

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

**REGULAR MEETING  
Tuesday, February 16, 2021  
9:30 A.M.**

Pursuant to Executive Order N-29-20, certain provisions of the Brown Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Order, this meeting will be conducted by video/teleconference only. 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><b>Join Using Zoom App (Video &amp; Audio)</b></p> <p><a href="https://ocers.zoom.us/j/93221306431">https://ocers.zoom.us/j/93221306431</a></p> <p><b>Meeting ID: 932 2130 6431</b> <b>Password: 393785</b></p> <p>Go to <a href="https://www.zoom.us/download">https://www.zoom.us/download</a> to download Zoom app before meeting Go to <a href="https://zoom.us">https://zoom.us</a> to connect online using any browser.</p>	<p><b>Join by Telephone (Audio Only)</b></p> <p>Dial by your location</p> <p>+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> <p><b>Meeting ID: 932 2130 6431</b> <b>Password: 393785</b></p>
<p>A <a href="#">Zoom Meeting Participant Guide</a> is available on OCERS website <a href="#">Board &amp; Committee meetings page</a></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.

- Jeffrey Hoey
- Ronald Reed

**ADMINISTRATION**

**C-2 BOARD MEETING MINUTES**

Regular Board Meeting Minutes

January 19, 2021

**Recommendation:** Approve minutes.

**C-3 ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM - CONTRACT AWARD AND BUDGET AMENDMENT**

**Recommendation:** Approve an amendment to the 2021 budget for the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) System in the amount of \$50,000 for a total estimated project cost of \$200,000 and authorize staff to execute an agreement with RSM US LLP (RSM) for ERP implementation services in an amount not to exceed \$200,000 and post-implementation annual subscription fees not to exceed \$75,000 per year.

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**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: VANESSA HAMLIN**

Social Worker II, Orange County Social Services 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-2: JOHN MANNING**

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

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

- Deny service connected disability retirement due to insufficient evidence of permanent incapacity.

**DC-3: JOHN CLINKINBEARD**

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 December 20, 2019.

**DC-4: DANIEL ESPINOZA**

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 February 28, 2019.

**DC-5: MARTIN NEAL**

Coach Operator, Orange County Transportation Authority (General Member)

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

- Grant non-service connected disability retirement.
- Set the effective date as September 16, 2018.

**DC-6: SHERI PAK**

Eligibility Technician, 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 date as December 7, 2018.

**DC-7: MITCHELL SIGAL**

Supervising Deputy Coroner, 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 March 13, 2020.

**DC-8: COLIN WATERSON**

Groundskeeper, Orange County Community Resources/OC Parks (General Member)

**Recommendation:** The Disability Committee recommends that the Board of retirement:

- Grant service connected disability retirement.
- Set the effective date as December 23, 2016.

**DC-9: ALAN WYFFELS**

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 the day after the last date of regular compensation.

**DC-10: ZILLE ZAMAN**

Accountant/Auditor II, Orange County District Attorney's Office (General Member)

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

- Grant service connected disability retirement
- Set the effective date as January 17, 2020.

**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.**

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

**DA-2: MEMBER APPEAL – KENNETH SCOTT TRUE**

**Recommendation:**

- (1) Find that in light of the cost of collection of the overpayment and the likelihood of hardship to the member, OCERS will forgive the amount of the overpayment to Kenneth Scott True (True) of \$6,862.69 plus interest, pursuant to Subdivisions c and d of Section 8 of the OCERS Overpaid and Underpaid Plan Benefits Policy dated October 21, 2019; and
- (2) Authorize OCERS staff to enter into a settlement agreement with True pursuant to Subdivision E of Rule 3 of the OCERS Adjudication Policy and Administrative Hearing Rules dated January 16, 2018, whereby in exchange for OCERS' forgiveness of the overpayment of \$6,862.69 plus interest, True dismisses his appeal with prejudice and waives any and all claims against OCERS, including without limitation, any claim arising from the continued payment to him by OCERS between January 1, 2012 and September 30, 2018, of the amounts that should have been paid to True's former spouse.

**OPEN SESSION**

**REPORT OF ACTIONS TAKEN IN CLOSED SESSION**

**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 2021 COST OF LIVING ADJUSTMENT**

*Presentation by Suzanne Jenike, Assistant CEO of External Operations, OCERS*

**Recommendation:** Adjust all applicable benefit allowances by 1.5% effective April 1, 2021, in accordance with Government Code section 31870.1, resulting from the 1.62% change to CPI in calendar year 2020.

**A-3 SACRS BOARD OF DIRECTORS ELECTIONS 2021-2022**

*Presentation by Gina M. Ratto, General Counsel*

**Recommendation:** Identify one or more nominees for the SACRS Board of Directors election to be conducted on May 14, 2021; and direct staff to submit the nomination(s) to the SACRS Nominating Committee on or before March 1, 2021.

**INFORMATION ITEMS**

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

**Presentations**

**I-1 Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al – Draft Staff Recommendations Regarding Resolution and Implementation of the Alameda Decision for DISCUSSION ONLY**

*Presentation by Suzanne Jenike, Assistant CEO of External Operations and Steve Delaney, Chief Executive Officer, 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

February 16, 2021

Death Notices

February 16, 2021

**R-2 COMMITTEE MEETING MINUTES**

- 04-23-19 Personnel Committee Meeting Minutes
- 05-20-19 Personnel Committee Meeting Minutes
- 06-20-19 Personnel Committee Meeting Minutes
- 07-20-19 Personnel Committee Meeting Minutes
- 10-01-19 Personnel Committee Meeting Minutes
- 11-07-19 Personnel Committee Meeting Minutes
- 01-31-20 Personnel Committee Meeting Minutes

- 02-26-20 Personnel Committee Meeting Minutes
- 08-19-20 Personnel Committee Meeting Minutes
- 10-13-2020 Audit Committee Minutes
- 12-17-2020 Audit Committee 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 OVERPAID AND UNDERPAID PLAN BENEFITS – 2020 REPORT**

Written Report

**R-8 2021 STAR COLA COST POSTING**

Written Report

**R-9 2020 BUSINESS PLAN – END OF YEAR REPORT**

Written Report

**R-10 BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER UPDATE**

Written Report

**R-11 ANNUAL REPORT OF CONTRACTS GREATER THAN \$50,000**

Written Report

**R-12 2021 POLICY COMPLIANCE REPORT**

Written Report

**CLOSED SESSION ITEMS**

**E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER)  
(GOVERNMENT CODE SECTION 54956.9)**

Adjourn pursuant to Government Code section 54956.9(d)(2)

**Recommendation:** Take appropriate action.

**E-2 CONFERENCE REGARDING INITIATION OF LITIGATION (ONE MATTER)  
(GOVERNMENT CODE SECTION 54956.9)**

Adjourn pursuant to Government Code section 54956.9(d)(4) to discuss initiation of litigation.

**Recommendation:** Take appropriate action.

**BOARD MEMBER COMMENTS**

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

**COUNSEL COMMENTS**

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**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**

**February 24, 2021**

**9:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

**2223 E. WELLINGTON AVENUE, SUITE 100**

**SANTA ANA, CA 92701**

**GOVERNANCE COMMITTEE MEETING**

**March 5, 2021**

**9:00 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

**2223 E. WELLINGTON AVENUE, SUITE 100**

**SANTA ANA, CA 92701**

**DISABILITY COMMITTEE MEETING**

**March 15, 2021**

**8:30 A.M.**

**ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM**

**2223 E. WELLINGTON AVENUE, SUITE 100**

**SANTA ANA, CA 92701**



**REGULAR BOARD MEETING**  
**March 15, 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](mailto: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.



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Adina Bercaru, Member Services Manager  
**SUBJECT:** **OPTION 4 RETIREMENT ELECTION – JEFFREY HOEY**

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### Recommendation

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

### Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective March 27, 2020. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter, as well as the allowance payable to the member’s ex-spouse and the current spouse’s continuance (upon the member’s death).

### Submitted by:



A. B. – APPROVED

Adina Bercaru  
Member Services Manager



Molly Calcagno, ASA, MAAA, EA  
Actuary  
T 415.263.8254  
mcalcagno@segalco.com

180 Howard Street, Suite 1100  
San Francisco, CA 94105-6147  
segalco.com

**Personal and Confidential**

June 2, 2020

Ms. Adina Bercaru  
Member Services Manager  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System  
Option 4 Calculation for Jeffrey W. Hoey**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Jeffrey W. Hoey, his ex-spouse and his current spouse based on the unmodified benefit and other information provided in the System's request dated May 27, 2020.

The monthly benefits payable to the member, the ex-spouse and the current spouse and the data we used for our calculations are as follows:

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	March 27, 2020
Plan of Membership	Safety Plan F
Monthly Unmodified Benefit	\$16,183.45
Ex-Spouse's Share of Monthly Unmodified Benefit	45.37%
Retirement Type	Service Retirement
Current Spouse's Date of Birth	
Continuance Payable to Current Spouse	20%/40%/60%

Ms. Adina Bercaru  
June 2, 2020  
Page 2

We have determined the Option 4 benefits using a two-part process. In Part One, we first calculated the adjustment to the member's unmodified benefit to provide a 45.37% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

### Part One – Before Adjustment for Continuance to Current Spouse

	Payable while the Member is Alive	Payable After the Member's Death
Monthly benefit payable to member		
Annuity:	\$962.81	
Pension:	<u>7,878.21</u>	
Total:	\$8,841.02	\$0.00
Monthly benefit payable to ex-spouse <sup>1</sup>	\$6,696.20	\$6,696.20

In Part Two, we further adjusted the member's benefit in Part One so that a continuance benefit of 20%, 40%, or 60% can be paid to the current spouse. In addition, the cost to provide this continuance benefit would be paid for entirely by the member.

