drawn \$287 million on the TIFIA Loan (\$628.9 million). OCTA has ratings of Baa2 by Moody's.

Orange County Sanitation District

The Orange County Sanitation District (OC San) is a special district established by the California Legislature and governed by a 25-member board of directors. The directors are comprised of elected representatives for each of the sewer agencies or cities within OCSD's 479 square mile service area.

OCSD owns and operates certain wastewater facilities in order to provide regional wastewater collection, treatment, and disposal services to approximately 2.6 million people in the northern and central portion of the County – 188 million gallons of daily wastewater.

OCSD is one of OCERS' five largest Employers. OCSD has 618 active employees, or 3% of OCERS' active membership. OCSD and its employees contributed \$17 million to OCERS for the year ended December 31, 2020 (representing 2% of total contributions received by OCERS in that period).

As of OCSD Fiscal Year Ending:

	6/30/17	6/30/18	6/30/19	6/30/20
Total Assets	\$3.3 billion	\$3.5 billion	\$3 billion	\$3.6 billion
Total Liabilities	\$1.3 billion	\$1.3 billion	\$1.2 billion	\$1.1 billion
Net Position	\$2.0 billion	\$2.2 billion	\$2.4 billion	\$2.5 billion
Cash and Cash Equivalents	\$126 million	\$136 million	76 million	\$107 billion
Net Pension Liability	\$(10) million	\$(40) million	\$(49) million	\$(49) million

Pension Contribution Rates, per Segal's actuarial valuation dated:

	12/31/17	12/31/18	12/31/19	12/31/20
Employer Contribution Rate - General	12%	13%	12%	12%
Avg. Member Contribution Rate - General	12%	12%	12%	12%

Revenues

OCSD's revenues were \$492 million for the year ending June 30, 2020.

Service charges were \$340 million. Service charges are ongoing fees for service paid by customers connected to the sewer system. A property owner, or user, does not pay user fees until connected to the sewer system. Once connected, a user is responsible for his or her share of the system's costs in proportion to demand on the system. These fees are for both single-family residences and multiple family residences. The 2019-20 single-family residential rate, the

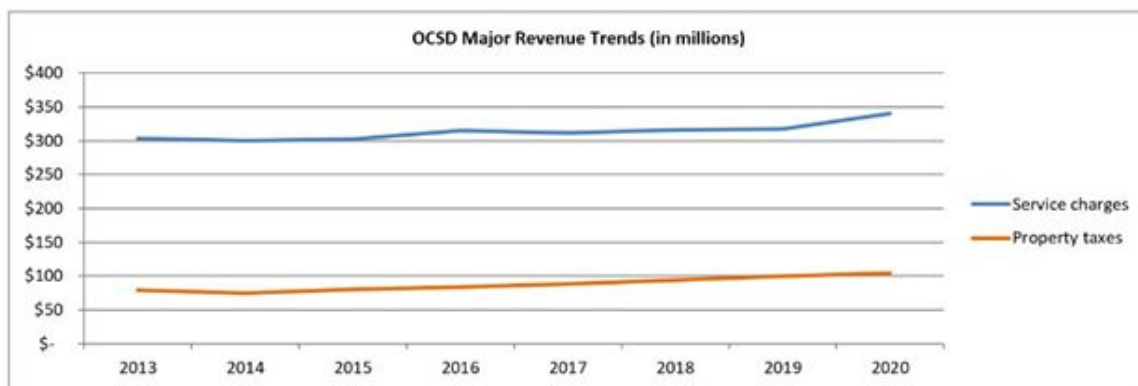
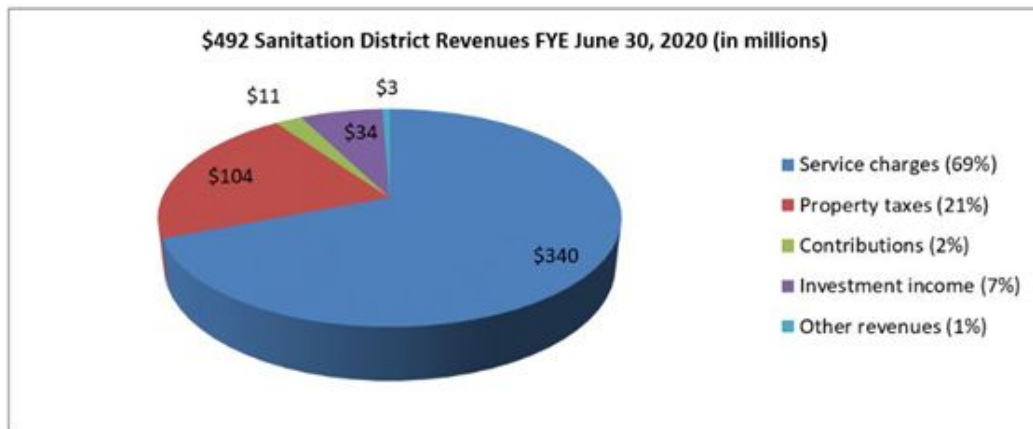
underlying basis for all sewer rates, is \$339. Rates for commercial and residential use are modified upward for the additional water flow that comes from these types of structures.

Property taxes were \$104 million. The County is permitted by State law (Proposition 13) to levy taxes at one percent of full market value and can increase the assessed value no more than two percent per year. OCSD receives a share of the basic levy proportionate to what was received from 1976 to 1978. OCSD’s share of this revenue is dedicated for the payment of debt service.

Contributions from other government were \$11 million. This represents service charges to the Irvine Ranch Water District for its use of OCSD’s collection, treatment, and disposal system.

Permit and inspection fees were \$1 million. Large industrial and commercial properties that discharge high volumes or high strength wastewater are required to obtain a discharge permit and pay extra fees. These fees are for the owner’s share of the system’s costs, both fixed and variable, in proportion to the demand placed on the system.

Investment interest was \$34 million in 2020, with other income of \$3 million.

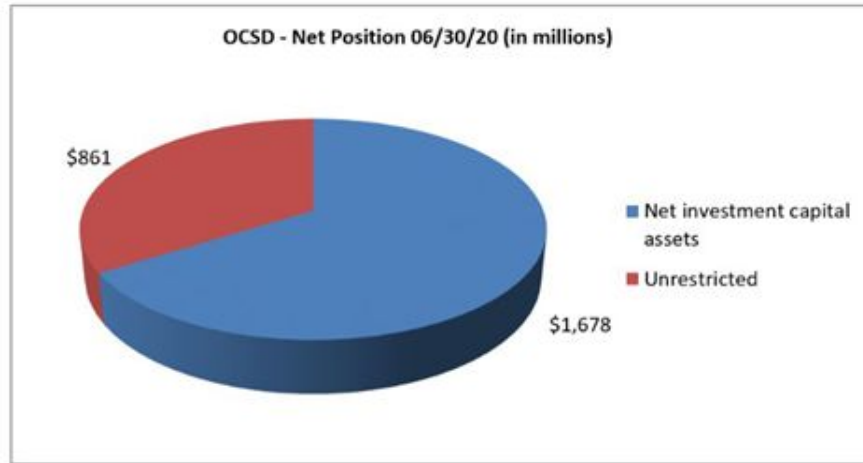


Net Position as of June 30, 2020

The total assets of OCSD exceeded its total liabilities at June 30, 2020 by \$2.5 billion. Of this amount, \$861 million is unrestricted and may be used to meet OCSD's ongoing obligations to citizens and creditors.

The County's Net Position was assigned or restricted to the funds listed below:

- Net investment in capital assets: \$1.7 billion:
 - Collection system/land: \$537 million
 - Treatment and disposal system/land: \$2.1 billion
 - (Less: debt of \$1 billion)
- Unrestricted: \$861 million: These are available for any purpose approved by the Board of Directors.



Long-Term Obligations and Bond Ratings (Excluding Net Pension Liability)

All of the outstanding debt of OCSD (\$1 billion as of June 30, 2020) has rate covenants that require a minimum coverage ratio of 1.25. The minimum coverage ratio is the ratio of net annual revenues available for debt service requirements to total annual debt service requirements. As of June 30, 2020, the coverage ratio for senior lien debt was 4.24.

Both Standard and Poor's Corporation and Fitch Ratings reaffirmed their AAA rating of the Orange County Sanitation District in the past fiscal year.

City of San Juan Capistrano

The City of San Juan Capistrano (City) and its employees contributed \$3.3 million to OCERS for the year ended December 31, 2020. The City has 67 active members. The City's net pension liability was \$26 million as of June 2020.

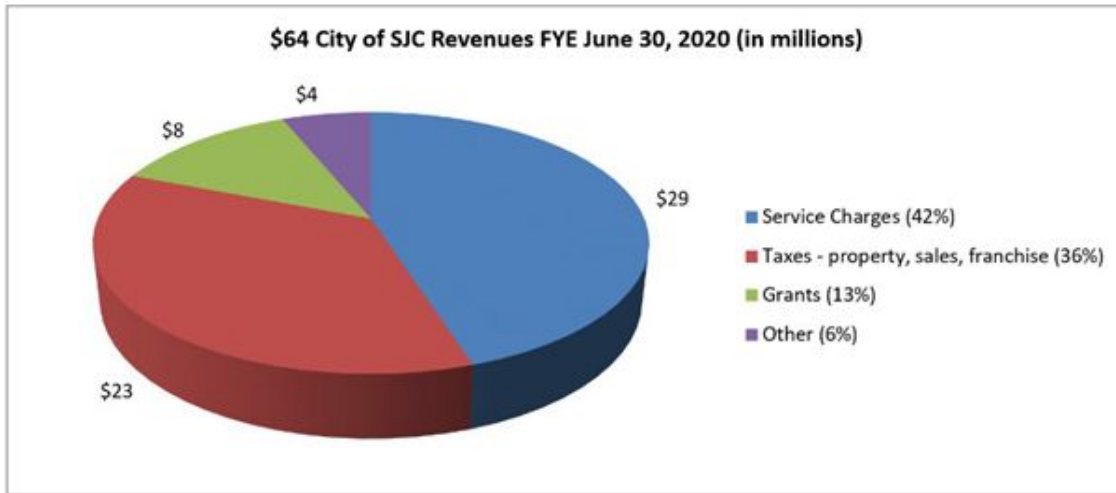
The City has grown from a community of 10,000 persons in 1974 to a developed city of 36,760 in 2019. The City is governed by a City Council of five members elected to four-year overlapping terms.

The City of San Juan Capistrano is in the process of transferring ownership and operation of the City's water and sewer utility system (including 16 employees who are active members of OCERS) to a water special district. OCERS' Board of Retirement discussed the implications of this scenario at their June 2019 Regular Board Meeting. If so executed, total City revenues will decline by \$27.5 million and total City expenditures (including capital expenditures) will decline by \$26.4 million. Any excess of utility revenues over utility expenditures is restricted by state law to be used solely for utility operating and capital expenditures. Accordingly, as per the City, separation of the water and sewer utility from the City will have no adverse financial impact on the general financial health of the City or that of the City's chief operating fund, the General Fund, which pays for 67% of the City's nonutility operating expenditures. Transfer of the utility system will strengthen the financial condition of the City by reducing operational and legal risks associated with ownership of the utility system, as per feedback from the City.

The transition is scheduled to be completed on November 15, 2021.

Revenues

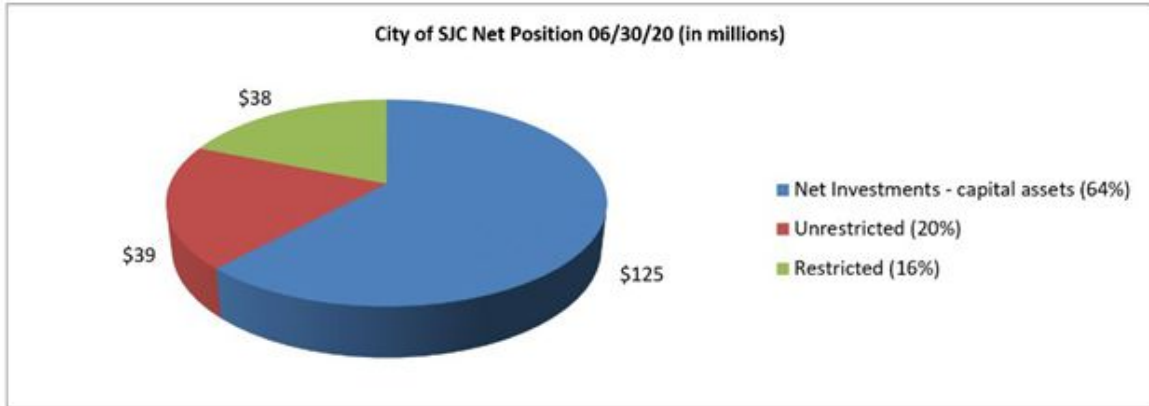
The City's total revenues were \$65 million for the year ending June 30, 2020 and are broken down as follows:



Net Position as of June 30, 2020

The total assets of the City exceeded its total liabilities at June 30, 2020 by \$202 million. Of this amount, \$39 million is unrestricted and may be used to meet the City’s ongoing obligations to citizens and creditors. The City’s Net Position was assigned or restricted to the funds listed below:

- **Net Investments in capital assets** of \$125 million includes buildings, equipment, and land and included construction-in-progress, structures, equipment, software, and infrastructure.
- **Restricted** was \$38 million, which combined amounts constrained to specific purposes by their providers (such as grantors, bondholders and higher levels of government) through constitutional provisions or by enabling legislation. These funds are restricted to various public and development works projects and for the water rate stabilization project.
- **Unrestricted** was \$39 million. These are available for any purpose approved by the City Council.