### Part Two - After Adjustment for Continuance Benefit Payable to Current Spouse

#### Alternative A: 20% Continuance

	Payable while the Member is Alive	Payable After the Member's Death
Monthly benefit payable to member		
Annuity:	\$946.44	
Pension:	<u>7,744.30</u>	
Total:	\$8,690.74	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$1,738.15
Monthly benefit payable to ex-spouse <sup>1</sup>	\$6,696.20	\$6,696.20

<sup>1</sup> This is equal to 45.37% of the member's unmodified benefit (i.e., 45.37% \* \$16,183.45 or \$7,342.43) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

Ms. Adina Bercaru  
June 2, 2020  
Page 3

#### Alternative B: 40% Continuance

	Payable while the Member is Alive	Payable After the Member's Death
Monthly benefit payable to member		
Annuity:	\$930.62	
Pension:	<u>7,614.86</u>	
Total:	\$8,545.48	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$3,418.19
Monthly benefit payable to ex-spouse <sup>2</sup>	\$6,696.20	\$6,696.20

#### Alternative C: 60% Continuance

	Payable while the Member is Alive	Payable After the Member's Death
Monthly benefit payable to member		
Annuity:	\$915.33	
Pension:	<u>7,489.67</u>	
Total:	\$8,405.00	\$0.00
Monthly benefit payable to current spouse	\$0.00	\$5,043.00
Monthly benefit payable to ex-spouse <sup>2</sup>	\$6,696.20	\$6,696.20

#### ACTUARIAL ASSUMPTIONS

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016 set back four years, weighted 80% male and 20% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 20% male and 80% female for beneficiaries.

<sup>2</sup> See footnote 1

Ms. Adina Bercaru  
June 2, 2020  
Page 4

The actuarial calculations contained in this letter were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, Enrolled Actuary, who is a member of the American Academy of Actuaries and who meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA  
Actuary

JY/hy



June 5, 2020

Jeffrey W. Hoey  
(removed address)

Re: Retirement Election Confirmation – Option 4

Dear Mr. Hoey:

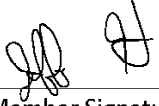
You have elected Option 4 as your retirement option. This option will provide following:

- 45.37% of your monthly benefit for the life of the benefit to GRETCHEN KOWALICK (formerly Gretchen Hoey), required by your DRO, and
- 60% of your monthly benefit (upon your death) to BRIGETTE GIBB

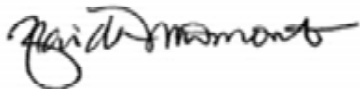
This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiaries.

Please complete this form and return to OCERS as soon as possible.

(  ) I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 45.37% continuance to GRETCHEN KOWALICK (formerly Gretchen Hoey), and a 60% continuance (upon my death) to BRIGETTE GIBB.


060520  
 \_\_\_\_\_  
 Member Signature / Date

Sincerely,



Zaida Miramontes  
Retirement Program Specialist



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Adina Bercaru, Member Services Manager  
**SUBJECT:** **OPTION 4 RETIREMENT ELECTION – RONALD REED**

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### Recommendation

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

### Background/Discussion

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective August 14, 2020. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter, as well as the allowance payable to the member’s ex-spouse and the current spouse’s continuance (upon the member’s death).

### Submitted by:



A. B. – APPROVED

Adina Bercaru  
Member Services Manager





Molly Calcagno, ASA, MAAA, EA  
Actuary  
T 415.263.8254  
mcalcagno@segalco.com

180 Howard Street, Suite 1100  
San Francisco, CA 94105-6147  
segalco.com

**Personal and Confidential**

January 29, 2021

Ms. Adina Bercaru  
Member Services Manager  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)  
Option 4 Calculation for Ronald J. Reed**

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Ronald J. Reed and his ex-spouse based on the unmodified benefit and other information provided in the System's request dated January 22, 2021.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

Member's Date of Birth	
Ex-Spouse's Date of Birth	
Date of Retirement	August 14, 2020
Plan of Membership	General Plan B and Safety Plan F
Monthly Unmodified Benefit	Plan B: \$57.07 Plan F: <u>5,359.69</u> Total: \$5,416.76
Ex-Spouse's Share of Monthly Unmodified Benefit	26.80%
Retirement Type	Service Retirement

Ms. Adina Bercaru  
January 29, 2021  
Page 2

We calculated the adjustment to the member's unmodified benefit to provide a 26.80% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

	<b>Payable while the Member is Alive</b>	<b>Payable After the Member's Death</b>
Monthly benefit payable to member		
Plan B Annuity:	\$10.62	
Plan B Pension:	31.16	
Plan F Annuity:	911.84	
Plan F Pension:	<u>3,011.45</u>	
Total:	\$3,965.07	\$0.00
Monthly benefit payable to ex-spouse <sup>1</sup>	\$1,379.65	\$1,379.65

#### **ACTUARIAL ASSUMPTIONS**

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016 set back four years, weighted 80% male and 20% female for members.<sup>2</sup>

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 20% male and 80% female for beneficiaries.<sup>2</sup>

The actuarial calculations contained in this letter were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, Enrolled Actuary, who is a member of the American Academy of Actuaries and who meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

<sup>1</sup> This is equal to 26.80% of the member's unmodified benefit (i.e., 26.80% \* \$5,416.76 or \$1,451.69) adjusted further to provide a benefit payable over the ex-spouse's lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

<sup>2</sup> Since the member last worked as a Safety member, we used Safety assumptions in determining optional benefits even for benefits paid from the General Plan.

Ms. Adina Bercaru  
January 29, 2021  
Page 3

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan's Legal Counsel.

Sincerely,



Molly Calcagno, ASA, MAAA, EA  
Actuary

JY/bbf



February 3, 2021

Ronald J. Reed

Re: Retirement Election Confirmation – Option 4

Dear Mr. REED:

You have elected Option 4 as your retirement option. This option will provide a 26.80% of your monthly benefit, for the life of the benefit, to:

KATHLEEN REED

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

( ) I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 26.80% continuance to KATHLEEN REED.

*Ronald J. Reed* 2.3.21  
 \_\_\_\_\_  
 Member Signature/Date

Sincerely,

A handwritten signature in cursive script that reads "Ricardo Serrano".

Ricardo Serrano  
Retirement Program Specialist

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

**REGULAR MEETING  
Tuesday, January 19, 2021  
9:30 a.m.**

**MINUTES**

Chair Dewane called the meeting to order at 9:33 a.m.

Cammy Torres administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom video teleconference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Shawn Dewane, Chair; Frank Eley, Vice-Chair, Shari Freidenrich, Adele Tagaloa, Charles Packard, Chris Prevatt, Arthur Hidalgo, Jeremy Vallone, Wayne Lindholm; and Roger Hilton

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, Visual Technician; Cammy Torres; Recording Secretary

Guests via Zoom:

Harvey Leiderman, ReedSmith

**CONSENT AGENDA**

**MOTION** by Eley, **seconded** by Hilton, to approve recommendations on all of the following items excluding item C-3 on the Consent Agenda:

<b>BENEFITS</b>
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**C-1 OPTION 4 RETIREMENT ELECTION**

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

- Eugene Corral
- Luis De Anda
- Adriana Virgen

<b>ADMINISTRATION</b>
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**C-2 BOARD MEETING MINUTES**

Regular Board Meeting Minutes

December 14, 2020

**Recommendation:** Approve minutes.

**C-3 REQUEST FOR PROPOSAL – FIDUCIARY COUNSEL**

**Recommendation:** Staff requests the Board approve distribution of a Request for Proposal to initiate a search for fiduciary counsel.

Ms. Freidenrich pulled item C-3.

Ms. Freidenrich asked Mr. Delaney about OCERS process to make sure RFPs don't expire and come to the Board late.

Mr. Delaney reported that the OCERS Contract Manager has instituted a modified process to ensure this does not occur again.

Ms. Freidenrich stated that she's concerned about criteria #6 on the RFP, that it's vague and that it could result in a challenge from a bidder. She also asked if the Board will review the draft RFPs. Lastly she asked about the panel interview and who will be on that panel.

Ms. Ratto explained what the OCERS requirements are in regards to criteria #6. She stated that what is added to the criteria is at the OCERS discretion. Furthermore, the current recommendation is for staff to review all proposals and to bring top candidates to the Board and the Board at that time would determine who would sit on the interview panel. Lastly, Ms. Ratto stated that in the past the Board did not approve the actual RFPs as that task was delegated to staff.

**MOTION** by Freidenrich, **seconded** by Prevatt, to approve item C-3 on the Consent Agenda.

The motion passed **unanimously**.

**C-4 TWO-MONTH EXTENSION TO CONTRACT WITH REED SMITH LLP (FIDUCIARY COUNSEL)**

**Recommendation:** Staff recommends the Board approve a two-month extension to OCERS' contract with Reed Smith LLP for fiduciary counsel services.

**C-5 MACIAS, GINI & O'CONNELL LLP (MGO) PERFORMANCE REVIEW AND CONTRACT EXTENSION**

**Recommendation:** Approve an amendment to the MGO contract to exercise the one year optional extension for auditing the financial statements of OCERS for the year ending December 31, 2020. The one year extension has a cost not to exceed \$128,011.

The motion passed unanimously.

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**CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA**

**OPEN SESSION**

**CONSENT ITEMS**

**MOTION** by Hilton, **seconded** by Lindholm, to approve staff's recommendation on all of the following items on the Disability/Member Benefits Consent Agenda:

**DC-1: JUANITA BRACAMONTES**

Deputy Juvenile Correction Officer II, Orange County Probation Department

**Recommendation:** The Disability Committee recommends that the Board deny service and non-service connected disability retirement due to the member's failure to cooperate. (Safety Member)

DC-1 was pulled at the request of the member.

**DC-2: ERIC BURNELL**

Deputy Juvenile Correction Officer II, Orange County Probation Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of December 6, 2019. (Safety Member)

**DC-3: WALTER CARMONA**

Deputy Sheriff II, Orange County Sheriff's Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of November 16, 2019. (Safety Member)

**DC-4: REBECCA CONTRERAS**

Supervising Peace Officer Sergeant, Orange County Sheriff's Department

**Recommendation:** The Disability Committee recommends that the Board deny service connected disability retirement due to insufficient evidence of job causation. (Safety Member)

DC-4 was pulled at the request of the member.

**DC-5: ANGELINA CORTEZ**

Deputy Sheriff I, Orange County Sheriff's Department

**Recommendation:** The Disability Committee recommends that the Board deny service and non-service connected disability retirement due to the member's failure to cooperate. (Safety Member)

DC-5 was pulled at the request of the member.

**DC-6: CYNTHIA CURIEL**  
Firefighter/Paramedic, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of July 23, 2019. (Safety Member)

**DC-7: KATHERINA DEGN**  
Investigator, Orange County Sheriff's Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of March 13, 2020. (Safety Member)

**DC-8: ERMA JONES**  
Coach Operator, Orange County Transportation Authority

**Recommendation:** The Disability Committee recommends that the Board grant non-service connected disability retirement with an effective date of September 29, 2019. (General Member)

**DC-9: UYEN LUU**  
Eligibility Technician , Orange County Social Services Agency

**Recommendation:** The Disability Committee recommends that the Board deny service and non-service connected disability retirement due to the member's failure to cooperate. (General Member)

**DC-10: JOHN MacPHERSON**  
Lieutenant, Orange County Sheriff's Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of August 17, 2018. (Safety Member)

**DC-11: AARON SCHULTE**  
Deputy Sheriff II, Orange County Sheriff's Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of March 31, 2018. (Safety Member)

The motion passed unanimously.