Orange County Employees Retirement System (OCERS)

OCERS is an Employer and its employees contributed \$4.1 million to the OCERS pension fund for the year ended December 31, 2020. OCERS has 87 active members. Its net pension liability as an Employer was \$26 million as of December 2020.

As permitted by Government Code section 31580.2, administrative expenses, which include contributions to the OCERS retirement plan, are charged directly against the earnings of the OCERS pension trust fund.

According to OCERS' 2020 Comprehensive Annual Financial Report, administrative expenses of \$18.6 million were approximately \$28 million less than the allowable limit under the CERL (Gov. Code §31580.2.).

Transportation Corridor Agencies

The Transportation Corridor Agencies (TCA), or the Toll Roads, and its employees contributed approximately \$2 million to OCERS for the year ended December 31, 2020. It has 54 active members. TCA's net pension liability was (\$3.9) million as of June 30, 2020.

In July 2019, TCA paid off their unfunded pension liability (\$12.8M) with OCERS.

TCA is comprised of the two joint powers agencies - the San Joaquin Hills Transportation Corridor Agency (SJHTCA) and the Foothill/Eastern Transportation Corridor Agency (FETCA) - formed in 1986 to manage the planning, financing, construction, and operation of State Routes 73, 133, 241 and 261. TCA's Board of Directors is composed of elected officials from 18 cities and 3 members of the County Board of Supervisors.

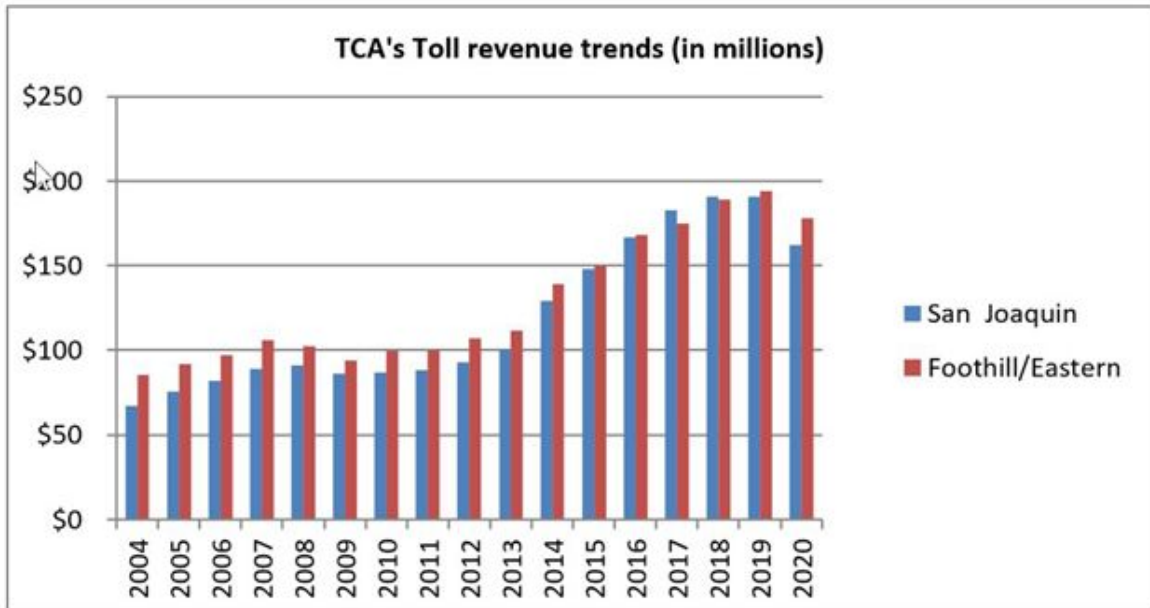
The San Joaquin Hills Transportation Corridor, commonly known as the 73 Toll Road, opened to traffic in 1996. For the year ending June 30, 2020, approximately 25 million transactions were recorded on the 73 Toll Road.

The Foothill/Eastern Transportation Corridor consists of the 241, 261, and 133 Toll Roads and first opened to traffic in 1993. For the year ending June 30, 2020, approximately 59 million transactions were recorded.

Revenues

TCA's total operating revenues (SJHTCA and FETCA combined) were \$352 million for the year ending June 30, 2020.

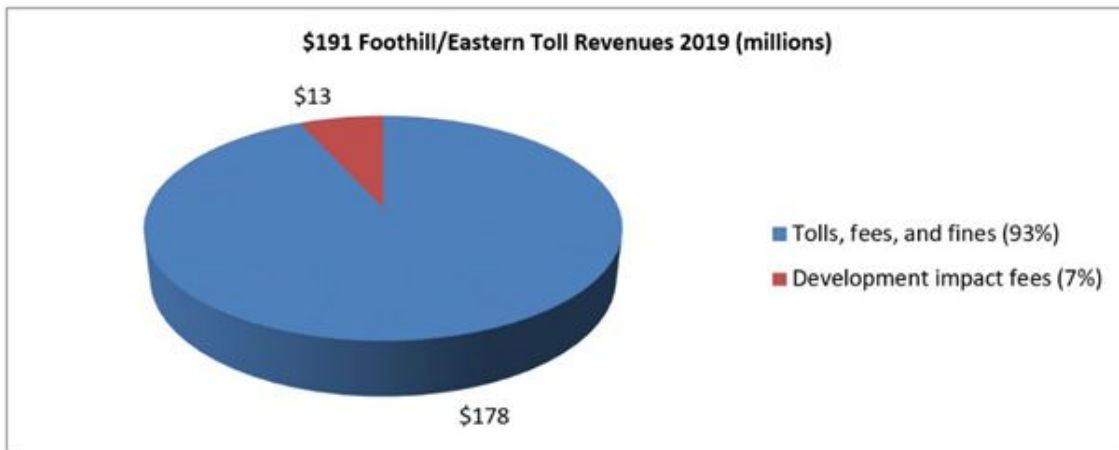
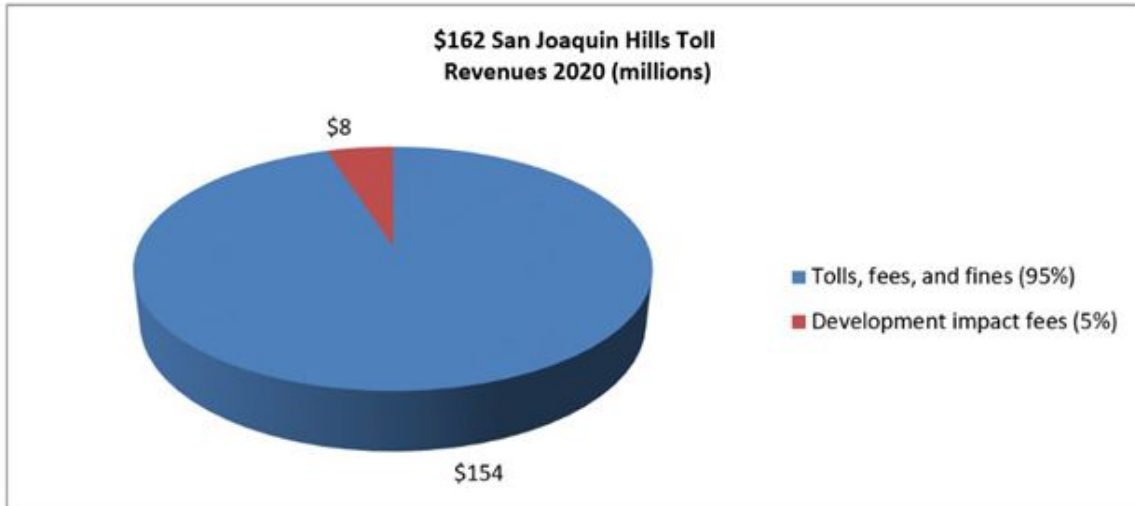
SJHTCA earned \$154 million in tolls, fees, and fines during the year ended June 30, 2020. FETCA earned \$178 million in tolls, fees, and fines during the year ended June 30, 2020.



Development impact fees during the year ended June 30, 2020:

- SJHTCA earned \$8 million in development impact fees during the year ended June 30, 2020.
- FETCA earned \$13 million in development impact fees during the year ended June 30, 2020.

Development impact fees are fees charged for new residential units and new commercial square footage developed in certain cities that surround and benefit from the Toll Roads. The cities collect these fees from property developers and remit them directly to the Toll Roads. Of the \$33 million development impact fees noted above, the City of Irvine was the city with the largest amount of fees remitted, or \$54 million during the year ending June 30, 2020.



Long-Term Debt

SJHTCA’s long-term debt of \$2.3 billion as of June 30, 2020 has maturities extending up to 2050. FETCA’s \$2.5 billion in long-term debt as of June 30, 2020 has maturities extending up to 2053. According to the TCA joint powers agreement, SJHTCA’s and FETCA’s existence as independent agencies collecting tolls will “sunset,” or cease, upon the payment in full of their respective debts. However, as has been done in the past, refinancing of debt can potentially push back the “sunset” provision beyond current maturity dates respectively.

In 2018, S&P Global upgraded the SJHTCA’s senior-lien toll road refunding revenue bonds and junior-lien toll refunding revenue bonds to A- and BBB+. In 2018, S&P Global Ratings upgraded the FETCA’s senior-lien and junior-lien bonds to A- and BBB+ respectively, with outlook stable.

Net Position as of June 30, 2020

- **Restricted** – \$450 million and \$258 million, respectively, for SJHTCA and FETCA. This portion of Net Position is subject to externally imposed conditions that can be fulfilled by the actions of the agency or by the passage of time, and is related primarily to restricted bond proceeds and certain revenues collected.
- **Unrestricted** – \$156 million and \$549 million, respectively, for SJHTCA and FETCA. These amounts are available for any purpose approved by the Board of Directors.
- **Net Investment in Capital Assets** – Negative \$2.3 billion and negative \$2.3 billion, respectively, for SJHTCA and FETCA. The portion of Net Position related to investment in capital assets is a negative balance because ownership of the toll roads and related rights-of-way had been transferred to the State of California’s Department of Transportation, and these assets are not presented within each agency’s financial statements. Thus, the balances presented include only certain other capital assets, offset by the debt that financed construction of the toll roads.

Orange County Public Law Library

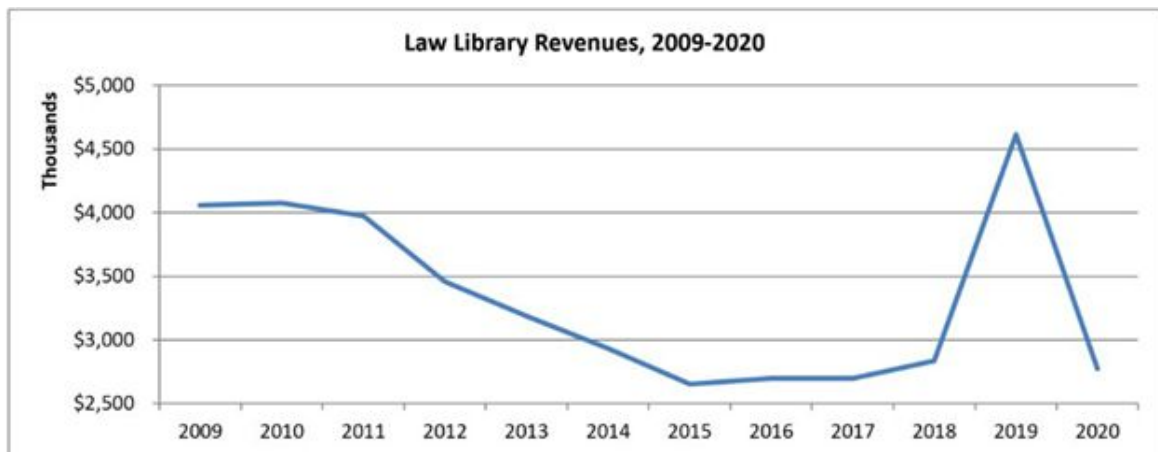
The Orange County Public Law Library (Law Library) and its employees contributed approximately \$0.2 million to OCERS for the year ended December 31, 2020. It has 14 active members. The Law Library's net pension liability was (949) as of June 30, 2020.

The Law Library's Board of Trustees is composed of five judges chosen by the Orange County Superior Court and two attorneys chosen by the County Board of Supervisors.

Revenues

The Law Library's total revenues were \$2.9 million for the year ending June 30, 2020.

Filing Fees received by the Law Library accounted for 99% of total revenues for the FY 2019-2020. The Law Library's court filing fees are derived from a filing fee paid for every civil action filed in Orange County Superior Court. The filing fee is set statutorily by the State of California and this rate has been stable for several years. The number of civil cases filed in court had declined 31% since FY 2009-2010, but revenues have leveled off since then through the current year (see chart below). Fee waivers granted by the Court for civil cases also have a negative impact on revenues. Accordingly, the Law Library has no control over the number of civil filings nor the filing fee rate set by the State of California.



The Law Library's financial statements are audited every two years. The audit was completed for the financial statements ending FYE 2017-2018 and FYE 2018-2019 last August. As per the FYE June 30, 2020 financial statement, the Law Library's assets exceed its liabilities by \$17.8 million.

Children and Families Commission of Orange County

The Children and Families Commission of Orange County (CFCOC) and its employees contributed approximately \$0.3 million to OCERS for the year ended December 31, 2020. The CFCOC has 14 active members. Its net pension liability was \$0.6 million as of June 30, 2020.

CFCOC was created as a result of Proposition 10, the California Children and Families Act of 1998. The proposition added a 50-cent sales tax on tobacco products sold in California and requires that funds raised be used to support education, health and child development programs for children from the prenatal stage through age five. The State Commission, or First 5 California, receives 20 percent of Proposition 10 funds for statewide programs and public outreach. The remaining 80 percent of funds are allocated to commissions in each of California's 58 counties by birth rate. Only Los Angeles and San Diego counties surpass Orange County in terms of birth rate totals within the state of California.

CFCOC is governed by a nine-member board consisting of the County's Health Care Agency director, the County's Social Services Agency Director, one member of the County's Board of Supervisors, and six members from the public appointed by the Board of Supervisors.

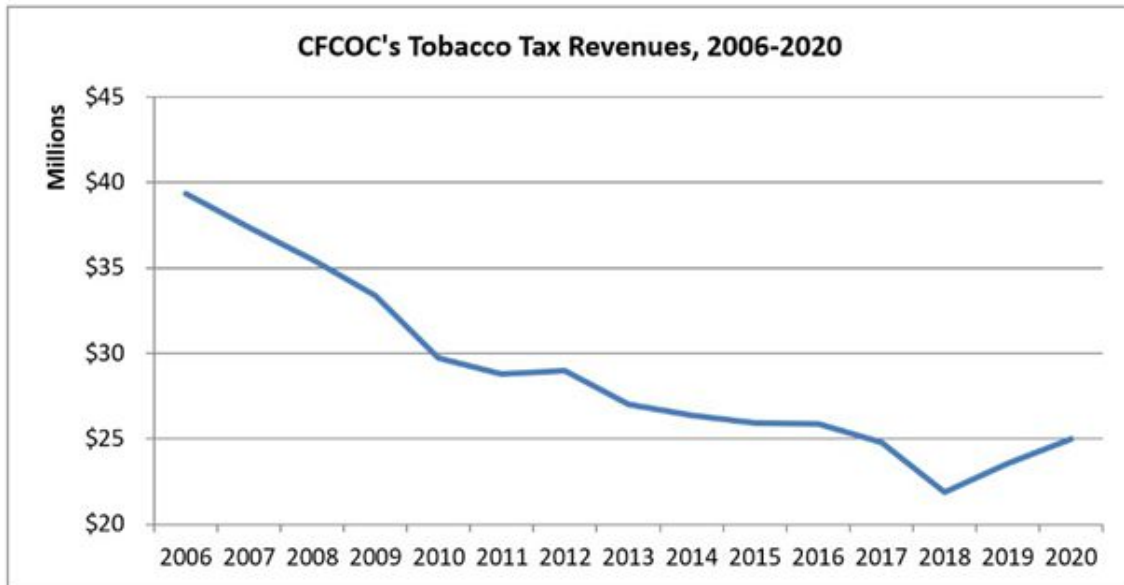
Revenues

The CFCOC's total revenues were \$37.1 million for the year ending June 30, 2020.

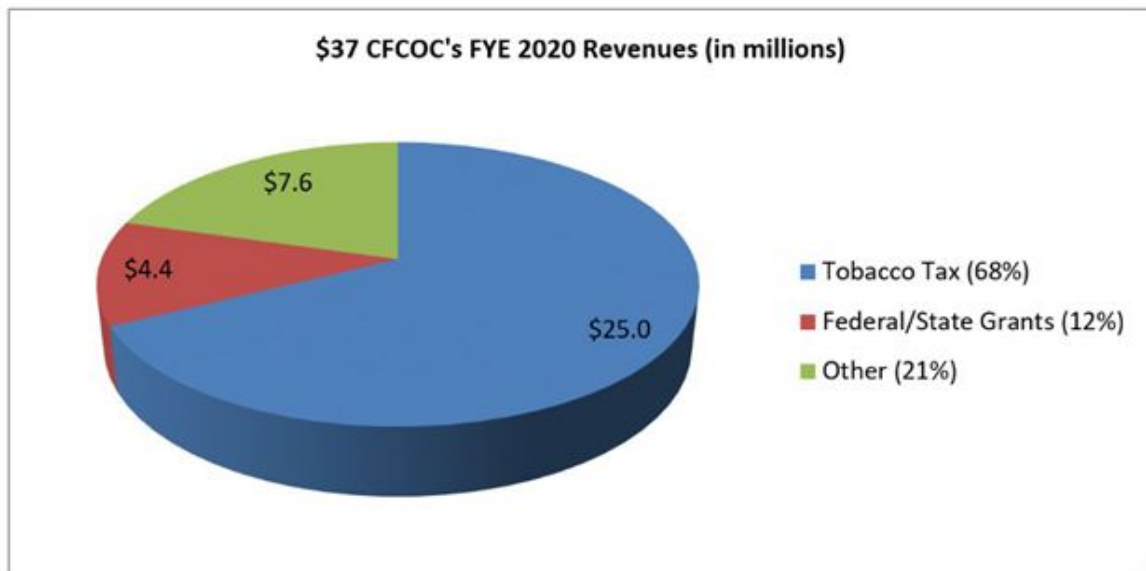
Tobacco Tax revenues received by the commission in 2020 amounted to \$25 million (68% of total revenues). The CFCOC continues to anticipate annual decreases in tobacco tax revenues (i.e. Proposition 10). Since its peak in 2000 (with \$50 million in tobacco tax revenues), the CFCOC has had an overall reduction of over 45% in tobacco tax revenue, and projects that tobacco tax revenue will continue declining at an annual rate of 3.5% going forward.

To address the above inherent decrease in revenues, the CFCOC's long-term financial plan includes planned reductions in annual program funding to account for declining revenues. The plan also assumes the usage of fund balance in future years to account for the difference between needed services and projected revenue.

Revenues of \$2.8 million were from various state and federal grants for children programs such as the statewide IMPACT and Hubs program and the federal AmeriCorps VISTA and Medical Administrative Activities (MAA). The remaining revenues of \$3.9 million included investment income and other revenues.



CFCOC forecasts that Tobacco Tax revenues will have dropped to less than \$20 million by the 2023/2024 fiscal year.



Net Position as of June 30, 2020

The total assets of the CFCOC exceeded its total liabilities at June 30, 2020 by \$47 million. The entire amount is unrestricted and may be used to meet the CFCOC's ongoing obligations to citizens and creditors as directed by its Board of Commissioners.

Orange County Cemetery District

The Orange County Cemetery District (OCCD) and its employees contributed approximately \$0.4 million to OCERS for the year ended December 31, 2019. OCCD has 25 active members. OCCD's net pension liability was \$1 million as of June 2020.

The OCCD is an independent special district governed by an appointed five-member Board of Trustees who serve staggered four-year terms. Although privately owned in the beginning, the cemeteries were formed into separate independent districts in 1926. In 1985, the districts were consolidated under one governing board to create the OCCD. OCCD has three active cemeteries located in Anaheim, Lake Forest and Santa Ana. OCCD was recently given 283.3 acres of land by the County of Orange for the purposes of developing a fourth public cemetery and to set aside land for a State Veterans Cemetery. The additional land will help address inventory shortages experienced at all three of the District cemeteries. OCCD typically averages between 950 to 1,050 interment space sales per year, however this past year, the District will set a District high of over 1,450 total spaces sold.

Restricted funds have been set aside to fund the perpetual maintenance and care of cemeteries in accordance with the provisions of the Health and Safety Code, which will require continued staffing. The OCCD has also committed funds of \$11.4 million for future land development.

Revenues

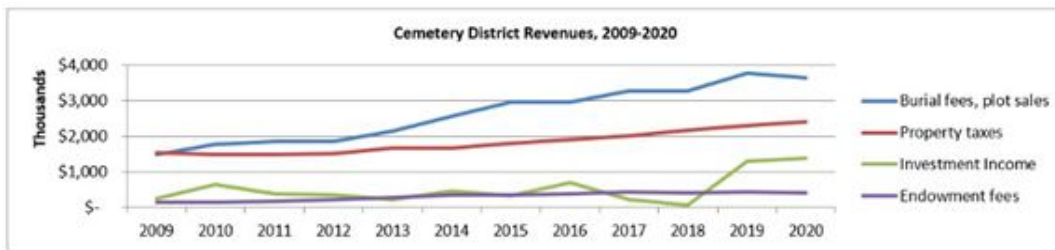
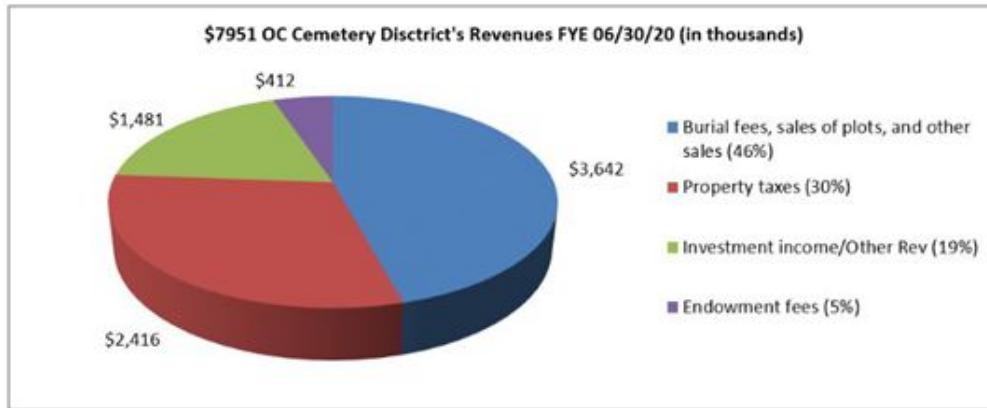
OCCD's total revenues were \$8 million for the year ending June 30, 2020.

Interment fees, interment space sales, and other sales were \$3.6 million, which represents 46% of revenues received by OCCD in 2020. Since OCCD is a government agency, general interment fees are meant to help recover costs, keeping in line with inflation and OCCD's expected share of property tax revenues.

Property taxes were \$2.4 million, or 30% of revenues, and were allocated to OCCD in 2020 from their share of County property tax revenues.

Investment Income and Other Revenues were \$1.5 million.

Endowment fees were \$0.4 million. Endowment fees of \$425-\$525 per regular burial/cremation are collected and placed into an endowment principal fund established to provide for the maintenance and care of all three cemeteries in accordance with the provisions of the County's Health and Safety Code.

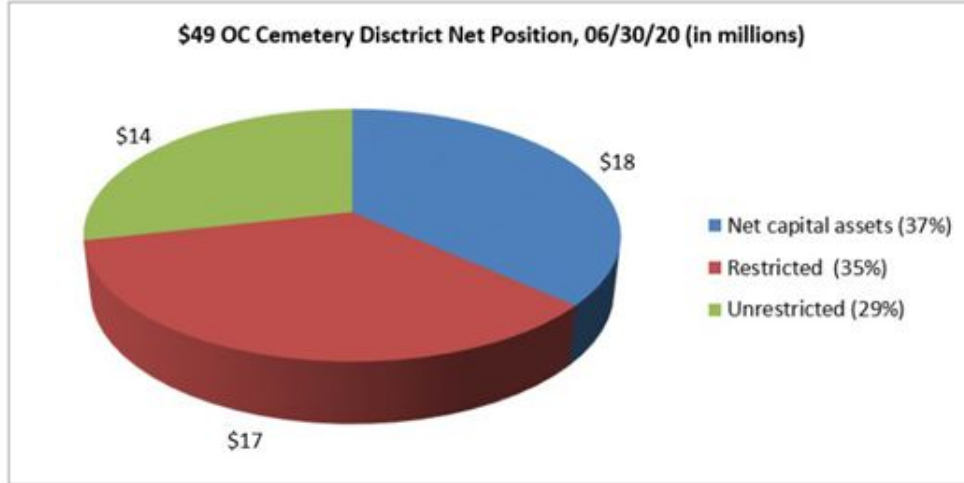


Net Position as of June 30, 2020

The total assets of OCCD exceeded its total liabilities at June 30, 2020 by \$49 million. Of this amount, \$14 million is unrestricted and may be used to meet the OCCD’s ongoing obligations to citizens and creditors.

OCCD’s Net Position was assigned or restricted to the funds listed below:

- **Net Investments in capital assets** was \$18 million, invested in capital assets (e.g., land, structures and improvements, and furniture and equipment) that are used to provide services to citizens.
- **Restricted** was \$17 million, restricted for the perpetual care of the cemetery grounds. These funds are invested and will continue to earn interest income that will eventually be used for the maintenance and operation of OCCD’s cemeteries.
- **Unrestricted** was \$14 million. These are available for any purpose approved by the Board of Trustees.



OC In-Home Supportive Services Public Authority

As of the date of this report OC In-Home Supportive Services Public Authority has not responded to repeated requests for review. As a result the information contained in this report has not been verified by OC In-Home Supportive Services Public Authority.

The Orange County (IHSS) Public Authority and its employees contributed approximately \$0.3 million to OCERS for the year ended December 31, 2020. There are 24 active members. The Public Authority net pension liability was \$305 thousand as of June 2020.

The financial statements of the Public Authority are blended with other government fund units in the County of Orange's 2020 Comprehensive Annual Financial Report.