**ACTION ITEMS:**

**DA-1: INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA**  
N/A

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**ACTION ITEMS:**

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

N/A

**A-2 PROPOSED LEGISLATION TO AMEND GOVERNMENT CODE SECTION 31522.5 REGARDING BOARD'S AUTHORITY TO APPOINT OCERS PERSONNEL**

*Presentation by Steve Delaney, CEO*

**Recommendation:** The Personnel Committee recommends that the Board approve introduction of a legislative bill to amend Government Code section 31522.5 regarding the Board's authority to appoint OCERS personnel.

Ms. Ratto explained the proposed legislation and stated that first, the amendments would allow for a level of management staff between the Chief Investment Officer (CIO) and the remainder of the employees of the Investment Division; and second, they would clarify the Board's authority to appoint more than one assistant administrator. This proposal was presented to and discussed by the Personnel Committee at its November 18, 2020 meeting. The Committee approved the proposal and now recommends that the Board approve introduction of a legislative bill to amend Government Code section 31522.5 consistent with the aforementioned objectives. Ms. Ratto made clear that this legislation is not adding any new OCERS positions, it simply allows OCERS to more effectively manage the positions already in place.

**MOTION** by Hilton, **seconded** by Tagaloa, to approve introduction of a legislative bill to amend Government Code section 31522.5 regarding the Board's authority to appoint OCERS personnel.

The motion passed **unanimously**.

**A-3 EXTENSION OF EMERGENCY PAID SICK LEAVE**

*Presentation by Cynthia Hockless, Director of Human Resources*

**Recommendation:** Staff recommends that the Board of Retirement approve an extension of Emergency Paid Sick Leave (EPSL) for OCERS Direct employees from January 1, 2021 through June 17, 2021 to include the following:

1. Approve and authorize eligible OCERS Direct employees to use any remaining balances of EPSL granted in 2020 for qualifying Covid-19 related absences; and
2. Grant and authorize eligible OCERS Direct employees to use an additional 40 hours of EPSL for Covid-19 related absences.

Ms. Hockless presented the Extension of Emergency Paid Sick Leave item. OCERS requested that the Board of Retirement approve an extension of Emergency Paid Sick Leave for the 37 OCERS Direct employees mirroring the same extension of EPSL approved by the Orange County Board of Supervisors for County of Orange employees.

**MOTION** by Tagaloa, **seconded** by Hidalgo, to approve an extension of Emergency Paid Sick Leave (EPSL) for OCERS Direct employees from January 1, 2021 through June 17, 2021 to include the following:

1. Approve and authorize eligible OCERS Direct employees to use any remaining balances of EPSL granted in 2020 for qualifying Covid-19 related absences; and
2. Grant and authorize eligible OCERS Direct employees to use an additional 40 hours of EPSL for Covid-19 related absences.

The motion passed **unanimously**.

**A-4 SACRS BOARD OF DIRECTORS ELECTIONS 2021-2022**

*Presentation by Gina M. Ratto, General Counsel*

**Recommendation:** Identify one or more nominees for the SACRS Board of Directors election to be conducted on May 14, 2021; and direct staff to submit the nomination(s) to the SACRS Nominating Committee on or before March 1, 2021.

Chair Dewane directed staff to move this item to the February 16, 2021 Regular Board Meeting Agenda.

*The Board recessed for break at 10:19 a.m.*

*The Board reconvened from break at 10:30 a.m.*

Cammy Torres administered the Roll Call attendance.

**INFORMATION ITEMS**

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

**Presentations**

**I-1 PENSION OBLIGATION BONDS – AN OVERVIEW**

*Presentation by Paul Angelo and Todd Tauzer, Segal Consulting*

Mr. Todd Tauzer and Paul Angelo presented an in-depth discussion of the pros and cons of participating employers issuing Pension Obligation Bonds (POBs). They discussed how POBs always increase risk to the plan, especially through additional investment volatility. They further discussed how POBs are heavily dependent on timing and how the markets play out going forward. They also discussed that POBs best use could be as part of a package to strengthen funding policies.

**I-2 OCERS INNOVATIONS/PROCESS IMPROVEMENTS AND EMPLOYEE STAFF AWARDS**

*Presentation by Steve Delaney, Chief Executive Officer, OCERS*

Mr. Delaney introduced the OCERS 2021 Employee, Manager and Innovator of the Year. Then together with the senior executive team presented the annual Innovations and Process Improvement overview report.

2021 Winners:

- Employee of the Year - Jonathea Tallase
- Manager of the Year - Jon Gossard
- Innovator Award Winner - Tarek Turaigi

**I-3 AMENDMENTS TO THE COUNTY EMPLOYEES RETIREMENT LAW (CERL) EFFECTIVE JANUARY 1, 2021**

*Presentation by Gina Ratto, General Counsel, OCERS*

Ms. Ratto presented the Amendments to the County Employees Retirement Law item to the Board. AB 2101 was signed into law in September 2020 and became effective January 1, 2021. She stated that the bill, sponsored by SACRS, was a consolidation of “clean-up” legislation for CalPERS, CalSTRS and the CERL systems. She further discussed the major provisions and other changes that would effect OCERS.

**I-4 UPDATE ON STAFFS PROGRESS IN RESPONSE TO Alameda County Deputy Sheriff’s Assoc. et al., v. Alameda County Employees’ Retirement Assn., et al**

*Presentation by Suzanne Jenike, Assistant CEO of External Operations and Steve Delaney, Chief Executive Officer, OCERS*

Ms. Jenike briefly updated the board on staff’s progress in response to the Alameda County decision. This item will be further discussed at the February board meeting.

**I-5 COVID-19 UPDATE**

*Presentation by Steve Delaney, Chief Executive Officer, OCERS*

Mr. Delaney presented the COVID-19 update for the month of January. He informed the Board that while OCERS staff continue to work remotely until the end of December, in line with current County Health Department advice emphasizing telework wherever possible, that decision is revisited by himself and the Crisis Management Team (CMT) every month. Mr. Delaney further stated that he would be meeting with the CMT the following day, and in light of increasing illnesses he would not be surprised if OCERS remains teleworking at least through to the end February 2021.

**WRITTEN REPORTS**

None of the written reports were pulled for discussion.

**R-1 MEMBER MATERIALS DISTRIBUTED**

Written Report

- Application Notices
- Death Notices

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**R-2 COMMITTEE MEETING MINUTES**

- None

**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 2020 OCERS YEAR IN REVIEW: COMMUNICATION PLAN**  
Written Report
- R-7 DISABILITY RETIREMENT STATISTICS – 2020 REPORT**  
Written Report
- R-8 2020 FORM 700 DESIGNATED FILERS LIST AND FACT SHEET**  
Written Report
- R-9 BOARD COMMUNICATIONS POLICY FACT SHEET**  
Written Report
- R-10 FOURTH QUARTER 2020 EDUCATION AND TRAVEL EXPENSE REPORT**  
Written Report
- R-11 OCERS TRUSTEE EDUCATION SUMMARY REPORT**  
Written Report
- R-12 SAFETY ELECTION UPDATE**  
Written Report
- R-13 CONTRACT STATUS FOR NAMED SERVICE PROVIDERS**  
Written Report
- R-14 PRIVATE EQUITY CONSULTANT PERFORMANCE REVIEW – AKSIA LLC (AKA: TORREYCOVE)**  
Written Report
- R-15 REAL ESTATE CONSULTANT PERFORMANCE REVIEW – THE TOWNSEND GROUP**  
Written Report

**BOARD MEMBER COMMENTS**

Mr. Eley congratulated staff on the OCERS v. Al Mijares, et al., CA Superior Court, Los Angeles County case.

Mr. Hilton asked Ms. Murphy if OCERS has a preliminary rate of return number for end of year 2020. Ms. Murphy stated that OCERS doesn't close their investment books for the year until end of work day and will soon share that rate of return number with the Board.

Ms. Freidenrich had questions on the "R" items and asked Mr. Delany to get back to her at a later time. Regarding item R-7, she asked to see the total number of the disability retirements. Regarding item R-8, she asked if any more OCERS staff need to be added to the Form 700. Lastly, regarding item R-13, she asked that contracts to be received by the Board should be sent in a timely manner in order to avoid extending contracts dates.

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Mr. Delaney stated, regarding R-13, that a contract status process has been put in place and OCERS will implement that process.

Mr. Delaney will get back to the Board regarding item R-7.

Regarding item R-8, Ms. Ratto explained that OCERS is up to date and current on the employees that are 700 filers.

Mr. Packard stated that there is a COVID-19 vaccine site available at Disneyland.

**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

Mr. Delaney thanked OCERS staff attorneys Manuel Serpa and Nichole McIntosh on the OCERS staff training that they conducted.

Mr. Delaney reported on research he had performed at Ms. Freidenrich’s request pertaining to Delegated Authority. A Sacramento Bee article had suggested that the CalPERS Board was considering taking away Delegated Authority from their CIO. Mr. Delaney observed the CalPERS Board meeting in question, and also met virtually with the CalPERS Board Governance Manager. It was confirmed that CalPERS did not make any changes to Delegated Authority. That remains with the CIO. CalPERS did modify their Investment Committee structure to be a committee of the whole Board, an action OCERS similarly took back in 2010.

Mr. Delaney thanked the Board for their support and participation through 2020 as OCERS celebrated its 75th Anniversary.

In honor of the passing of former OCERS Trustee Reed Royalty, Mr. Delaney publicly thanked him for his dedicated service to OCERS members.

**COUNSEL COMMENTS**

N/A

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Chair Hilton adjourned in memory of the active members, retired members, and surviving spouses who passed away during the past month. The meeting **ADJOURNED** at 12:23 p.m.

Submitted by:

Approved by:

\_\_\_\_\_  
Steve Delaney  
Secretary to the Board

\_\_\_\_\_  
Roger Hilton  
Chairman



## Memorandum

**DATE:** February 16, 2021

**TO:** Members of the Board of Retirement

**FROM:** Brenda Shott, Assistant CEO, Finance and Internal Operations and Tracy Bowman, Director of Finance

**SUBJECT: ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM - CONTRACT AWARD AND BUDGET AMENDMENT**

### Recommendation

Approve an amendment to the 2021 budget for the 2021 Business Plan initiative to procure and implement a new Enterprise Resource Planning (ERP) System in the amount of \$50,000 for a total estimated project cost of \$200,000 and authorize staff to execute an agreement with RSM US LLP (RSM) for ERP implementation services in an amount not to exceed \$200,000 and post-implementation annual subscription fees not to exceed \$75,000 per year.

### Background/Discussion

The Board's Procurement and Contracting Policy, Section II, item 10, states that "non-routine items" 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. In addition, Section VI, Item D.2, states contract approval from Board will be acquired for non-routine expenses.

On November 16, 2020, the Board of Retirement approved OCERS' Administrative Budget for Fiscal Year 2021 in the amount of \$28,283,900, which included \$150,000 for the 2021 Business Plan initiative to procure and implement a new ERP System (carried over from the 2020 Business Plan).

On October 30, 2020, a Request for Proposal (RFP) was issued for an ERP System using a competitive process that resulted in five qualified responses ranging in price from \$70,000 to \$425,000. The ERP system requirements includes providing a software solution and implementation services for the following priority functional areas:

- General Ledger
- Accounts Payable
- Procurement/Contracts
- Cash Management
- Capital Assets
- Budget
- Expense Reporting

The RFP review panel, consisting of; three team members from the Finance Department, Director of IT, Director of Cyber Security and the Contracts, Risk & Performance Administrator, thoroughly reviewed and evaluated all the proposals based on the following criteria:

Functionality	30%
Technology	20%
Pricing/Value	20%
Services	20%



## Memorandum

Viability 10%

Based on the results of the evaluations, the review panel unanimously selected two finalists for interviews and software demonstrations; RSM US LLP (RSM) and Velosio (OCERS current accounting software support team) who demonstrated Sage Intacct and Microsoft Dynamics 365 Business Central, respectively. The demonstrations allowed the review panel, as well as the Assistant CEO, Finance and Internal Operations, to gain an understanding of the capabilities and useability of the recommended software and the opportunity to interact with the proposed project team. The review panel unanimously selected RSM based on RSM's understanding of OCERS needs, extensive software implementation experience, and the out-of-box functionality and security of their recommended software solution; Sage Intacct. Sage Intacct is a cloud-based mid-market financial system that is included in Gartner's Magic Quadrant for Cloud Core Financial Management Suites for Midsize, Large and Global Enterprises (an aid provided by Gartner to help clients identify suitable vendors of cloud solutions). Sage Intacct was the panel's highest rated software solution and RSM was the only respondent who recommended that solution in their proposal.

OCERS has worked with RSM in the past under a separate Master Services Agreement. Starting in 2019, RSM has provided IT audit services to OCERS under the direction of David Kim, Director of Internal Audit. Under their contract with OCERS, RSM has not made business decisions on behalf of management and Mr. Kim established the scope, direction, and conclusions of audit procedures that were performed by RSM. The IT audit resources from RSM, under the direction of OCERS Internal Audit, would be separate and distinct from the resources on the ERP implementation team. The IT related audits that RSM assists with focus on the internal controls as established, approved and designed by OCERS management. In addition, the Internal Audit program does not have any planned audits for the ERP system that would entail using RSM through at least the end of 2022. As the implementation of the new ERP System is anticipated to be completed by mid-2021, this schedule provides more than a one-year time frame between the implementation services being completed and the soonest that IT audit related services would be considered. The International Standards for the Professional Practice of Internal Auditing deems one year as an acceptable period to audit an area in which Internal Audit played a consultative role. Also, RSM is not OCERS' external financial auditor, which requires a more stringent independence test that would have prohibited RSM from consulting on the implementation of the new ERP system. Both RSM and OCERS have consulted with their respective legal counsel and have determined that there is no conflict of interest with RSM providing implementation services for the new ERP System.

Contract negotiations are currently in process with RSM. The estimated cost of implementing the software, including integration of solutions for budgeting, expense reporting and contract management, is approximately \$100,000 (based upon a negotiated hourly rate and estimated number of hours). Annual subscription costs for Sage Intacct and other integrated solutions are estimated at \$75,000, for a total estimated project cost of \$175,000. In addition, staff recommends a project contingency of \$25,000 to cover any potential changes in the number of users, data migration assistance, or other unanticipated implementation costs. Based on these estimated costs, staff is recommending a budget amendment to increase the 2021 budget for a new ERP System from \$150,000 to \$200,000, an increase of \$50,000. This would increase the 2021 Administrative Budget from \$28,283,900 to \$28,333,900 and would have no impact to the 21 basis point test as expenditures for computer software and related technology consulting services are excluded from this test. Staff also recommends that the Board authorize the CEO to execute an agreement with RSM for ERP Implementation Services (including the first year of annual subscription costs for Sage Intacct and other integrated solutions) in an amount not to exceed \$200,000. The contract term would be for three years with the option for the CEO to extend the term for an




## Memorandum

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additional three years and would include subscription fees not to exceed \$75,000 per year. Ongoing support will be provided on a time and materials basis at a rate of \$205 per hour as needed.


**Submitted by:**

 **T.B. - Approved**

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Tracy Bowman  
Director of Finance

**Approved by:**

 **B.M.S - Approved**

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Brenda Shott  
Assistant CEO, Finance and Internal Operations





## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Suzanne Jenike, Assistant CEO, External Operations  
**SUBJECT:** 2021 COST OF LIVING ADJUSTMENT

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### Recommendation

Adjust all applicable benefit allowances by 1.5% effective April 1, 2021, in accordance with Government Code section 31870.1, resulting from the 1.62% change to CPI in calendar year 2020.

### Background/Discussion

Per Government Code section 31870.1, the OCERS Board of Retirement is required to annually adjust the benefit allowances relative to the increase or decrease in the Consumer Price Index (CPI). This adjustment, known as a Cost of Living Adjustment (COLA), is effective April 1<sup>st</sup> of each year. This year, there was an increase in the CPI for year-end 2020 of 1.62%. To determine the change in CPI, Segal compares the Bureau of Labor Statistics' annual average CPI for All Urban Consumers for the Los Angeles-Long Beach-Anaheim area for each of the past two years and derives the percentage change between the two. This is done in accordance with Government Code section 31870.1, which is the COLA section operative in Orange County. That section also states that any increase or decrease in the CPI is to be rounded to the nearest one-half of one percent (1.62% rounded to 1.5%) and provides that a maximum COLA of 3% shall be granted on every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member of the system. For years in which the COLA exceeds 3%, the amount over 3% is banked for future years when the COLA is less than 3%.

For all benefit recipients, who began or will begin receiving benefits on or before April 1, 2021, this adjustment will increase their allowances by 1.5%.

### Submitted by:



S. J. – APPROVED

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Suzanne Jenike  
Assistant CEO, External Operations



Andy Yeung, ASA, MAAA, FCA, EA  
Vice President & Actuary  
T 415.263.8283  
ayeung@segalco.com

180 Howard Street  
Suite 1100  
San Francisco, CA 94105-6147  
segalco.com

**Via Email**

January 15, 2021

Mr. Steve Delaney  
Chief Executive Officer  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System  
Cost-of-Living Adjustments (COLA) as of April 1, 2021**

Dear Steve:

We have determined the cost-of-living adjustments for the System in accordance with Section 31870.1, as provided in the enclosed exhibit.

Pursuant to Section 31870.1, the cost-of-living factor to be used by the System on April 1, 2021 is determined by comparing the Bureau of Labor Statistics' annual average CPI for All Urban Consumers for the Los Angeles-Long Beach-Anaheim Area (with 1982-84 as the base period) in each of the past two years. The ratio of the past two annual indices, 278.567 in 2020 and 274.114 in 2019, is 1.0162. The County Law section cited above indicates that the resulting percentage change of 1.62% should be rounded to the nearest one-half percent, which is 1.5%.

Please note the above cost-of-living adjustment calculated using established procedures for OCERS may result in adjustments different from those calculated using alternative procedures by other systems.

The actual cost-of-living adjustment is dependent on the date of retirement. The CPI adjustment to be applied on April 1, 2021 is provided in Column (4) of the enclosed exhibit. The COLA bank on April 1, 2021 is provided in Column (5).

Please give us a call if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Andy Yeung".

Andy Yeung, ASA, MAAA, FCA, EA  
Vice President & Actuary

OH/bbf  
Enclosure

cc: Suzanne Jenike  
Brenda M. Shott, CPA

Orange County Employees Retirement System  
 Cost-Of-Living Adjustment  
 As of April 1, 2021

	(1)	(2)	(3)	(4)	(5)
Retirement Date	April 1, 2020 Accumulated Carry-over Bank	2021 CPI Change*	2021 CPI Rounded**	2021 CPI Used***	April 1, 2021 Accumulated Carry-over Bank****
All Members					
Section 31870.1					
<u>Maximum Annual COLA</u>	<u>3.0%</u>				
On or Before 4/1/1972	48.0%	1.62%	1.5%	3.0%	46.5%
04/02/1972 to 04/01/1974	47.5%	1.62%	1.5%	3.0%	46.0%
04/02/1974 to 04/01/1975	47.0%	1.62%	1.5%	3.0%	45.5%
04/02/1975 to 04/01/1976	41.5%	1.62%	1.5%	3.0%	40.0%
04/02/1976 to 04/01/1977	36.0%	1.62%	1.5%	3.0%	34.5%
04/02/1977 to 04/01/1978	32.5%	1.62%	1.5%	3.0%	31.0%
04/02/1978 to 04/01/1979	28.5%	1.62%	1.5%	3.0%	27.0%
04/02/1979 to 04/01/1980	23.5%	1.62%	1.5%	3.0%	22.0%
04/02/1980 to 04/01/1981	16.0%	1.62%	1.5%	3.0%	14.5%
04/02/1981 to 04/01/1982	5.5%	1.62%	1.5%	3.0%	4.0%
04/02/1982 to 04/01/2018	1.0%	1.62%	1.5%	2.5%	0.0%
04/02/2018 to 04/01/2019	1.0%	1.62%	1.5%	2.5%	0.0%
04/02/2019 to 04/01/2020	0.0%	1.62%	1.5%	1.5%	0.0%
04/02/2020 to 04/01/2021		1.62%	1.5%	1.5%	0.0%

\* Based on ratio of 2020 annual average CPI to 2019 annual average CPI for the Los Angeles - Long Beach - Anaheim Area.

\*\* Based on CPI change rounded to nearest one-half percent.