Orange County Local Agency Formation Commission (LAFCO)

The Orange County Local Agency Formation Commission (LAFCO) and its employees contributed approximately \$0.2 million to OCERS for the year ended December 31, 2020. LAFCO has 5 active members. LAFCO’s net pension liability was \$1.5 million as of June 2020.

In 1963, the California state legislature formed a Local Agency Formation Commission for each of the 58 counties in the state. These commissions are primary responsible for monitoring the boundaries of cities and special districts with the goal of ensuring municipal services are allocated efficiently and cost-effectively. This process includes the review and approval of incorporating cities within the county, annexing unincorporated areas to cities and special districts, and forming special districts among other actions.

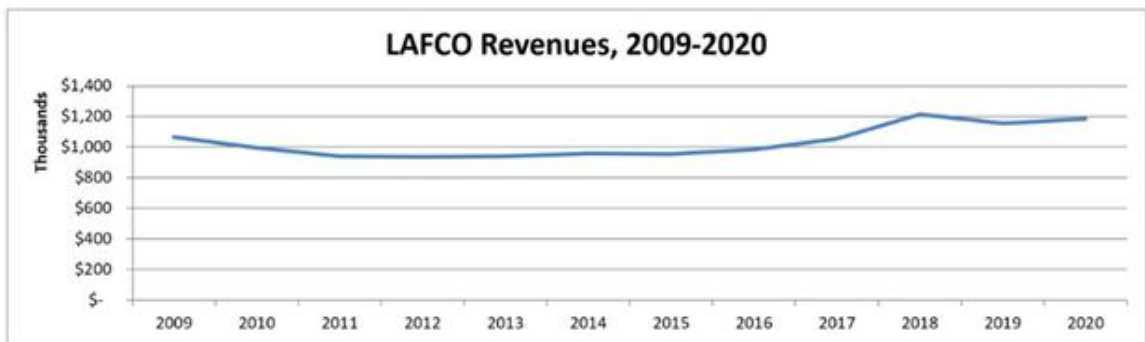
The appointed Board of Commissioners of LAFCO consists of two commissioners representing the County, two commissioners representing cities; two represent special districts, and one commissioner representing the public. An alternate also exists for each of these positions.

2020 Revenues

LAFCO’s total revenues were \$1.2 million for the year ending June 30, 2020.

Total assessments and service charges received by LAFCO in 2020 amounted to 97% of total revenues for the year.

LAFCO’s revenue is comprised of apportionments allocated among the commission’s funding agencies. The County pays One-third. One-third is paid collectively by the 34 cities within the County. The final one-third is paid by special districts, such as the Orange County Water District, that operate in the County. Revenues are set annually by the commissioners to fully recover the costs of operating LAFCO.



Net Position as of June 30, 2020

The total liabilities of LAFCO exceeded its total assets at June 30, 2020 by \$0.11 million, primarily due to the GASB 75 recognition of an OPEB (other postemployment benefits) liability on its financial statements.

UC Irvine – Medical Center & Campus (Inactive Employer)

As of the date of this report UC Irvine – Medical Center & Campus has not responded to repeated requests for review. As a result the information contained in this report has not been verified by UC Irvine – Medical Center & Campus.

The UC Irvine Medical Center & Campus (UCI) has no active participants. UCI's net pension liability was \$25.3 million as of June 2020 for its remaining retirees. UCI contributed \$3 million to OCERS for the year ended December 31, 2020.

UCI Irvine – Medical Center & Campus is reported within the University of California's audited 2020 financial statements:

- \$40.2 billion in total 2020 revenues (variety of revenue sources, mainly tuition, state support, and medical center revenues).
- \$(0.1) billion Net Position (\$24.6 billion is unrestricted and \$24.5 billion is restricted).

Orange County Department of Education (Inactive Employer)

As of the date of this report Orange County Department of Education has not responded to repeated requests for review. As a result the information contained in this report has not been verified by Orange County Department of Education.

The Orange County Department of Education has no active participants. The Department of Education contributed \$0.3 million to OCERS for the year ended December 31, 2020. The Department of Education's net pension liability was \$266 million as of June 2020 for its remaining retirees. From its 2020 Comprehensive Annual Financial Report

- \$360 million in total 2020 revenues (33% - revenues from property taxes, 22% - operating/capital grants, 15% - Federal/State aid, 17% - other revenues, 14% - service charges).
- \$206 million Net Position (\$57 million is Unrestricted).

The Orange County Vector Control District (Inactive Employer)

Vector Control has no active participants. Vector Control's net pension liability was \$(1,682) million as of June 2020 for its remaining retirees. From its 2020 Comprehensive Annual Financial Report:

- \$16 million in total 2020 revenues (94% - property taxes and assessments, 6% - other revenues).
- \$26 million Net Position (\$21 million is Unrestricted).

The City of Rancho Santa Margarita (Inactive Employer)

The City of Rancho Santa Margarita has no active participants. Rancho Santa Margarita did not have a net pension liability as of June 2020 for its remaining retirees. From its 2020 Comprehensive Annual Financial Report:

- \$22 million in total 2020 revenues (67% - property/sales tax, 18% - grants, 5% - service charges, 6% - other).
- \$128 million Net Position (\$19 million is Unrestricted).

Cypress Recreation and Parks District (Inactive Employer)

Cypress Recreation and Parks District (District) has no active participants and its net pension liability will be paid by the City of Cypress. The District's net pension liability was \$0.7 million as of June 2020 for its remaining retirees. The City of Cypress contributed \$0.7 million to OCERS for the year ended December 31, 2020.

From the Cypress Recreation and Park District Basic Financial Statements:

- \$7 million in total 2020 revenues (86% - property/sales tax, 6% - service charges, 8% - other revenues).
- \$35 million Net Position (\$10 million is Unrestricted).



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **COVID-19 UPDATE**

Presentation

The OCERS staff continues to do a great job meeting the COVID-19 challenge and ensuring that our members receive the services they expect as we fulfil this agency's mission. Rather than provide you with a written report of the agency status prior to the Monday, November 15th meeting of the OCERS Board of Retirement, I will instead provide a verbal update of plan status and challenges at that time. This recognizes the fact that issues impacted by COVID-19 seem to change daily.

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

*Orange County Employees Retirement System
Retirement Board Meeting
November 15, 2021
Application Notices*

Member Name	Agency/Employer	Retirement Date
Aquilera, Ray	Auditor Controller	8/27/2021
Alinaya, Abelardo	Sheriff's Dept	9/10/2021
Amparan, Frank	OCTA	8/29/2021
Armstrong, Jeffrey	Sanitation District	9/10/2021
Bailly, Juan	OCTA	9/19/2021
Baldaray, Alex	Health Care Agency	9/10/2021
Banuelos, Rudolph	Social Services Agency	9/10/2021
Bird, Tori	District Attorney	9/10/2021
Bossenmeyer, Barbara	John Wayne Airport	9/2/2021
Browning, Deborah	Health Care Agency	9/17/2021
Cisneros, Sergio	OCTA	9/10/2021
Consunji, Teri	Health Care Agency	9/10/2021
Crowley, Dawn	Assessor	9/8/2021
Del Toro, Patricia	District Attorney	8/27/2021
Delafosse, Bryant	Social Services Agency	9/10/2021
Dixon, Wayne	Sheriff's Dept	9/10/2021
Donovan, Brian	Assessor	9/10/2021
Duke, Melvin	OCTA	9/12/2021
Duran, Elvia	Health Care Agency	9/10/2021
Ellis, Rachelle	Sheriff's Dept	9/16/2021
Ferraiz, Ana	Probation	9/10/2021
Fulton, Lisa	Health Care Agency	9/10/2021
Gadbois, Roy	Child Support Services	9/7/2021
Galvez, Elaine	Sanitation District	8/27/2021
Grant, Thomas	Sanitation District	9/10/2021
Hale, Marc	Sheriff's Dept	8/23/2021
Hassanpour, Fedra	Health Care Agency	9/2/2021
Herrera, Cynthia	District Attorney	9/18/2021
Herrera, Fernando	Sanitation District	9/1/2021
Inigo, Vianka	Health Care Agency	9/10/2021
Jones, Donell	OCTA	8/11/2021
Junio, Rosa	Child Support Services	8/27/2021
Kleinbergs, Milagros	Sanitation District	8/13/2021
Lazenby, Eileen	Social Services Agency	9/10/2021
Leal, Madeline	Probation	9/10/2021
Lillja, Christopher	Probation	9/11/2021
Mahar, James	Superior Court	10/1/2021
Maxwell, Stacey	Assessor	9/10/2021
Mittermeier, Keith	Sheriff's Dept	8/27/2021
Mulligan, Michael	Probation	9/10/2021
Newcomb, Francis	OCTA	6/21/2021
Parinayakosol, Athicom	Auditor Controller	9/10/2021
Perez, June	Superior Court	9/10/2021
Pickering, Blake	Health Care Agency	8/27/2021
Robles, Cynthia	OCTA	9/19/2021
Ruiz, Jose	OCTA	9/2/2021
Saenz, Enrique	Sheriff's Dept	9/10/2021
Sandoval, Mark	OCTA	9/3/2021
Santos, Jose	Health Care Agency	8/27/2021

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
Simpson, David	Transportation Corridor Agency (TCA)	8/1/2021
Skaff, Richard	Health Care Agency	9/10/2021
Truong, Vincent	Sheriff's Dept	9/10/2021
Tsou, Huei Na	Health Care Agency	9/10/2021
Valdez, Luis	Probation	9/10/2021
Vergara, Asuncion	Health Care Agency	8/27/2021
Wall, Vincent	Probation	9/10/2021
Wang, Patricia	Health Care Agency	9/2/2021

*Orange County Employees Retirement
Retirement Board Meeting
November 15, 2021
Death Notices*

<i>Active Members</i>	<i>Agency/Employer</i>
Daniels, Jason	Sheriff's Dept

<i>Retired Members</i>	<i>Agency/Employer</i>
Arellanes, Frank	OC Public Works
Bitter, Ronald	John Wayne Airport
Blakebrough, David	Social Services Agency
Bolden, Glenna	OCTA
Brittain, Kurt	OC Public Works
Calles, Guillermo	Probation
Carrasquillo, Frieda	Social Services Agency
Chhim, Sun-Him	Social Services Agency
Daily, Flave	OC Public Works
Dvorak, Jacquelyn	Social Services Agency
Gerges, Madeleine	Sanitation District
Hake, Jill	Health Care Agency
Lau, Linda	Health Care Agency
Mc Bride, Doris	Social Services Agency
Moen, Vivian	Health Care Agency
Munoz, Raul	Sheriff's Dept
Newcomb, Francis	OCTA
Ortiz, Leonard	Cemetery District
Pashko, Rosella	Social Services Agency
Pines, Sheldon	Transportation Corridor Agency (TCA)
Rothermund, Ronald	OC Public Works
Schumaker, Lawren	OC Public Works
Scott, Annabel	Assessor
Smith, Ronald	Sheriff's Dept
Sparks, Tabby	UCI
Stevens, Bryan	Sheriff's Dept
Stricklin, Thomas	OC Public Works
Talbot, Helen	Probation
Tweedy, Robert	Sheriff's Dept
Valencia, Carole	Health Care Agency
Winkel, Arnold	Sanitation District
Yorke, Felix	OCTA
Zapata, Alonso	OCTA

<i>Surviving Spouses</i>	
Miller, James	
Owens, Lynne	
Peruzzi, Ruth	

Weeks, Blanche	
Wieland, Carl	

Governance Committee Meeting
March 19, 2021

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

**GOVERNANCE COMMITTEE MEETING
March 19, 2021
2:00 p.m.**

MINUTES

The Chair called the meeting to order at 2:01 p.m.

Present via Zoom Video conference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Frank Eley, Chair; Charles Packard, Vice Chair; Roger Hilton; Wayne Lindholm

Also present via Zoom:

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

CONSENT AGENDA

C-1 APPROVE GOVERNANCE COMMITTEE MEETING MINUTES

Governance Committee Meeting Minutes

March 5, 2021

MOTION by Mr. Packard, **seconded** by Mr. Lindholm, to approve the Minutes.

The motion passed **unanimously**.

ACTION ITEMS

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

No items were trailed from the Consent Agenda.

Governance Committee Meeting
March 19, 2021

A-2 PROPOSED REVISIONS TO POLICIES, ADMINISTRATIVE PROCEDURES AND OTHER OCERS DOCUMENTS TO REFLECT THE TEST FOR PENSIONABILITY OF PAY FOR SERVICES AFTER NORMAL WORKING HOURS APPROVED BY THE OCERS BOARD ON MARCH 15, 2020

Presentation by Suzanne Jenike, Assistant Chief Executive Officer, External Operations, and Steve Delaney, Chief Executive Officer, OCERS

Recommendation: Staff recommends that the Committee approve and recommend that the Board adopt revisions to the following policies, procedures, pay item request form and OCERS administrative procedures, as presented:

- (1) Compensation Earnable Policy
- (2) Pensionable Compensation Policy
- (3) Pay Item Request and Approval Procedures for Employers
- (4) Employer Pay Item Request Form
- (5) Administrative Procedure Relating to Compensation Earnable and Pensionable Compensation Determination
- (6) Administrative Procedure Relating to Final Average Salary Calculation

- (1) After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Lindholm, to approve and recommend that the Board adopt the **Compensation Earnable Policy** as presented with the following additional changes:
 - Add the date of the Alameda decision to Section 8
 - Add the other exclusions from compensation earnable (other than pay for services outside normal working hours) to Section 7
 - Bold the headings in Section 10

The motion passed **unanimously**.