\*\*\* These are the cost-of-living adjustment factors to be applied on April 1, 2021.

\*\*\*\* These are the carry-over of the cost-of-living adjustments that have not been used on April 1, 2021.

**§31870.1. Determination; maximum annual change of three percent in allowances; limitation on reduction**

The board shall before April 1 of each year determine whether there has been an increase or decrease in the cost of living as provided in this section. Notwithstanding Section 31481 or any other provision of this chapter (commencing with Section 31450), every retirement allowance, optional death allowance, or annual death allowance payable to or on account of any member, of this system or superseded system who retires or dies or who has retired or died shall, as of April 1st of each year, be increased or decreased by a percentage of the total allowance then being received found by the board to approximate to the nearest one-half of 1 percent, the percentage of annual increase or decrease in the cost of living as of January 1st of each year as shown by the then current Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for the area in which the county seat is situated, but such change shall not exceed 3 percent per year; however, the amount of any cost-of-living increase or decrease in any year which is not met by the maximum annual change of 3 percent in allowances shall be accumulated to be met by increases or decreases in allowance in future years; except that no decrease shall reduce the allowance below the amount being received by the member or his beneficiary on the effective date of the allowance or the application of this article, whichever is later.

(Amended by Stats. 1978, Ch. 900, Sec. 11)



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT:** SACRS BOARD OF DIRECTORS ELECTIONS 2021-2022

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### Recommendation

Identify one or more nominees for the SACRS Board of Directors election to be conducted on May 14, 2021; and direct staff to submit the nomination(s) to the SACRS Nominating Committee on or before March 1, 2021.

### Background/Discussion

At the May 14, 2021 SACRS business meeting, SACRS will conduct the election for the SACRS Board of Directors for 2021-2022. The Board of Directors consists of the following positions:

- President
- Vice President
- Treasurer
- Secretary
- Two (2) Regular Members
- Immediate Past President

Attached is the timeline for the upcoming election.

As a regular member of SACRS, OCERS may submit nominations for the election of the SACRS Directors. Such nominations are to be submitted to the SACRS Nominating Committee, and must be received by the Nominating Committee prior to the first business day after March 1 of each calendar year.

The purpose of this agenda item is for the Board to discuss and identify one or more nominees for the SACRS Board of Directors election to be conducted on May 14, 2021, and to direct staff to submit the nomination(s) to the SACRS Nominating Committee on or before March 1.

***In addition***, individuals interested in serving on the SACRS Board of Directors may indicate their interest by completing and submitting the attached SACRS Nomination Submission Form, with a letter of intent. The form and the letter of intent must be submitted to the Nominating Committee no later than March 1, 2021.

Prior to March 25, the Nominating Committee will report a final ballot to each regular member County Retirement System. Staff will present the final ballot to the OCERS Board at its April 19, 2021 meeting so that the Board can give direction to the OCERS Voting Delegate on how to vote OCERS' proxy in the SACRS election.

Attachments

- (1) SACRS Board of Directors Election 2021-2022 Information and Timeline
- (2) SACRS Nomination Submission Form

**Submitted by:**



GMR- Approved

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Gina M. Ratto  
General Counsel



October 1, 2020

To: SACRS Trustees & SACRS Administrators/CEO's  
 From: Dan McAllister, SACRS Immediate Past President, Nominating Committee Chair  
 SACRS Nominating Committee  
 Re: SACRS Board of Director Elections 2021-2022 - Elections Notice

SACRS BOD 2021-2022 election process will begin January 2021. Please provide this election notice to your Board of Trustees and Voting Delegates.

DEADLINE	DESCRIPTION
March 1, 2021	Any regular member may submit nominations for the election of a Director to the Nominating Committee, provided the Nominating Committee receives those nominations no later than noon on March 1 of each calendar year regardless of whether March 1 is a Business Day. Each candidate may run for only one office. Write-in candidates for the final ballot, and nominations from the floor on the day of the election, shall not be accepted.
March 25, 2021	The Nominating Committee will report a final ballot to each regular member County Retirement System prior to March 25
May 15, 2021	Nomination Committee to conduct elections during the SACRS Business Meeting at the Spring Conference
May 15, 2021	Board of Directors take office for 1 year

**Per SACRS Bylaws, Article VIII, Section 1. Board of Director and Section 2. Elections of Directors:**

**Section 1. Board of Directors. The Board shall consist of the officers of SACRS as described in Article VI, Section 1, the immediate Past President, and two (2) regular members**

**A. Immediate Past President.** *The immediate Past President, while he or she is a regular member of SACRS, shall also be a member of the Board. In the event the immediate Past President is unable to serve on the Board, the most recent Past President who qualifies shall serve as a member of the Board.*

**B. Two (2) Regular Members.** *Two (2) regular members shall also be members of the Board with full voting rights.*

**Section 2. Elections of Directors.** *Any regular member may submit nominations for the election of a Director to the Nominating Committee, provided the Nominating Committee receives those nominations no later than noon on March 1 of each calendar year regardless of whether March 1 is a Business Day. Each candidate may run for only one office. Write-in candidates for the final ballot, and nominations from the floor on the day of the election, shall not be accepted.*

*The Nominating Committee will report its suggested slate, along with a list of the names of all members who had been nominated, to each regular member County Retirement System prior to March 25. The Administrator of each regular member County Retirement System shall be responsible for communicating the Nominating Committee's suggested slate to each trustee and placing the election of SACRS Directors on his or her board agenda. The Administrator shall acknowledge the completion of these responsibilities with the Nominating Committee.*



*Director elections shall take place during the first regular meeting of each calendar year. The election shall be conducted by an open roll call vote, and shall conform to Article V, Sections 6 and 7 of these Bylaws.*

*Newly elected Directors shall assume their duties at the conclusion of the meeting at which they are elected, with the exception of the office of Treasurer. The incumbent Treasurer shall co-serve with the newly elected Treasurer through the completion of the current fiscal year.*

The elections will be held at the SACRS Spring Conference May 11-14, 2021 at the Hyatt Regency Long Beach, Long Beach, CA. Elections will be held during the Annual Business meeting on Friday, May 14, 2021.

If you have any questions, please contact Dan McAllister, [Dan.McAllister@sdcounty.ca.gov](mailto:Dan.McAllister@sdcounty.ca.gov)

Thank you for your prompt attention to this timely matter.

Sincerely,

*Dan McAllister*

Dan McAllister, San Diego CERA Trustee & San Diego County Treasurer Tax Collector  
SACRS Nominating Committee Chair

CC: SACRS Board of Directors  
SACRS Nominating Committee Members  
Sulema H. Peterson, SACRS Executive Director





**SACRS Nomination Submission Form  
SACRS Board of Directors Elections 2021-2022**

All interested candidates must complete this form and submit along with a letter of intent. **Both the form and the letter of intent must be submitted no later than March 1, 2021.** Please submit to the Nominating Committee Chair at [Dan.McAllister@sdcounty.ca.gov](mailto:Dan.McAllister@sdcounty.ca.gov) AND to SACRS at [sulema@sacrs.org](mailto:sulema@sacrs.org). If you have any questions, please feel free to contact Sulema Peterson at SACRS at (916) 701-5158.

<b>Name of Candidate</b>	Name:
<b>Candidate Contact Information (Please include – Phone Number, Email Address and Mailing Address)</b>	Mailing Address:  Email Address:  Phone:
<b>Name of Retirement System Candidate Currently Serves On</b>	System Name:
<b>List Your Current Position on Retirement Board (Chair, Alternate, Retiree, General Elected, Etc)</b>	<input type="radio"/> Chair <input type="radio"/> Alternate <input type="radio"/> General Elected <input type="radio"/> Retiree <input type="radio"/> Other _____
<b>Applying for SACRS Board of Directors Position (select only one)</b>	<input type="radio"/> President <input type="radio"/> Vice President <input type="radio"/> Treasurer <input type="radio"/> Secretary <input type="radio"/> Regular Member
<b>Brief Bio</b>	



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board  
**FROM:** Steve Delaney, Chief Executive Officer  
 Suzanne Jenike, Assistant CEO, External Operations  
**SUBJECT: ALAMEDA DECISION POINTS – DISCUSSION ONLY**

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### Background/Discussion

OCERS Team has been reviewing several pay items following the Supreme Court's decision in *Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al* (Alameda), particularly in light of the Court's endorsement of the statutory requirement that "[p]ayments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise" must be excluded from compensation earnable. The Court also held that at least since 2013, members had no vested contractual right to have such pay included in the calculation of their retirement benefits, or any right to "estop" retirement boards from following the new law.

Conforming to the Supreme Court and statutory proscriptions necessarily requires OCERS to articulate a definition of, or test for what are, "normal working hours." OCERS has articulated the test as follows: "Normal working hours" are hours that (1) are required to be worked as part of the employee's regular duties; (2) are ordinarily worked by all other members in the same grade/class/rate of pay as the employee; and (3) are not and cannot be voluntarily worked by the employee.

In *Alameda*, the Supreme Court expressly affirmed the requirement that everyone in a grade or class must ordinarily work the mandatory overtime in order for the associated pay to be pensionable:

Section 31461 bases compensation earnable on the same number of days worked for all employees within a particular pay grade. The long-standing exclusion of overtime from compensation earnable, now embodied in section 31461.6, confirms that an employee's pensionable compensation is generally to be based on pay for work performed during normal working hours. Consistently with this exclusion of overtime, subdivision (b)(3) requires the exclusion of compensation for other services rendered outside normal working hours. This restriction prevents employees from volunteering, during their final compensation period, to perform additional services outside normal working hours in order to artificially inflate their daily rate of pay. Subdivision (b)(3) therefore reinforces the portion of section 31461 that requires compensation earnable to be based on the same work year for all employees within a particular pay grade. (Alameda, at p. 80, emphasis added.)

OCERS is bound to follow the law as articulated by the Legislature in 2013 and confirmed by the Supreme Court in 2020; it has no discretion to include statutorily excluded elements of pay in calculating retirees' benefits. The corrections described below are to be made effective as of the date the law changed, January 1, 2013, and are intended to be made in accordance with the Internal Revenue Code, Treasury regulations and other applicable Federal tax guidance, including Revenue Procedure 2019-19.

## **DECISION POINTS:**

### **1. APPROVE TEST**

*(STAFF RECOMMENDS THE BOARD APPROVE THE TEST)*

- a. Approve the following test and definition of "normal working hours" for purposes of determining whether items of pay can be included in compensation earnable under the terms of the plan, as follows:

Basic Test: Pay for services rendered outside normal working hours is excluded from compensation earnable. Conversely, pay for services rendered during normal working hours is included in compensation earnable (unless the Board otherwise determines the pay was given in order to enhance a member's retirement allowance).