- (2) After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Lindholm, to approve and recommend that the Board adopt the **Pensionable Compensation Policy** as presented with the following additional change:
 - Delete the word "all" from the description of Premium Pay in Section 5(a)

The motion passed **unanimously**.

- (3) After discussion by the Committee, **MOTION** by Mr. Hilton, **seconded** by Mr. Packard, to approve and recommend that the Board adopt the **Pay Item Request and Approval Procedures for Employers** as presented with the following additional change:
 - Change the heading of Section VIII to "Review Process"

The motion passed **unanimously**.

- (4) After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Hilton, to approve and recommend that the Board adopt the **Employer Pay Item Request Form** as presented with the following additional changes:
 - Delete the word "all" from the description of Premium Pay in Sections 3 (iii) and 4 (iii)
 - Delete the date from the top of the form

The motion passed **unanimously**.

Governance Committee Meeting
March 19, 2021

- (5) After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Lindholm, to approve and recommend that the Board adopt the **Administrative Procedure Relating to Compensation Earnable and Pensionable Compensation Determination** as presented with the following additional changes:
 - Add the date of the Alameda decision in Section II
 - Add the words “each of” before “the 12 month Final Compensation Period(s)” wherever it appears
 - Delete the word “all” from the description of Premium Pay
 - Initial cap “normal working hours” wherever it appears

The motion passed **unanimously**.

- (6) After discussion by the Committee, **MOTION** by Mr. Packard, **seconded** by Mr. Lindholm, to approve and recommend that the Board adopt the **Administrative Procedure Relating to Final Average Salary Calculation** as presented with the following additional change:
 - Change the reference to “3[A], above” to “3.2.A, above” on page 4

The motion passed **unanimously**.

COMMITTEE MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

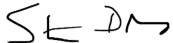
COUNSEL COMMENTS

ADJOURNMENT

The meeting adjourned at 3:24 p.m.

Submitted by:

Approved by:

DocuSigned by:

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 Steve Delaney
 Secretary to the Board

DocuSigned by:

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 Frank Eley, Chair



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: **CEO FUTURE AGENDAS AND 2021 OCERS BOARD WORK PLAN**

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

DECEMBER

- Adopt Annual Work Plan for Calendar Year 2022
- Receive 2023 Board Committee Assignments
- REAOC Annual Update
- Vice-Chair Election

JANUARY

- 2021 Year in Review: Communication Plan
- 2021 OCERS Innovations
- 2021 Disability Statistics
- 2021 Trustee Education Summary Report
- Communication Policy Fact Sheet
- Form 700 Filing Requirements

FEBRUARY

- 2022 Initial STAR COLA Posting
- Annual Cost of Living Adjustment
- Overpaid And Underpaid Plan Benefits Report
- Policy Compliance Report
- Report Outcome of Prior Year Business Plan

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer

OCERS RETIREMENT BOARD - 2021 Work Plan

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep (Offsite)	Oct	Nov	Dec
System Oversight		STAR COLA Posting (I)	Approve 2021 STAR COLA (A)	SACRS Board of Directors Election (A)	Preliminary December 31, 2020 Valuation (I)	Mid-Year Review of 2021 Business Plan Progress (I)	Alt. Invest. Return and Assumption Sensitivity: 20-year Illustration (I)	Review 2nd Quarter Budget to Actuals Financial Report (I)	Strategic Planning Workshop (I)	Overview of 2022 Administrative Budget and Investment (Workshop) (I)	Review 3rd Quarter Budget to Actuals Financial Report (I)	
		Approve 2021 COLA (A)	Quarterly 2021-2023 Strategic Plan Review (A)			Approve December 31, 2020 Actuarial Valuation & Funded Status of OCERS (A)	Actuarial Review: Risk Assessment (I)	Receive OCERS by the Numbers (I)	Annual OCERS Employer Review (I)	Approve 2022-2024 Strategic Plan (A)	Approve 2022 Administrative (Operating) Budget (A)	
						Approve 2020 Comprehensive Annual Financial Report (A)	Approve Early Payment Rates for Fiscal Year 2021-22 (A)	Receive Evolution of the UAAL (I)		Approve 2022 Business Plan (A)	Annual CEO Performance Review and Compensation (A)	
						Quarterly 2021-2023 Strategic Plan Review (A)		Employer & Employee Pension Cost Comparison (I)				
											Adopt 2022 Board Meeting Calendar (A)	
Board Governance				Brown Act Training (biannual) (I)								Adopt Annual Work Plan for 2022 (A)
				Fiduciary Training (I)								Vice-Chair Election (A)
Regulation / Policies	Communication Policy Fact Sheet (I)											
Compliance	Status of Board Education Hours for 2020 (I)			Form 700 Due (A)		Receive Financial Audit (I)			State of OCERS (I)			

(A) = Action (I) = Information



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report

Background/Discussion

1. **Quiet Period Policy Guidelines**

The following guidelines established by the Quiet Period Policy, section 3.c, will govern a search process for any contract to be awarded by OCERS:

“...Board Members and OCERS staff shall not knowingly communicate with any party financially interested in any prospective contract with OCERS regarding the contract, the services to be provided under the contract or the selection process;”

2. **Quiet Period Guidelines**

In addition, the following language is included in all distributed RFP's:

“From the date of issuance of this RFP until the selection of one or more respondents is completed and announced, respondents are not permitted to communicate with any OCERS staff member or Board Members regarding this procurement, except through the Point of Contact named herein. Respondents violating the communications prohibition may be disqualified at OCERS’ discretion. Respondents having current business with OCERS must limit their communications to the subject of such business.”

Distributed RFP's

The RFP's noted below are subject to the quiet period until such time as a contract(s) is finalized.

- An RFP for Financial Auditor Services was distributed in July. This RFP is to put into place a Financial Auditor Agreement as the prior vendor agreement with MGO has expired and cannot be extended. Interviews with the finalists is being scheduled for December.

Submitted by:

Jim Doezie
Contracts, Risk and Performance Administrator



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: BOARD COMMUNICATIONS

Written Report

Background/Discussion

To ensure that the public has free and open access to those items that could have bearing on the decisions of the Trustees of the Board of Retirement, the OCERS Board has directed that all written communications to the entire Board during the interim between regular Board meetings be included in a monthly communications summary.

News Links

The various news and informational articles that have been shared with the full Board are being provided to you here by web link address. By providing the links in this publicly available report, we comply with both the Brown Act public meeting requirements, as well as avoid any copyright issues.

The following news and informational item was provided by staff and the CEO for distribution to the entire Board:

From Steve Delaney:

- OCERS will be as challenged as the nation as a whole in the coming world of AI dominance:
https://news.google.com/articles/CAIiEGjNdt_v1SYhC01SwY3pvksqGAgEKg8IACoHCAowhK-LAjD4ySww69W0BQ?hl=en-US&gl=US&ceid=US%3Aen
- An article of interest regarding our sister CERL system. I have heard through the years of the frustration LACERA has experienced not being able to hire the staff they believe necessary to complete their mission without first dealing with the bureaucracy of County government.

OCERS is an independent agency, so we do not have the same issues, though of course we do have the issue of 2/3 of our staff being County employees, an issue we as your executive team are working on with the Personnel Committee and in cooperation with the County of Orange Executive Office and the Orange County Employees Association.

LACERA files lawsuit against Los Angeles County:

https://www.pionline.com/pension-funds/lacera-files-lawsuit-against-los-angeles-county?utm_source=p-i-daily-plan-

[sponsor&utm_medium=email&utm_campaign=20211019&utm_content=hero-headline&CSAuthResp=1635189580863%3A0%3A74971%3A391%3A24%3Asuccess%3A55B2C2FE90AE2030ADCC4B7290DFA599#cci_r=](https://www.foreignaffairs.com/articles/world/2021-10-19/ian-bremmer-big-tech-global-order)

- Interesting "futurist"-style article on what may be developing on the world stage with regard to the big tech companies
<https://www.foreignaffairs.com/articles/world/2021-10-19/ian-bremmer-big-tech-global-order>

From Robert Kinsler:

- Please see Gar Chung's coverage of the October 27, 2021 Investment Committee meeting in the edition of *findaily*.
www.fin-news.com

Attached:

- OCERS Activities for August and September 2021

Submitted by:



SD - Approved

Steve Delaney
Chief Executive Officer



Monthly Team Status August 2021

To the members of the OCERS Board of Retirement,

The following is my regular monthly summary of OCERS’ team activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for the month of August.

MEMBER SERVICES MONTHLY METRICS

Retirement Applications Received			
Month	2019	2020	2021
January	261	254	101
February	201	169	90
March	206	80	57
April	38	33	41
May	44	47	55
June	52	63	52
July	56	288	71
August	65	229	61
September	41	114	0
October	69	57	0
November	54	52	0
December	75	66	0

2021 Customer Service Statistics						
Month	Unplanned Recalculations	Member	Queue Calls Received	Direct to	Operator Calls Received	Total Calls (monthly)
		Satisfaction Approval Rate		Extension Calls		
January	2	100%	2,606	4,867	992	8,465
February	1	100%	2,618	4,839	1,811	9,268
March	1	95%	2,947	5,630	1,599	10,176
April	0	95%	2,830	5,120	1,146	9,096
May	4	95%	2,552	4,731	973	8,256
June	1	95%	2,010	4,601	747	7,358
July	4	95%	1,936	4,375	834	7,172
August	2	95%	1,745	4,091	360	6,196
Grand Total	15	96%	19,244	38,254	8,462	65,987

MEMBER SURVEY RESPONE

“I was very pleased with the OCERS Customer Service team. I had never attended any Pre-Retirement sessions. When I was ready to retire I just called OCERS directly and was put in touch with an OCERS representative that really knew their stuff. The representative would get back to me right away and followed up in writing so I had documentation for my records. There were no surprises as the final benefit matched the estimate I was originally provided.”

August 2021

“As a reciprocal member I found the OCERS process to be easy and painless. I was especially impressed by my Retirement Program Specialist. He had kept him in the loop on everything. He would return phone calls and contact me upon receipt of any paperwork I had to send in. That was the part I appreciated the most.”

July 2021

“As a member with Reciprocity, I have been working with four retirement systems in total. I really appreciated how detailed OCERS has been throughout the process. The OCERS customer service representative made me feel like they had everything under control. This made the entire process extremely stress free.”

June 2021

“The process was easy to use and follow. He especially liked that his first congratulations on having decided to retire came from his OCERS representative when he came in for his appointment. It reassured him that he was doing the right thing.”



Monthly Team Status

August 2021

ACTIVITIES

NATIONAL ASSOCIATION OF RETIREMENT ADMINISTRATORS (NASRA)

The 2021 annual NASRA conference was held virtually August 9-11. I was asked to provide an opening overview of Mr. the June visit Mr. Hilton and I had made to Washington DC to visit the members of the Orange County legislative delegation. OCERS continued to be the only system that had visited the capital in person up to that date, and the NASRA team hoped our experience would encourage others to begin the trek and help in ensuring all legislators are fully informed on those issues pertaining to public pensions.

COUNTY OF ORANGE AUDIT OVERSIGHT COMMITTEE

Returning after nearly two years due to the pandemic, on August 19 I presented an update on the funded status of the OCERS plan to the County of Orange Audit Oversight Committee. Originally planned to be in person, it was ultimately held virtually. I am attaching the presentation slides I shared with the committee. The Committee was very impressed with the progress that has been made regarding plan funding. Despite stopping the members every time they thanked me for all the great work I had done to produce such great numbers (which they did at least three times), telling them each time that I didn't do anything personally, it was the OCERS Board that provided the direction and an incredible investment team that put the money to work and a finance department that tracked it all, still they ended up with one request. After asking me if I get a copy of the County's annual financial report, to which I responded that I did not, but I knew my Finance Department did, they asked their staff that a copy be sent to me in the future, and that I respond to them as to whether the numbers related to OCERS look correct. As the chair stated – "we'll feel better if Steve has looked at it and given us a thumbs up".

INVESTMENTS ACTIVITY 3

Mr. Beeson reports on the Investment Team's activities in August:

As of July 31, 2021, the portfolio year-to-date is up 10.8% net of fees, while the one-year return is up 23.6%. The fund value now stands at \$21.6 billion. The OCERS Investment Team continued to work effectively remotely during the coronavirus pandemic in August. OCERS' Investment Team added one new strategy during the month. OCERS committed \$25 million to Advent Global Technology II, a re-up commitment as OCERS also committed \$25 million to Advent Global Technology I back in 2019. Advent Global Technology II is a companion fund to Advent's flagship large global buyout strategy and will invest in large technology deals alongside the flagship fund while also seeking smaller buyout technology deals. OCERS' Investment Team continued strong momentum of building out the co-investment program within private equity and closed on two co-investments in August. OCERS committed \$10 million to Biloxi Co-Investment Partners, a co-investment sourced through OCERS' existing private equity manager Clearlake Capital Partners. This co-investment is in a privilege access management



Monthly Team Status

August 2021

cybersecurity company. OCERS committed \$5 million to the Proofpoint Co-Invest Fund, a co-investment sourced through OCERS' private equity manager Thoma Bravo. This co-investment is in a cybersecurity and compliance solutions company. The OCERS Investment Team completed the unique strategies asset class review in August. The unique strategies asset class has an allocation of 0-5% within OCERS' portfolio and focuses on compelling opportunities that don't fit in traditional asset classes. OCERS has two investments within the unique strategies asset class thus far: Blackstone Life Sciences V (focused on the research and development of late clinical stage products and pre-approval royalty investments in earlier stage life sciences businesses) and Waterfront Capital Partners (an equity market neutral manager that invests in public real estate securities). The OCERS Investment Team completed the 2020 annual fee report during the month. OCERS paid \$245.7 million in total fees in 2020 (approximately 128 bps), up from \$179.7 million in 2019. Management fees remained fairly unchanged from 2019 to 2020, but performance fees increased driven largely by the strong performance of private equity in 2020.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the October 18 meeting of the OCERS Board of Retirement.