Definition of Normal Working Hours: "Normal working hours" are hours that (1) are required to be worked as part of the employee's regular duties; (2) are ordinarily worked by all other members in the same grade/class/rate of pay as the employee; and (3) are not and cannot be voluntarily worked by the employee.

- i. The employee's grade/class/rate of pay will be determined by the grades/classes/rates of pay enumerated in the following:

(a) For Departments within the County, as specified in the applicable MOU and the County's official list of job classifications at:

<https://www.ocgov.com/gov/hr/classification/specifications>

and

(b) For separate District employers, the applicable MOU and resolutions of the governing body of the District approving classifications for the employees of the District.

- ii. An employee's regular required duties, whether the hours are ordinarily worked by all other members in the same grade/class/rate of pay as the employee, and whether employees do or can volunteer to work the hours will be determined by reference to the applicable MOU, other governing documents that establish the terms and conditions of employment, the employer's pay records and the employer's work scheduling documents.

### **2. CORRECTION OF MONTHLY BENEFIT FOR MEMBERS WHO RETIRED ON OR AFTER JANUARY 1, 2013**

*(STAFF RECOMMENDS THE BOARD DIRECT STAFF TO MAKE CORRECTIONS TO THE MONTHLY BENEFIT OF MEMBERS RETIRING BETWEEN JANUARY 1, 2013 AND THE PRESENT)*

- a. Correct monthly benefit amount (based on the approved test and definition of Normal Working Hours) prospectively, effective as of the October 2020 payroll (covering the benefit month of 9/1/2020-9/30/2020), with adjusted final average compensation calculations and COLAs.

3. RECOVERY OF BENEFITS OVERPAID TO RETIREES

*(STAFF RECOMMENDS THAT THE BOARD DIRECT STAFF TO COLLECT THE OVERPAID BENEFITS PAID FROM JANUARY 1, 2013 TO OCTOBER 1, 2020 FROM THE EMPLOYERS AS A LIABILITY OF THE SYSTEM. NO AMOUNTS FROM THIS PERIOD WOULD BE REQUIRED TO BE REPAID BY MEMBERS.*

*OVERPAYMENTS MADE DURING THE PERIOD FROM OCTOBER 1, 2020 TO THE DATE OF BENEFIT RECALCULATION WILL BE RECOVERED FROM THE MEMBERS IN ACCORDANCE WITH OCERS' OVERPAID/UNDERPAID PLAN BENEFITS POLICY.)*

The Board may recover overpaid benefits made to retirees between January 1, 2013 and the October 2020 payroll from the members or the employers or both.

4. CREDIT OR REFUND OF MEMBER PAID CONTRIBUTIONS

*(STAFF RECOMMENDS THE BOARD DIRECT STAFF TO CREDIT OR REFUND MEMBER PAID CONTRIBUTIONS BACK TO JANUARY 1, 2013)*

- a. Retired Members/Survivors members whose monthly benefit will be reduced:
  - i. Calculate the overpaid member contributions made from January 1, 2013 to date of retirement and deduct the total overpaid monthly retirement benefits during that period from the total overpaid member contributions. If the overpaid contributions exceed the overpaid benefits, issue a refund to the member in accordance with OCERS' Overpaid/Underpaid Contributions Policy. If the total overpaid benefit exceeds the total overpaid member contributions, no amount will be refunded.
- b. Active members:
  - i. Refund all overpaid member contributions paid from January 1, 2013 to September 2020 to the member in accordance with OCERS' Overpaid/Underpaid Contributions Policy.

5. CHALLENGES TO THE BOARD'S ACTIONS

- a. The recourse of individual members who wish to challenge or dispute the change in their retirement allowance as a result of the implementation of *Alameda* or the calculation of their retirement allowance at retirement will be governed by the Board's Administrative Review and Hearing Policy, which can be accessed here:

[https://www.ocers.org/sites/main/files/file-attachments/administrative review and hearing policy for cases filed on or after august 18 20 20.pdf](https://www.ocers.org/sites/main/files/file-attachments/administrative_review_and_hearing_policy_for_cases_filed_on_or_after_august_18_20_20.pdf)

- b. The recourse of an OCERS employer who disputes the Board’s determination of pensionability of a pay item in response to *Alameda* will be governed by the Board’s Pay Item Review Policy, which can be accessed here:

<https://www.ocers.org/sites/main/files/file-attachments/ocerspayoutrequestandapprovalproceduresforemployers.pdf?1581116716>

- c. Any interested party who disputes any action of the Board in implementing the decision in *Alameda* has legal recourse under the California Code of Civil Procedure.

In formulating these recommendations Staff received and considered the recommendations of OCERS’ independent legal counsel and input from numerous stakeholders. Stakeholder input included, among other things, letters from the attorneys for the Association for Orange County Deputy Sheriffs (AOCDS) and the attorneys for the Orange County Attorneys Association (OCAA). Both letters from AOCDS and OCAA have been included in the accompanying materials.

On February 16, 2021, Staff will present the decision points, staff recommendations and any written and/or verbal feedback received from employers and stakeholders, and will ask the Board to consider the issues before it, with the expectation that the Board will take action on staff’s final recommendations presented at the Board’s meeting on March 15, 2021.

**Submitted by:**



SD - APPROVED

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Steve Delaney  
Chief Executive Officer

**Submitted by:**



SJ - APPROVED

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Suzanne Jenike  
Assistant CEO, External Operations

**Attachments:**

- January 27, 2021 letter from Reich, Adell & Cvitan on behalf of OCAA
- January 27, 2021 letter from Morrison & Foerster on behalf of AOCDS

**MORRISON | FOERSTER**

425 MARKET STREET  
SAN FRANCISCO  
CALIFORNIA 94105-2482  
  
TELEPHONE: 415.268.7000  
FACSIMILE: 415.268.7522  
  
WWW.MOFO.COM

MORRISON & FOERSTER LLP  
BEIJING, BERLIN, BOSTON, BRUSSELS,  
DENVER, HONG KONG, LONDON,  
LOS ANGELES, NEW YORK, PALO ALTO,  
SAN DIEGO, SAN FRANCISCO, SHANGHAI,  
SINGAPORE, TOKYO, WASHINGTON, D.C.

January 27, 2021

Writer's Direct Contact  
+1 (415) 268.6323  
DForan@mofocom

By email [sdlaney@ocers.org](mailto:sdlaney@ocers.org) and [ctorres@ocers.org](mailto:ctorres@ocers.org)

Steve Delaney  
Chief Executive Officer  
Orange County Employees Retirement System  
2223 E. Wellington Avenue, Suite 100  
Santa Ana, CA 92701

Gina M. Ratto  
General Counsel  
OCERS  
2223 E. Wellington Avenue, Suite 100  
Santa Ana, CA 92701

Re: AOCDS Response to February 16 Draft Staff Memo and *Alameda County* Review

Dear Mr. Delaney and Ms. Ratto:

I write on behalf of the Association of Orange County Deputy Sheriffs (AOCDS) to provide feedback and comment on the draft staff memo to the OCERS Board of Directors regarding "Alameda Decision Points" and the test for "normal working hours" specified in the draft memo. We understand that staff intends to recommend approval of this test as an updated OCERS policy. We further understand from the draft memo that staff will recommend that its proposed test should be applied not just prospectively, but retroactively to January 1, 2013.

For multiple reasons, we urge staff to reconsider the proposed recommendation. The test articulated in the draft February 16 memo deviates significantly from the statutory language, and is not mandated by Government Code section 31461, by PEPRA, or by the California Supreme Court's decision in *Alameda County*. In addition to deviating significantly from controlling law, the proposed test is only articulated in the abstract. There are no recommendations or findings with respect to how this test should be applied to a particular pay item. There are no recommendations or findings with respect to what we understood to be the core issue under review: whether mandatory On Call Duty Pay and Canine Maintenance Pay earned by highly-skilled AOCDS members in specialized units is properly

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included in compensation earnable. The draft memo not only does not address this question, it evidences a blunt instrument approach that may have grave, indeed life-altering consequences for AOCDS members. These concerns are compounded by the draft memo's proposal to apply its (legally erroneous) test "retroactively," and by OCERS' decision to pause member contributions to their retirements based on these two Premium Pay items. It is unclear how and when OCERS intends to make a final determination on these issues, or what administrative procedures would apply to a final determination on these issues, leaving AOCDS and its members unclear on a path forward and their legal rights and remedies.

For the reasons explained below, there is little question mandatory On-Call Duty Pay and Canine Maintenance Handler Pay are properly included in compensation earnable. These Premium Pay items are for services rendered that are a core part of the duties for the highly-specialized positions and units to which they apply. Those positions are specified not just in the MOU in some instances, but also in numerous policy and other documents maintained by the County and Departments. These Premium Pay items are not for "additional services" rendered outside "normal working hours," and are not subject to pension spiking. These pay items are properly included in compensation earnable. Nothing in PEPRRA or *Alameda County* warrants a contrary conclusion.

Along with this letter, Mr. Bartlett will be providing OCERS staff with documents relevant to the points addressed below. Given the limited time we have had to respond to the draft February 16 memo, neither this letter nor the documents provided by Mr. Bartlett should be considered a complete and final articulation of AOCDS's position. We of course will be glad to provide additional answers to your questions and additional documentation as staff deems helpful.

### **1. Background.**

The County Employee Retirement Law (CERL), was enacted in 1937 and its basic definition of "compensation earnable" has remained unchanged since then. "Compensation earnable" means "the average compensation as determined by the board, for the period under consideration, upon the basis of the average number of days ordinarily worked by persons in the same grade or class of positions during the period, and at the same rate of pay." Cal. Gov't Code § 31461(a).

The Supreme Court in *Alameda County* explained the proper application of this provision. Specifically, the Supreme Court held that "a retiring employee's final compensation is the annual compensation the employee would have received had he or she worked the average number of days ordinarily worked by his or her peers in the final compensation period." *Alameda County Deputy Sheriff's Ass'n v. Alameda County*, 9 Cal. 5th 1031, 1058 (2020). To find "final compensation, a county board is . . . required to [1] determine the employee's

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compensation during the final compensation period, [2] divide that figure by the days worked by the employee in that time to determine his or her average daily rate of pay, **and then** [3] multiply that rate by ‘the average [annual] number of days ordinarily worked’ by the employee’s peers during the final compensation period.” *Id.* (emphasis added) (internal citation omitted).