Monthly Team Status September 2021

To the members of the OCERS Board of Retirement,

The following is my regular monthly summary of OCERS' team activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for the month of September.

MEMBER SERVICES MONTHLY METRICS

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June	1	95%	2,010	4,601	747	7,358
July	4	95%	1,936	4,375	834	7,145
August	2	95%	1,745	4,091	360	6,196
September	0	95%	1,983	4,368	145	6,496
Grand Total	15	96%	21,227	42,622	8,607	72,456

MEMBER SURVEY RESPONSE

"Having had a number of issues with my Employer during retirement, I found the OCERS customer service representative was exceedingly patient and understanding and kept me calm through the entire process. I just can't say enough about how great this OCERS representative was. My spouse retired from the County of Orange around the same time I did, and he had a different OCERS representative who proved to be as talented and professional as the one I had."

September 2021

"I was very pleased with the OCERS Customer Service team. I had never attended any Pre-Retirement sessions. When I was ready to retire I just called OCERS directly and was put in touch with an OCERS representative that really knew their stuff. The representative would get back to me right away and followed up in writing so I had documentation for my records. There were no surprises as the final benefit matched the estimate I was originally provided."

August 2021

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July 2021



Monthly Team Status

September 2021

ACTIVITIES

SAFETY MEMBER RETIREMENTS

I have been hearing that with mandated vaccines under discussion at the County of Orange, there has been an increase in counseling requests by our Deputy Sheriff members. Rick Serrano, our key Retirement Specialist assigned specifically to assist safety members provided me with this update regarding an additional issue increasing the odds we will see a high number of retirements in the coming year:

I just wanted to bring you up to date with everything that has been going in my world. I have been quite busy the last two weeks (since the start of September). There has been an anticipation of a “high COLA” among the safety members of the Orange County Sheriff’s department. I’ve received an unusual large amount of phone calls and estimate requests regarding retirement for March 2022. Last week we had our first AOCDS seminar in over a year and had a tremendous turnout, we have another one scheduled for tomorrow with 50 members registered. Mr. Hilton mentioned that he will be scheduling 2 more seminars next month to accommodate the turnout so it seems like a very busy start to 2022.

CALAPRS ADMINISTRATORS INSTITUTE

Once again held via Zoom, the CEOs for more than 20 California pension systems joined virtually for our annual three-day training and sharing session. No real surprises as to the issues facing all systems – COVID 19 restrictions. It was also no surprise that there is no one way to approach the return to the office questions, it really seems to depend upon the culture of that entity.

UPDATES

OCERS INVESTMENT TEAM

David Beeson provides the team’s monthly report for September:

As of August 31, 2021, the portfolio year-to-date is up 12.8% net of fees, while the one-year return is up 22.7%. The fund value now stands at \$21.9 billion. The OCERS Investment Team continued to work effectively remotely during the coronavirus pandemic in September. September was a very busy month for fund closings. The OCERS Investment Team closed on four new private equity funds, one new private equity co-investment, and two new real estate funds during the month. Three of the four private equity funds and both real estate funds were re-up commitments for OCERS. September typically begins the fall season for manager annual limited partner meetings. The OCERS Investment Team participated in six virtual annual limited partner meetings during the month. OCERS’ Investment Team worked with J.P. Morgan and completed a liquidity analysis in September for the OCERS portfolio. While OCERS is expected to become slightly cash flow negative in 2021, OCERS has another decade or so before significant changes to the asset allocation will need to be made. Since OCERS’ portfolio has the ability to generate an income component to help offset the negative cash flows, OCERS has sufficient liquidity to support illiquid/private investments through 2030 and beyond. OCERS’ Investment Team and general



Monthly Team Status September 2021

consultant continuously monitor the liquidity profile of the plan. Finally, OCERS' Investment Team finished a blockchain education presentation during the month that will be presented at a future Investment Committee meeting.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the November 15 meeting of the OCERS Board of Retirement.



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **THIRD QUARTER 2021 BUDGET TO ACTUALS REPORT**

Written Report

Highlights

Third Quarter Target: 75% Used /25% Remaining

	Actuals to Date	Annual Amended Budget	Budget \$ Remaining	Budget % Remaining
Administrative Budget				
Personnel Costs	\$ 11,709,938	\$ 16,254,052	\$ 4,544,114	28.0%
Service and Supplies	6,912,621	11,517,848	4,605,227	40.0%
Capital Expenditures	-	782,000	782,000	100.0%
Grand Total	\$ 18,622,559	\$ 28,553,900	\$ 9,931,341	34.8%

Background/Discussion

The Board of Retirement approved OCERS' Administrative Budget for Fiscal Year 2021 (FY21) on November 16, 2020, for \$28,283,900 to fund administrative expenses. On February 16, 2021, the Board of Retirement approved an amendment to increase the budget for Services and Supplies by \$50,000. This amendment is related to the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) system and increased the original amount budgeted for this project from \$150,000 to \$200,000. Subsequently, on June 21, 2021 a second budget amendment was approved to increase the budget for Personnel Costs by \$220,000. This amendment was a result of outcomes from the 2021 Business Plan initiative to complete the OCERS compensation study and implement recommendations as appropriate, including a 5% mid-year pay adjustment with the implementation of new salary ranges and pay structure for OCERS Direct employees. A third budget amendment, approved by the Board of Retirement on August 16, 2021, resulted in the transfer of \$112,000 from the Services and Supplies budget to the Capital Expenditures budget to fund additional costs needed to complete the Boardroom audio/visual equipment project. This budget amendment did not increase the overall administrative budget. These three budget amendments result in a total amended administrative budget of \$28,553,900.

OCERS' budgeting authority, which is regulated by California Government Code Sections 31580.2 and 31596.1, includes a provision that limits the OCERS' budget for administrative expenses to twenty-one hundredths of one percent of the accrued actuarial liability of the retirement system. This provision (commonly referred to as the 21 basis points test) excludes investment related costs and expenditures for computer software, hardware and related technology consulting services. The approved amended FY21 administrative budget represents 8.83 basis points of the projected actuarial accrued liability.

The Chief Executive Officer, or the Assistant CEO, has the authority to transfer funds within the three broad categories of the budget: 1) Personnel Costs, 2) Services and Supplies, and 3) Capital Expenditures. Funds may not be transferred from one broad category to another without approval from the Board of Retirement.

Administrative Summary

For the nine months ended September 30, 2021, year-to-date actual administrative expenses were \$18,622,559 or 65.2% of the \$28,553,900 amended administrative budget and below the 75% target set for the amended budget at the end of the third quarter by approximately \$2.8 million. A summary of all administrative expenses and explanations of significant variances are below:

Summary of all Administrative Expenses For the Quarter Ended September 30, 2021						
	Actuals to Date	Annual Amended Budget	Balance Remaining	% of Amended Budget Used	Prorated Amended Budget*	Prorated Amended Budget vs. Actuals (Over)/Under
Personnel Costs	\$ 11,709,938	\$ 16,254,052	\$ 4,544,114	72.0%	\$ 12,190,539	\$ 480,601
Services and Supplies						
Bldg. Prop. Mgmt./Maintenance	504,193	680,000	175,807	74.1%	510,000	5,807
Due Diligence	104	100,000	99,896	0.1%	75,000	74,896
Equipment Lease	26,962	49,500	22,538	54.5%	37,125	10,163
Equipment/Software Expenses	477,270	1,086,500	609,230	43.9%	814,875	337,605
Infrastructure Maintenance	659,057	854,700	195,643	77.1%	641,025	(18,032)
Legal Services	582,223	960,000	377,777	60.6%	720,000	137,777
Meetings & Mileage	6,586	57,500	50,914	11.5%	43,125	36,539
Membership/Periodicals	88,645	119,395	30,750	74.2%	89,546	901
Office Supplies	18,475	95,000	76,525	19.4%	71,250	52,775
Postage	69,824	184,000	114,176	37.9%	138,000	68,176
Printing	37,428	77,000	39,572	48.6%	57,750	20,322
Professional Services	4,184,855	6,463,113	2,278,258	64.7%	4,847,335	662,480
Telephone	115,757	205,000	89,243	56.5%	153,750	37,993
Training	141,242	586,140	444,898	24.1%	439,605	298,363
Services and Supplies	6,912,621	11,517,848	4,605,227	60.0%	8,638,386	1,725,765
Administrative Expense-Sub Total	18,622,559	27,771,900	9,149,341	67.1%	20,828,925	2,206,366
Capital Expenditures**	-	782,000	782,000	0.0%	586,500	586,500
Administrative Expense Total	\$ 18,622,559	\$ 28,553,900	\$ 9,931,341	65.2%	\$ 21,415,425	\$ 2,792,866

*Prorated amended budget represents 75% (9 months/12 months) of annual amended budget.

**Capital expenditures represent purchases of assets to be amortized in future periods.

Personnel Costs

Personnel Costs as of September 30, 2021 were approximately \$11.7 million or 72.0% of the annual amended budget for this category, under the prorated amended budget by \$480,601. Personnel Costs are under budget due to positions that were budgeted for the year which remain vacant, including a Senior Manager of Operations Support Services, Retirement Benefits Supervisor, Accountant Auditor and Staff Assistant. Additionally, during the third quarter, the Managing Director of Investments position became vacant and the search for a replacement is currently underway. Annual leave expense and liability accounts adjust each quarter based on the annual leave balances of OCERS employees. The number of employees taking time-off increased with the onset of summer resulting in a smaller increase in the annual leave liability from earlier in the year. For the nine months ended September 30, 2021, the annual leave liability increased by approximately \$180,000. Personnel costs are expected to be within budget for the year.

Services and Supplies

Expenditures for services and supplies were approximately \$6.9 million or 60.0% of the annual amended budget for this category. The positive variance of \$1,725,765 between the pro-rated amended budget and year-to-date actuals in this category is primarily due to the following:

- Building Property Mgmt./Maintenance costs utilized 74.1% of the annual amended budget and were slightly lower than the prorated budget by \$5,807. Due to the ongoing COVID-19 pandemic, the majority of OCERS team members continue to work remotely, resulting in lower overall building costs for maintenance, and cleaning services. These lower expenses were offset by slightly higher costs for utilities. Maintenance costs do not occur evenly and will fluctuate throughout the year. This category is expected to remain within budget for the rest of the year.
- Due Diligence costs incurred are at \$104, which is significantly lower than the prorated budget of \$75,000. All investment team travel, including some training, is in this category. The lower than budgeted cost is due to limited travel and in-person meetings through the third quarter of the year due to the continued COVID-19 pandemic. Due diligence meetings are primarily held by telephone or video conference.
- Equipment Lease expenditures are at 54.5% of the annual amended budget, and lower than the prorated amended budget by \$10,163. The lower than budgeted cost is attributed to the reduction in the use of the office copiers and printing fewer copies as the majority of employees continue to work remotely.
- Equipment/Software expense utilized 43.9% of the annual amended budget, and lower than the prorated amended budget by \$337,605. The lower than expected expenditures is due to the timing of several projects budgeted for the year that have not yet been implemented. The contract for the new accounting software was finalized and costs were incurred beginning in the third quarter. Other software implementations for information security and information technology are anticipated in the fourth quarter of the year.
- Infrastructure Maintenance costs are at 77.1% of the annual amended budget, which is higher than the prorated amended budget by \$18,032. The higher than budgeted costs is primarily related to an increase in the monthly licensing and support for V3 by \$7,500 beginning in May of this year. Infrastructure maintenance services renew throughout the year, and their costs are monitored closely. Also included in this category are various costs associated with software and hardware

support services that are utilized on an as-needed basis. This category is not expected to be over budget for the year.