In short, the “average number of days ordinarily worked” by an “employee’s peers” is the multiplier. *Alameda County*, 9 Cal. 5th at 1058. It is the neither the denominator (an employee’s compensation during final compensation period), nor the numerator (days worked by the employee in final compensation period). With the exception of overtime, it plays no role in determining an “employee’s compensation during the final compensation period.” *Id.* This point was made crystal clear by the Supreme Court in *Ventura County Deputy Sheriffs’ Ass’n v. Board of Retirement of Ventura County Employees’ Retirement Ass’n*, 16 Cal. 4th 483 (1997). Following a careful examination of the language and legislative history, the Supreme Court held in *Ventura County* that, “[w]ith the exception of overtime pay, items of ‘compensation’ paid in cash, **even if not earned by all employees in the same grade or class**, must be included in the ‘compensation earnable’ and ‘final compensation’ on which an employee’s pension is based.” *Ventura County*, 16 Cal. 4th at 487 (emphasis added). “Nothing in the wording of section 31461,” the Supreme Court explained, “requires that the amount of pay included in ‘compensation earnable’ be only that received by **all** employees in the same job category.” *Id.* at 501 (emphasis added). Indeed, the Supreme Court held that the “only construction which gives meaning to the command that ‘compensation earnable’ be based on the ‘average compensation’ of persons in the same pay grade is one which anticipates that the individual compensation of persons in the pay grade is **not** uniform so that there is something to ‘average.’” *Id.* (emphasis added).

Enacted in 2013, the Public Employee Pension Reform Act (PEPRA) made no changes to the long-standing definition of “compensation earnable,” nor to the basic computation to determine an employee’s final compensation under CERL. Instead, it addressed impermissible “add ons” to compensation earnable by adding a new subdivision (subdivision (b)), that eliminated four items of compensation from “compensation earnable.” Only one of those items is relevant here: “Payments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.” Cal. Gov’t Code § 31461(b)(3).

The point of PEPRA is to eliminate “pension spiking.” A bill analysis prepared in connection with the pre-PEPRA version of Assembly Bill 340 explained that the public pension system was “tainted by a few individuals” in “upper level positions” who “spike” their final compensation,” and that these abusive practices put retirement benefits “at risk for the vast majority of honest, hard-working public servants.” Assemb. Comm. on Public Employees, Retirement and Social Security, Comm. Rep. CA A.B. 340, Reg. Sess., p. 3 (Cal. 2011-2012), *as amended* Apr. 25, 2011, 2011 WL 1739757. PEPRA therefore gave county



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retirement boards the “authority and the obligation” to deny compensation items included “for the principal purpose of enhancing a member’s retirement.” *Id.* The Supreme Court’s decision in *Alameda County* made this point clear, holding that the purpose of PEPRA was to “reduce pension spiking, the manipulation of an employee’s pattern of work and pay to produce inflated compensation during the final compensation period.” *Alameda County*, 9 Cal. 5th at 1061 (citation omitted); *id.* (in enacting PEPRA “the legislature sought to eliminate pension spiking by eliminating practices that . . . are inconsistent with the statute’s overall concept of compensation earnable”).

In *Alameda County*, the Supreme Court held that PEPRA was constitutional, and that it should be applied to calculate pensions of county employees who were employed at the time PEPRA became effective. Critically, the Supreme Court did not purport to overrule in any way its prior holding in *Ventura County* that compensation items did **not** need to be “earned by all employees in the same grade or class” to be properly included in “compensation earnable.” *Ventura County*, 16 Cal. 4th at 487. To the contrary, the Supreme Court noted that its decision in *Ventura County* was based on an “extensive examination of the language and legislative history” of CERL and quoted the exact language from its prior decision that “premium pay not received by all of the employee’s peers” was included in the definition of compensation earnable now found in section 31461(a). *Alameda County*, 9 Cal. 5th at 1058-59. While the Supreme Court in *Alameda County* addressed the constitutionality of the **exclusions** to compensation earnable under PEPRA, it did not address (much less overrule), its prior holding that items of compensation did not need to be earned by all employees in the same grade or class.

As to the PEPRA exclusion relevant here—payments for additional services rendered outside of normal working hours—the Supreme Court only held that provision was constitutional insofar as it excluded **voluntary on call pay** that was susceptible to “pension spiking.” *Alameda County*, 9 Cal. 5th at 1063. The only “example” of compensation excluded by new subdivision (b)(3) of section 31461 cited by the Supreme Court was “on-call duty pay, which is provided to employees **in return for voluntarily making themselves available** to be called to work outside their normal working hours.” *Id.* at 1062 (emphasis added). “Accepting **voluntary on-call duty**,” the Supreme Court held, “allowed an employee to . . . increase his or her pension benefit by **volunteering** for a large quantity of on-call duty . . . during the final compensation period.” *Id.* at 1063 (emphases added). Accordingly, new subdivision (b)(3) was constitutional because it “prevents employees from **volunteering**, during their final compensation period, to perform additional services outside normal working hours **in order to artificially inflate their daily rate of pay**.” *Id.* at 1097 (emphases added)

Quite literally, in every single instance in which the Supreme Court discussed the metes and bounds of new subdivision (b)(3), it referred only to **voluntary** on-call pay that was capable of being “spiked” in the final pay period, without exception. The Supreme Court’s decision

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did not address the items of Premium Pay at issue here—**mandatory** On-Call Duty Pay and Canine Maintenance Handler Pay for critical services rendered by first responders and peace officers. These items are not earned for “additional” services “outside of normal working hours” and there is nothing in *Alameda County* or PEPRA to suggest that they are. Even more, the California Attorney General—who intervened in the litigation—never argued that **mandatory** on call pay that was part and parcel of a peace officer’s duties (as here) was excluded by PEPRA. The opposite is true. In the trial court proceedings, the Attorney General was “prepared to agree” that “**required** stand by or on call time” was not excluded by PEPRA. *Contra Costa County Deputy Sheriffs’ Ass’n v. Contra Costa County Emps.’ Ret. Ass’n*, No. MSN12-1870 (Cal. Super. Ct. May, 12, 2014) (Final Statement of Decision) at 48. Similarly, in the Court of Appeals “the state [did] not really challenge” mandatory on-call pay, “focusing instead—in both the trial court and on appeal—on the problem of compensation for **voluntary** on-call shifts.” *Alameda County Deputy Sheriffs’ Ass’n v. Alameda County*, 19 Cal. App. 5th 61, 108 (2018) (emphasis added), *review granted*, 413 P.3d 1132 (2018), *rev’d & remanded*, 9 Cal. 5th 1032 (2020)

In sum, neither PEPRA nor the Supreme Court’s decision in *Alameda County* requires exclusion from “compensation earnable” regularly-scheduled, required On-Call Duty Pay or Canine Maintenance Handler Pay that is part and parcel of a peace officer’s assigned duties. As to mandatory on call pay, the State did not even argue the point in *Alameda County*. Second, neither PEPRA nor *Alameda County* altered the Supreme Court’s holding in *Ventura County* that items of pay includable in “compensation earnable” do not need to be earned by a “all” employees in a particular grade or class. Third, neither PEPRA nor *Alameda County* addresses what constitutes “the same grade or class of positions” under subsection 31461(a). PEPRA made no changes to that language, and the Supreme Court in *Alameda County* did not address it.

## 2. OCERS Current Policies and Practices comply with PEPRA.

Following PEPRA’s enactment, OCERS issued revised policies and guidelines to ensure that items included in “compensation earnable” were proper and consistent with the revised statute, and that items excluded under PEPRA were not included in “compensation earnable.”

Those policies were adopted to ensure OCERS “fully complies with applicable law when calculation Compensation Earnable and Legacy members’ retirement benefits.”<sup>1</sup> They were adopted to explain “OCERS interpretation” of pensionable compensation post-PEPRA, and “to ensure that an element of pay was not paid to spike a members’ retirement benefit.”<sup>2</sup>

<sup>1</sup> OCERS Compensation Earnable Policy, adopted Mar. 18, 2019, p. 1.

<sup>2</sup> OCERS Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure, adopted Mar. 11, 2018, p. 1



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The policies state that they are to be “construed consistently with the requirements of the California Government Code . . . and the Ventura Decision and other interpretations issued hereunder.”<sup>3</sup> “Final Average Salary” under these policies and procedures includes “base salary and may also include other pay items that the OCERS Board of Retirement has defined as Compensation Earnable or Pensionable Compensation.”<sup>4</sup> OCERS’ current policies define “Compensation Earnable” as (i) remuneration earned and receivable in cash (under the applicable MOU) by the retiring member, (ii) during the final compensation period, and (iii) for working the ordinary time required of other employees, in the same grade [or] class.”<sup>5</sup>

The “applicable MOU” between the County and AOCDS specifically includes “On-Call Pay,” defined as “assigned on-call duty by the County” and “Canine Handler Maintenance Pay” for “Canine Handler[s]” as “Premium Pay.”<sup>6</sup> OCERS has always deemed “assigned on-call duty” pay and Canine Maintenance Handler Pay as properly includable as “Compensation Earnable” under these policies, policies specifically adopted to ensure compliance with PEPRA.

### **3. The Revised Test Specified in the Draft Memorandum is Not Mandated by PEPRA.**

The proposed test for “normal working hours” specified in the draft February 16 memo that “OCERS has articulated” is as follows:

‘Normal working hours’ are hours that (1) are required to be worked as part of the employee’s regular duties; (2) are ordinarily worked by all other members in the same grade/or/class/rate of pay as the employee; and (3) are not and cannot be voluntarily worked by the employee.

AOCDS respectfully urges OCERS staff to reconsider this proposed test.

**First**, the test constitutes a significant change from the test OCERS previously communicated to AOCDS in August, following the Supreme Court’s decision in *Alameda County* and the August 17 Board meeting. In August 2020, OCERS informed AOCDS that “Premium Pay will be included” in compensation earnable if, among other things, it was “*part of the regular assignment of other members in the same group or class.*” (emphasis

<sup>3</sup> *Id.*, p. 2.

<sup>4</sup> *Id.*, p. 1.

<sup>5</sup> *Id.*, p. 2; *see also* OCERS Compensation Earnable Policy, p. 1.

<sup>6</sup> Memorandum of Understanding 2019-2023, County of Orange and Ass’n of Orange County Deputy Sheriffs for the Peace Officer Unit and Supervising Peace Officer Unit, effective Oct. 8, 2019 (“MOU”), pp. 5, 10.