- Legal Services are at 60.6% of the budget and are lower than the prorated amended budget by \$137,777. Legal services for investments, litigation and tax counsel are utilized on an as-needed basis. Investment legal services are below budget by approximately \$121,000 through the third quarter. General board, tax counsel and outside counsel services are slightly under the prorated amended budget by approximately \$16,000. Legal fees and costs associated with the implementation of the *Alameda* case (*Alameda County Deputy Sheriffs Association et al v. Alameda County Employees Retirement Association and Board of Retirement of ACERA (S247095)*) have been a primary use of legal services. Other litigation costs budgeted are currently slightly over the prorated budget for this category. Total legal fees are not anticipated to exceed the budget for the year, but will be closely monitored through the remainder of the year.
- Meetings and Mileage costs are \$6,586 or 11.5% of the total amended budget, and under the prorated amended budget by \$36,539. This category represents expenditures primarily related to Board and Committee meetings, which have continued to be held remotely due to the ongoing COVID-19 pandemic. This category also includes team member meetings and some, very limited, in-person meetings have resumed. Some team members have returned to the office, but the majority are still working remotely. The utilization of this budget category has started to increase, but is expected to remain low for the year.
- Memberships/Periodical expense is at 74.2% of the annual amended budget and slightly below the prorated amended budget by \$901. Many of the memberships and periodicals renew at the beginning of the year. As the year continues, this category is expected to remain within budget.
- Office Supplies utilized are at 19.4% of the amended budget and lower than the prorated amended budget by \$52,775. As the majority of OCERS team members continue to work remotely, fewer office supplies are required. When team members return to the office, more office supplies are expected to be utilized.
- Postage is at 37.9% of the annual amended budget and lower than the prorated amended budget by \$68,176. The costs incurred include postage for the quarterly newsletters and mailing of retiree 1099s. Postage usage fluctuates based on current needs, such as additional mailings to members. Additionally, during the pandemic, OCERS has discontinued the practice of printing ACH remittance advices, which are available online using the member portal.
- Printing Services is at 48.6% of the annual amended budget and under the prorated amended budget by \$20,322. Printing costs include the costs for the quarterly newsletters and an additional mailing concerning the *Alameda* Case. The cost for printing of the annual report will be incurred during the fourth quarter.
- Professional Services utilized through the third quarter represent 64.7% of the annual amended budget and are lower than the prorated amended budget by \$662,480 due to several consulting and professional services projects incurring little to no costs through the third quarter of the year. Some of these professional services budgeted with no costs incurred include a governance consultant; production of white board and animated videos; architect/design consultant to assist with planning and design of the future OCERS Headquarters; data classification study and mobile app/enhanced self-service portal; as well as internal audit consulting and information security consultants. The Office 365 migration consulting began incurring costs in the third quarter. Additionally, in the Legal Department administrative hearing costs are running below budget.

- Telephone expenditures were 56.5% of the amended budget, \$37,993 under the prorated amended budget. Monthly telephone expenses incurred for cellular and mobile services are averaging less than originally anticipated.
- Training expense is at 24.1% of the annual amended budget and lower than the prorated amended budget by \$298,363. Training costs are significantly below the amended budget since the majority of travel-related training and conferences for the first half of the year were cancelled or postponed due to the COVID-19 pandemic. Current training and conferences are primarily remote and are typically less expensive than in-person training or conferences. Conferences requiring travel have begun as various training organizations are resuming in-person participation in addition to remote participation. The September Strategic Planning meetings were originally scheduled to be in-person, but were held remotely as a precaution due to the Delta-variant of the coronavirus.

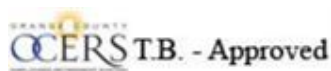
Capital Expenditures

As of the end of September, no expenditures for capital projects have been incurred. At the August 16, 2021 Board meeting, the Board approved increasing the Boardroom audio/visual equipment project from \$350,000 to \$532,000. The \$182,000 increase was funded by utilizing \$70,000 budgeted in the Capital Projects category for a roof replacement that will not be completed until 2022 and transferring \$112,000 from the Services and Supplies category from identified line items that will not be spent in 2021. The audio/visual improvements are included as part of the re-opening plan of the OCERS headquarters building and are expected to be completed by the end of the year. The capital expenditures budget also includes project costs of \$250,000 for a new enterprise backup solution to enhance recovery of on premise and cloud systems, which is also expected to be completed by the end of the year.

Conclusion:

As of the nine months ended, the actual administrative expenses are at 65.2% of the amended annual budget. As actual administrative expenses are under the amended annual budget, OCERS complies with the 21 basis point test.

Submitted by:



Tracy Bowman
Director of Finance



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **THIRD QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE NINE MONTHS ENDED SEPTEMBER 30, 2021**

Written Report

Background/Discussion

The attached financial statements reflect the unaudited activity for the nine months ended September 30, 2021. These statements are unaudited and are not the official statements of OCERS. The following statements represent a review of the progress to date for the third quarter of 2021. The official financial statements of OCERS are included in the Comprehensive Annual Financial Report (Annual Report) as of and for the year ended December 31, 2020, which is available on our website, www.ocers.org/financial-reports.

Summary

Fiduciary Net Position

As of September 30, 2021, the net position restricted for pension, other postemployment benefits and employer is \$21.1 billion, an increase of \$3.8 billion, or 22%, from September 30, 2020. The change is a result of an increase in total assets of \$3.9 billion and an increase in total liabilities of \$100 million as described below:

The \$3.9 billion increase in total assets can be attributed to a \$231 million increase in total cash and short-term investments, a \$31.6 million increase in total receivables and a \$3.6 billion increase in investments at fair value, offset by a decrease of \$2.6 million in capital assets.

The increase of \$231 million in cash and short-term investments consists of an increase of \$189.6 million in cash and cash equivalents due to the timing of investing employee and employer contributions received during the quarter and an increase of \$41.4 million in securities lending collateral due to an increase in lending activity in the securities lending program.

The increase of \$31.6 million in the receivables balance is primarily related to increases of \$30.8 million in pending security sales receivables.

Investments at fair value increased \$3.6 billion, or 20.9%, from September 30, 2020 to September 30, 2021. For the total plan, the one-year performance was up due to the change in asset allocation, which increased public and private equities. Equity markets were up globally for the last 12 months. In addition, the portfolio outperformed benchmarks in most asset classes. Global public equities rebounded strongly from the COVID-19 sell-off in 2020. Private equities came into the crisis in a well-funded position. In addition, there have been 18 new private equity

managers added since September 2020. The increase in risk mitigation is primarily due to the addition of one new investment manager. High yield bonds outperformed government and investment grade bonds in the credit investment category. Despite recent yields spike and fear of inflation, financing conditions remain accommodative due to government support, vaccine rollout and positive economic views. Unique strategies increased due to the addition of one new investment manager. The core fixed income one year return was good as investors viewed bonds as a safe hedge against equity prices; however, higher than expected inflation forecasts from the Fed and fear of rising interest rates next year have caused bond prices to fall back. The decrease in real assets is related to redemptions.

The decrease in capital assets of \$2.6 million from the prior year represents depreciation expense, of which \$2.2 million is attributed to the Pension Administration System Solution (PASS) Project.

Total liabilities increased \$100 million, or 11.3%, from September 30, 2020 to September 30, 2021, primarily due to an increase of \$41.4 million in obligations under the securities lending program as previously discussed and an increase of \$21 million in pending securities purchased. Unearned contributions increased \$19.7 million due to increases in prepaid employer contributions received for the 2021-2022 prepayment program compared to the prior year's prepayment program. An increase in retiree payroll payable is a result of increases in the number of participants in the plan and the retiree benefits paid. Other liabilities increased by \$14.3 million due to the timing of investment transactions at the end of the quarter.

Statement of Changes in Fiduciary Net Position

The ending net position restricted for pension, other postemployment benefits and employer as of September 30, 2021 increased by \$3.8 billion or 22%, when compared to the same period ending September 30, 2020. The change is primarily the result of the comeback of the market after the downturn in 2020 due to the lockdown from the COVID-19 pandemic. The annual return on the investment portfolio as of September 30, 2021 was 21.9%, compared to an annual return of 5.6% as of September 30, 2020. Total additions to fiduciary net position increased 170.3 % or \$1.7 billion for the quarter from the previous year.

Net investment income for the nine months ended September 30, 2021 is \$2 billion versus \$283.3 million for the nine months ended September 30, 2020, an increase of \$1.7 billion. The majority of the increase is due to the net appreciation in fair value of investments, which increased \$1.6 billion compared to the prior year. The year-to-date return for the portfolio at September 30, 2021 is 11.6% versus a year-to-date return of 2% at September 30, 2020. Investment categories across the board reported higher year-to-date returns for September 2021 when compared to September 2020. Private equities saw a year-to-date return of 39.2% for September 2021 versus a year-to-date return of 5.7% in September 2020. Global equities reported a year-to-date return of 11.3% for September 2021 versus 2.7% in September 2020. Total investment management fees increased by \$10.3 million in September 2021 with the addition of over 20 new investment managers since September 2020.

Employer and employee contributions have increased \$19.2 million over the prior year. Employee contributions to the pension plan have decreased by approximately \$8.1 million, while employer contributions have increased by approximately \$27.3 million. The decrease in employee contributions can be attributed to a decrease of nearly 4% of County active employees as a result of the Voluntary Incentive Program Separation and Retirement Incentives Program offered by the County to eligible employees in the fall of 2020 as a way to manage revenue

reductions that occurred as a result of the COVID-19 pandemic. In addition, the decrease in employee contributions can also be attributed to the reduction and/or gradual phase-out of employee reverse pick-up rates for various OCEA represented employees, which were offset by an increase to employer contributions. Increases to employer contributions can also be attributed to the receipt of higher UAAL contributions compared to September 2020, as well as an increase in employer contribution rates.

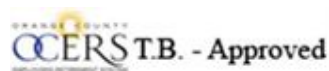
Total deductions from fiduciary net position increased 7.8%, or \$59.9 million, from the previous year. Participant benefits increased by \$57.2 million, which is expected due to the continued and anticipated growth in member pension benefit payments, both in the total number of OCERS' retired members receiving a pension benefit and an increase in the average benefit received. In September 2021, there were 19,423 retirees with an average benefit payment of \$4,417 compared to 18,910 retirees with an average benefit payment of \$4,319 in September 2020. Death benefits and members withdrawals and refunds increased as changes in these categories will fluctuate from year to year based on the occurrence of these events.

Other Supporting Schedules

In addition to the basic financial statements for the nine months ended September 30, 2021, the following supporting schedules are provided for additional information pertaining to OCERS:

- Total Plan Reserves
- Schedule of Contributions
- Schedule of Investment Expenses
- Schedule of Administrative Expenses
- Administrative Expense Compared to Projected Actuarial Accrued Liability (21 basis points test).

Submitted by:



Tracy Bowman
Director of Finance



Orange County Employees Retirement System

Unaudited Financial Statements

For the Nine Months Ended September 30, 2021

Orange County Employees Retirement System

Unaudited Financial Statements For the Nine Months Ended September 30, 2021

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Statement of Fiduciary Net Position (Unaudited)

As of September 30, 2021

(with summarized comparative amounts as of September 30, 2020)

(Dollars in Thousands)

	Pension Trust Fund	Health Care Fund- County	Health Care Fund- OCFA	Custodial Fund - OCTA	Total Funds	Comparative Totals 2020
Assets						
Cash and Short-Term Investments						
Cash and Cash Equivalents	\$ 635,630	\$ 13,780	\$ 1,329	\$ 719	\$ 651,458	\$ 461,853
Securities Lending Collateral	213,646	4,632	447	-	218,725	177,321
Total Cash and Short-Term Investments	849,276	18,412	1,776	719	870,183	639,174
Receivables						
Investment Income	13,844	300	29	-	14,173	15,892
Securities Sales	109,002	2,363	228	-	111,593	80,797
Contributions	20,021	-	-	-	20,021	18,182
Foreign Currency Forward Contracts	474	10	1	-	485	142
Other Receivables	5,087	110	11	-	5,208	4,831
Total Receivables	148,428	2,783	269	-	151,480	119,844
Investments at Fair Value						
Global Public Equity	9,861,661	213,794	20,616	13,851	10,109,922	7,354,562
Private Equity	2,910,245	63,092	6,084	-	2,979,421	1,960,019
Core Fixed Income	2,358,745	51,136	4,931	6,035	2,420,847	2,865,071
Credit	1,552,134	33,649	3,245	-	1,589,028	1,441,610
Real Assets	1,936,665	41,986	4,049	-	1,982,700	2,095,461
Risk Mitigation	1,907,833	41,361	3,988	-	1,953,182	1,727,933
Absolute Return	21	-	-	-	21	540
Unique Strategies	59,380	1,287	124	-	60,791	2,239
Total Investments at Fair Value	20,586,684	446,305	43,037	19,886	21,095,912	17,447,435
Capital Assets, Net	11,780	-	-	-	11,780	14,346
Total Assets	21,596,168	467,500	45,082	20,605	22,129,355	18,220,799
Liabilities						
Obligations Under Securities Lending Program	213,646	4,632	447	-	218,725	177,322
Securities Purchased	180,229	3,907	377	-	184,513	163,538
Unearned Contributions	457,590	-	-	-	457,590	437,929
Foreign Currency Forward Contracts	212	5	-	-	217	696
Retiree Payroll Payable	83,489	4,795	833	-	89,117	85,027
Other	32,739	710	68	-	33,517	19,248
Total Liabilities	967,905	14,049	1,725	-	983,679	883,760
Net Position Restricted for Pension, Other Postemployment Benefits and Employer	\$20,628,263	\$ 453,451	\$ 43,357	\$ 20,605	\$21,145,676	\$17,337,039

Statement of Changes in Fiduciary Net Position (Unaudited)

For the Nine Months Ended September 30, 2021

(with summarized comparative amounts for the Nine Months Ended September 30, 2020)

(Dollars in Thousands)

	Pension Trust Fund	Health Care Fund-County	Health Care Fund-OCFA	Custodial Fund - OCTA	Total Funds	Comparative Totals 2020
Additions						
Contributions						
Employer	\$ 510,768	\$ 20,349	\$ 1,354	\$ -	\$ 532,471	\$ 505,187
Employee	202,344	-	-	-	202,344	210,458
Employer OPEB Contributions	-	-	-	464	464	452
Total Contributions	713,112	20,349	1,354	464	735,279	716,097
Investment Income						
Net Appreciation in Fair Value of Investments	1,746,487	41,710	4,164	973	1,793,334	241,462
Dividends, Interest, & Other Investment Income	261,422	5,667	547	667	268,303	122,611
Securities Lending Income						
Gross Earnings	911	20	2	-	933	1,580
Less: Borrower Rebates and Bank Charges	(176)	(4)	-	-	(180)	(852)
Net Securities Lending Income	735	16	2	-	753	728
Total Investment Income	2,008,644	47,393	4,713	1,640	2,062,390	364,801
Investment Fees and Expenses	(93,719)	(2,032)	(196)	(2)	(95,949)	(81,496)
Net Investment Income	1,914,925	45,361	4,517	1,638	1,966,441	283,305
Total Additions	2,628,037	65,710	5,871	2,102	2,701,720	999,402
Deductions						
Participant Benefits	770,861	28,101	4,454	-	803,416	746,227
Death Benefits	820	-	-	-	820	600
Member Withdrawals and Refunds	9,280	-	-	-	9,280	7,017
Employer OPEB Payments	-	-	-	1,059	1,059	1,033
Administrative Expenses	16,016	17	18	17	16,068	15,870
Total Deductions	796,977	28,118	4,472	1,076	830,643	770,747
Net Increase	1,831,060	37,592	1,399	1,026	1,871,077	228,655
Net Position Restricted For Pension, Other Postemployment Benefits and Employer, Beginning of Year	18,797,203	415,859	41,958	19,579	19,274,599	17,108,384
Ending Net Position Restricted For Pension, Other Postemployment Benefits and Employer	\$ 20,628,263	\$ 453,451	\$ 43,357	\$ 20,605	\$ 21,145,676	\$ 17,337,039

Total Plan Reserves

For the Nine Months Ended September 30, 2021

(with summarized comparative amounts for the Nine Months Ended September 30, 2020)

(Dollars in Thousands)

	2021	2020
Pension Reserve	\$ 11,176,180	\$ 9,639,424
Employee Contribution Reserve	3,618,460	3,433,115
Employer Contribution Reserve	2,787,419	3,432,594
Annuity Reserve	2,250,295	2,053,113
Health Care Reserve	496,808	413,934
Custodial Fund Reserve	20,605	18,105
County Investment Account (POB Proceeds) Reserve	165,754	149,513
OCSD UAAL Deferred Reserve	13,433	12,088
Contra Account	616,722	(1,814,847)
Total Net Position Restricted for Penion, Other Postemployment Benefits and Employer	<u>\$ 21,145,676</u>	<u>\$ 17,337,039</u>

Schedule of Contributions

For the Nine Months Ended September 30, 2021

(with summarized comparative amounts for the Nine Months Ended September 30, 2020)

(Dollars in Thousands)

	2021		2020	
	Employee	Employer	Employee	Employer
Pension Trust Fund Contributions				
County of Orange	\$ 152,748	\$ 395,781	\$ 160,963	\$ 372,812
Orange County Fire Authority	21,780	72,552 ¹	20,837	62,625 ¹
Orange County Superior Court of California	11,490	27,623	12,058	25,682
Orange County Transportation Authority	7,568	22,339	7,779	21,404
Orange County Sanitation District	6,277	6,429	6,234	6,339
UCI Medical Center & Campus	-	2,440 ²	-	2,264 ²
Orange County Employees Retirement System	880	2,469	930	2,166
City of San Juan Capistrano	548	1,824	607	1,801
Transportation Corridor Agencies	568	650	585	670
Orange County Department of Education	-	286 ²	-	230 ²
Orange County Cemetery District	135	175	124	154
Orange County In-Home Supportive Services Public Authority	95	127	94	126
Orange County Local Agency Formation Commission	35	142	33	119
Orange County Children & Families Commission	102	145	91	112
Orange County Public Law Library	108	102	123	98
Contributions Before Prepaid Discount	202,344	533,084	210,458	496,602
Prepaid Employer Contributions Discount	-	(22,316)	-	(15,550)
Total Pension Trust Fund Contributions	202,344	510,768	210,458	481,052
Health Care Fund - County Contributions	-	20,349	-	22,679
Health Care Fund - OCFA Contributions	-	1,354	-	1,456
Custodial Fund - OCTA OPEB Contributions	-	464	-	452
Total Contributions	\$ 202,344	\$ 532,935	\$ 210,458	\$ 505,639

¹ Unfunded actuarial accrued liability payments were made in 2021 for \$11.7 million and 2020 for \$6.2 million for the Orange County Fire Authority.

² Unfunded actuarial accrued liability payments have been made in accordance with a separate 20-year level dollar payment schedule to include liabilities for employee benefits related to past service credit.

Schedule of Investment Expenses

For the Nine Months Ended September 30, 2021

(with summarized comparative amounts for the Nine Months Ended September 30, 2020)

(Dollars in Thousands)

	2021	2020
Investment Management Fees*		
Global Public Equity		
U.S. Equity	\$ 2,801	\$ 2,588
International Equity	7,128	4,636
Emerging Markets Equity	4,413	3,325
Total Global Public Equity	<u>14,342</u>	<u>10,549</u>
Core Fixed Income		
U.S. Fixed Income	1,961	2,011
Total Core Fixed Income	<u>1,961</u>	<u>2,011</u>
Credit		
Emerging Markets Debt	2,356	2,142
Corporate Credit	557	1,227
Opportunistic Credit	1,944	2,875
Private Credit	4,166	2,268
Total Credit	<u>9,023</u>	<u>8,512</u>
Real Assets		
Real Estate	9,693	8,679
Real Return		
Timber	77	419
Agriculture	886	942
Infrastructure	5,785	2,483
Energy	5,315	4,832
Total Real Return	<u>12,063</u>	<u>8,676</u>
Total Real Assets	<u>21,756</u>	<u>17,355</u>
Absolute Return		
Direct Hedge Fund	1	5
Total Absolute Return	<u>1</u>	<u>5</u>
Private Equity	19,818	17,634
Risk Mitigation	9,274	10,877
Unique Strategies	967	-
Short-Term Investments	304	244
Total Investment Management Fees	<u>77,446</u>	<u>67,187</u>
Other Fund Expenses¹	<u>13,961</u>	<u>10,291</u>
Other Investment Expenses		
Consulting/Research Fees	1,625	1,445
Investment Department Expenses	2,137	1,768
Legal Services	329	354
Custodian Services	435	435
Investment Service Providers	14	14
Total Other Investment Expenses	<u>4,540</u>	<u>4,016</u>
Security Lending Activity		
Security Lending Fees	190	174
Rebate Fees	(10)	678
Total Security Lending Activity	<u>180</u>	<u>852</u>
Custodial Fund - OCTA Investment Fees and Expenses	<u>2</u>	<u>2</u>
Total Investment Expenses	<u>\$ 96,129</u>	<u>\$ 82,348</u>

* Does not include undisclosed fees deducted at source.

¹ These costs include, but are not limited to, foreign income tax and other indirect flow-through investment expenses such as organizational expenses in limited partnership structures.

Schedule of Administrative Expenses

For the Nine Months Ended September 30, 2021

(with summarized comparative amounts for the Nine Months Ended September 30, 2020)

(Dollars in Thousands)

	2021	2020
Pension Trust Fund Administrative Expenses		
Expenses Subject to the Statutory Limit		
Personnel Services		
Employee Salaries and Benefits	\$ 9,912	\$ 9,678
Board Members' Allowance	11	11
Total Personnel Services	9,923	9,689
Office Operating Expenses		
Depreciation/Amortization	1,933	1,900
Professional Services	1,519	1,304
General Office and Administrative Expenses	1,098	1,108
Rent/Leased Real Property	531	512
Total Office Operating Expenses	5,081	4,824
Total Expenses Subject to the Statutory Limit	15,004	14,513
Expenses Not Subject to the Statutory Limit		
Information Technology Professional Services	480	733
Actuarial Fees	286	288
Equipment / Software	167	195
Information Security Professional Services	79	92
Total Expenses Not Subject to the Statutory Limit	1,012	1,308
Total Pension Trust Fund Administrative Expenses	16,016	15,821
Health Care Fund - County Administrative Expenses	17	16
Health Care Fund - OCFA Administrative Expenses	18	17
Custodial Fund - OCTA Administrative Expenses	17	16
Total Administrative Expenses	\$ 16,068	\$ 15,870

Administrative Expense Compared to Projected Actuarial Accrued Liability

For the Nine Months Ended September 30, 2021

(Dollars in Thousands)

Projected Actuarial Accrued Liability (AAL) as of 12/31/21	\$ 23,948,779
Maximum Allowed for Administrative Expense (AAL * 0.21%)	50,292
Actual Administrative Expense ¹	<u>15,004</u>
Excess of Allowed Over Actual Expense	<u>\$ 35,288</u>
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of 12/31/21	0.06%
Actual Administrative Expense as a Percentage of Projected Actuarial Accrued Liability as of 12/31/20	0.06%
¹ Administrative Expense Reconciliation	
Administrative Expense per Statement of Changes in Fiduciary Net Position	\$ 16,016
Less: Administrative Expense Not Considered per CERL Section 31596.1	<u>(1,012)</u>
Administrative Expense Allowable Under CERL Section 31580.2	<u>\$ 15,004</u>



Memorandum

DATE: November 03, 2021
TO: Members of the Board of Retirement
FROM: Cynthia Hockless, Director of Human Resources
SUBJECT: **GENERAL MEMBER ELECTION UPDATE**

Written Report

Informational Only

Background/Discussion:

OCERS contacted the Registrar of Voters office on July 31, 2021, with a request to conduct an election for the position of General Member with a term of office from January 1, 2022, through December 31, 2024.

The following three candidates submitted completed nomination paperwork and biographical statements and were determined qualified candidates:

1. Kira Rubin, Deputy Public Defender
2. Chris Prevatt, Incumbent
3. Hamid Boroumand, Office Specialist HCA

On November 02, the Registrar of Voters declared Chris Prevatt as the candidate receiving the highest total of votes and elected to the General Member seat.

The Orange County Board of Supervisors will certify the election results on November 16, 2021.

Attachment:

Election Certification from OC Registrar of Voters

Submitted by:



C.H. – APPROVED

Cynthia Hockless
Director of Human Resources

ELECTION CERTIFICATION

I, Neal Kelley, Registrar of Voters of Orange County, State of California, hereby certify that I conducted an election among the General Members of the Orange County Employees Retirement System for the purpose of electing a General Member to the Board of Retirement of the County of Orange for terms commencing January 1, 2022 and ending December 31, 2024.

I further certify that the results of the votes indicate that Chris Prevatt was elected the General Member. I further certify the following to be a complete tally of the votes cast:

GENERAL MEMBER
ORANGE COUNTY BOARD OF RETIREMENT

CHRIS PREVATT	1,255
KIRA RUBIN	803
HAMID BOROUMAND	143
TOTAL BALLOTS CAST:	2,204

WITNESS my hand and Official Seal this 2nd day of November, 2021.




NEAL KELLEY
Registrar of Voters
Orange County



Memorandum

DATE: November 15, 2021
TO: Members of the Board of Retirement
FROM: Tracy Bowman, Director of Finance
SUBJECT: **Public Pension Coordinating Council (PPCC) Standards Award for Funding and Administration**

Written Report

Background/Discussion

The Public Pension Coordinating Council (PPCC) is a coalition of three associations that represent public pension funds who cover the vast majority of public employees in the United States. The associations are the National Association of State Retirement Administrators (NASRA), the National Conference of Public Employee Retirement Systems (NCPERS) and the National Council on Teacher Retirement (NCTR).

The Public Pension Standards are intended to reflect minimum expectations for public retirement system management and administration, as well as serve as a benchmark by which all defined benefit public plans should be measured. The Standards are separated into the Administrative Standards and Funding Standard. A retirement system may qualify and receive a Recognition Certificate for either the Administrative or Funding Standard. A system that qualifies for both certificates will be awarded the PPCC Standards Award.

To qualify for the Recognition Award for Administration, the retirement system is assessed on the following administrative standards:

- Comprehensive Benefit Program
- Audit
- Actuarial Valuation
- Investments
- Communications

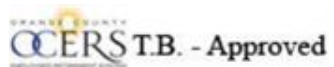
To qualify for the Recognition Award for Funding, the retirement system must meet the Funding Adequacy Standard by demonstrating that actual contribution rates are at a level equal or greater than 100% of the actuarially determined contribution (ADC).

PPCC has deemed OCERS to be proficient in both categories and has awarded OCERS with the Public Pension Standards Award for Funding and Administration in recognition of meeting professional standards for plan funding and administration as set forth in the Public Pension Standards as of December 31, 2020.

Attachment

Public Pension Standards Award for Funding and Administration 2021

Submitted by:



Tracy Bowman

Director of Finance



Public Pension Coordinating Council

***Public Pension Standards Award
For Funding and Administration
2021***

Presented to

Orange County Employees Retirement System

In recognition of meeting professional standards for
plan funding and administration as
set forth in the Public Pension Standards.

Presented by the Public Pension Coordinating Council, a confederation of

National Association of State Retirement Administrators (NASRA)
National Conference on Public Employee Retirement Systems (NCPERS)
National Council on Teacher Retirement (NCTR)

A handwritten signature in black ink that reads "Alan H. Winkle". The signature is fluid and cursive.

Alan H. Winkle
Program Administrator