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added).<sup>7</sup> AOCDS was informed that this would be “the criteria OCERS will be applying to determine the pensionable attributes” of the “pay items in question.”<sup>8</sup>

In an October 19 memo to the Board, however, OCERS staff substantially revised its proposed test, introducing for the first time a requirement that “normal working hours” must be worked by *all* other members in the same grade or class.”<sup>9</sup> The memo also specified that “normal working hours . . . *must be identified* in a Memorandum of Understanding (MOU), employment agreement, compensation resolution/ordinance or other official document of the employer.”<sup>10</sup> The test specified in the draft February 16, 2021 staff memo constitutes still another change. The revised test continues to include the requirement that “normal working hours” must be “ordinarily worked by *all* other members in the same grade/class/rate of pay *as the employee*,” adds a new requirement that “normal working hours” “are not and cannot be voluntarily worked by the employee,” and drops references to the requirement that “normal working hours” be identified in a “Memorandum of Understanding” or “other official document of the employer.”<sup>11</sup>

It is very difficult for AOCDS to meaningfully respond to a test that has been subject to constant revision since August 2020. In addition to the evolving changes, the latest test raises more questions than it answers. The draft memo provides no guidance as to how OCERS staff intends to apply this test to the two items of Premium Pay relevant to AOCDS members—On-Call Duty Pay and Canine Maintenance Handler Pay—and provides no guidance on how OCERS should determine when and how hours are “ordinarily worked” by “all other members in the same grade/class/rate of pay,” or what even constitutes the “same grade/class/rate of pay.”

**Second**, more importantly, the revised test—most especially with respect to the requirement that “normal working hours” are “ordinarily worked by *all* other members in the same grad/class/rate of pay *as the employee*”—constitutes a significant departure from the statutory language. The plain language of the statute controls, and [i]f there is no ambiguity in the language” then “the Legislature is presumed to have meant what it said, and the plain meaning of the language governs.” *Lennane v. Franchise Tax Bd.*, 9 Cal. 4th 263, 268 (1994) (citation omitted). Pertinent here, PEPRRA merely excludes from compensation earnable “[p]ayments for additional services rendered outside of normal working hours, whether paid in a lump sum or otherwise.” Cal. Gov’t Code § 31461(b)(3). Neither the text nor the legislative history imposes any requirement of any kind that to avoid the exclusion for “additional services rendered outside of normal working hours,” items of compensation

<sup>7</sup> OCERS Staff Email to P. Bartlett (Executive Director of AOCDS), Aug. 19, 2020.

<sup>8</sup> OCERS Staff Email to P. Bartlett (Executive Director of AOCDS), Aug. 24, 2020.

<sup>9</sup> Staff Memo to OCERS Board of Directors, Oct. 19, 2020, pp. 1-2 (emphasis in original).

<sup>10</sup> *Id.*, p. 2.

<sup>11</sup> OCERS Draft Memo to Board re Alameda Decision Points, Feb. 16, 2021.

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earnable **must** be worked by **all** members in “the same grade/class/rate of pay as the employee.” In essence, the proposed test engrafts onto the plain language of subdivision (b)(3) some of the language from the multiplier in subdivision (a), i.e., “the average number of days ordinarily worked by persons in the same grade or class of positions during the [final compensation] period.” Cal. Gov’t Code § 31461(a).

That the revised test selectively uses some of the language from subdivision (a) and omits other language is especially troubling. In construing statutory language it is improper “to insert what has been omitted, or to omit what has been inserted.” Cal. Civ. Proc. Code § 1858. Here, the draft memo and proposed test does both. The words “**all** other members” nowhere appears in subdivision (a), it merely states that compensation earnable be based on “the average number of days ordinarily worked by **persons** in the same grade or class **of positions**.” Cal. Gov’t Code § 31461(a) (emphases added). The statute makes no reference to “all persons,” and “all persons,” and “persons” are very clearly not the same thing. They are materially different requirements. Not only does the revised OCERS test insert language that doesn’t appear in the statute, it omits the language that compensation earnable is based on “the average number of days ordinarily worked by persons in the same grade or class **of positions**” during the final compensation period. *Id.* (emphasis added). That the legislature chose the plural term “positions” in section 31461 to modify “grade or class . . . strongly suggest[s] that a particular grade or class is not limited to one specific type of position but might encompass more than one type of position.” *Stevenson v. Bd. of Ret. of Orange County Emps. Ret. Sys.*, 186 Cal. App. 4th 498, 509 (2010). Yet here, the revised test would radically transform this language into a test that hours worked are worked by “**all**” other members in the same grade/class/rate of pay “**as the employee**.”

**Third**, the revised test is not “mandated” by Supreme Court precedent. Indeed, it is inconsistent with precedent. The Supreme Court has explained “that there is a logical progression in the statutory framework under which a pension is calculated.” *Ventura County*, 16 Cal. 4th at 493. That “logical progression” requires a board to determine an employee’s final compensation in three steps: “[1] determine the employee’s compensation during the final compensation period, [2] divide that figure by the days worked by the employee in that time to determine his or her average daily rate of pay, **and then** [3] multiply that rate by ‘the average [annual] number of days ordinarily worked’ by the employee’s peers during the final compensation period.” *Alameda County*, 9 Cal. 5th at 1058 (emphasis added) (internal citation omitted) The revised test proposed by OCERS staff confuses the multiplier with the denominator, thereby upending the “logical progression” specified in the statute and articulated by the Supreme Court. In doing so, the revised test also mandates a qualifier for “compensation earnable” that the Supreme Court has specifically rejected: “with the exception of overtime pay, items of ‘compensation’ paid in cash, **even if not earned by all employees in the same grade or class**, must be included in the ‘compensation earnable’

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and ‘final compensation’ on which an employee’s pension is based.” *Ventura County*, 16 Cal. 4th at 487 (emphasis added).

The only possible way to remotely justify the revised test is that it is based on an unspoken premise: that the Supreme Court in *Alameda County* overruled its prior holding in *Ventura County* in this regard. It certainly did not do that. To the contrary, the *Alameda County* decision cites approvingly the Supreme Court’s “extensive examination of the language and legislative history” in *Ventura County*, quotes the **exact language** from *Ventura County* that items of compensation earnable do not need to be earned by “all employees in the same grade or class,” and reaffirms the orderly progression for determining final compensation specified in that decision. *Alameda County*, 9 Cal. 5th at 1058.

We therefore respectfully submit that that the reformulated PEPRA test is based on an apparent misunderstanding of *Alameda County*. *Alameda County* did not articulate any test for whether an item of pay constitutes pay for “additional services rendered outside normal working hours.” It merely held that provision was constitutional insofar as it excluded voluntary on call pay that could be earned on an ad hoc basis and was subject to “spiking” during the final pay period. The draft memo, moreover, takes a single section from a nearly 40-page opinion out of context to justify its proposed test. The portion of the opinion cited in the draft memo states merely that “Section 31461 bases compensation earnable **on the same number of days worked** for all employees within a particular pay grade.” 9 Cal. 5th at 1097 (emphasis added). In other words, it is a reference to the multiplier specified in subdivision (a), i.e., the final compensation period in which the retirement benefit is calculated. The Supreme Court made this point quite clear in the immediately preceding section when it explained that compensation earnable “is based on the retiring employee’s average daily rate of pay during the final compensation period, applied over the number of days ordinarily worked during that time by the employee’s peers, **identified as ‘persons in the same grade or class of positions during the period.’**” *Id.* at 1095-96 (emphasis added) (citations omitted). Among employees in this “peer group,” the Supreme Court explained, “differences in pension benefits” are “determined by variations in individual employees’ average daily compensation during the final compensation period, rather than by the relative amount of time the employees worked.” *Id.* at 1096. This passing commentary does not “mandate” OCERS’ revised test, nor does it support the requirement in OCERS’ reformulated test that hours worked for Premium Pay items must be worked by “**all** other members in the same grade/class/rate of pay **as the employee.**”

**Fourth**, that the revised test is not justified by PEPRA is obvious from the draft memo’s unspoken reliance on the *Stevenson* case. In prior memos submitted to the Board on October 19 and December 14, 2020 the proposed test was consistently referred to throughout as the

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“PEPRA test.”<sup>12</sup> References to the proposed test as the “PEPRA test” are conspicuously absent in the draft February 16 memo, nor is there any reference to the view that the proposed test is “supported by the decision in *Stevenson*.”<sup>13</sup> The *Stevenson* case was decided three years before PEPRA’s enactment. It has nothing to do with whether or not items of pay constitute “additional services rendered outside normal working hours,” and therefore could not possibly support what OCERS staff memos previously described as a “PEPRA test.” The amendments to the statute didn’t even exist at the time, and OCERS has consistently treated the Premium Pay items currently under review as compensation earnable for years after the *Stevenson* decision, including after PEPRA was enacted.

Moreover, *Stevenson* concerned whether *overtime* as to which the trial court found there was “insufficient evidence” establishing that the “overtime worked by narcotics investigators was *mandatory*” should be included in compensation earnable. *Stevenson*, 186 Cal. App. 4th at 506. Since 2000, except in limited circumstances overtime has been explicitly excluded from compensation earnable by a different provision of Government Code that is not at issue here, section 31461.6. Accordingly, then as now, OCERS policies excludes “True Overtime” from compensation earnable, and only includes overtime that is required and “ordinarily worked by others in the same grade/class/rate of pay.”<sup>14</sup> These policies and Government Code provisions have no relevance here. Even as to overtime governed by a separate provision of the code and separate OCERS policies, the *Stevenson* case does not hold that hours worked must be worked by “all” members in the same grade or class “as the employee” to be included in the retirement calculation. To the contrary, the decision quoted the language from the Supreme Court’s *Ventura County* decision that items of compensation earned in cash “must be included in the ‘compensation earnable’ calculation “even if not earned by *all* employees in the same grade or class.” *Stevenson*, 186 Cal. App. 4th at 507 (emphasis added) (quoting *Ventura County*, 16 Cal. 4th at 487).

#### **4. The Premium Pay Items Are Properly Included in Final Compensation.**

For the reasons set forth above we respectfully disagree that the proposed test is mandated by anything in PEPRA or *Alameda County*.

But ultimately what really matters is how OCERS staff proposes to apply that test (or any other), to the two Premium Pay items in question. The draft memo provides no guidance in that regard. There is no guidance as to how OCERS staff intends to determine what

<sup>12</sup> Memo to OCERS Board, Oct. 19, 2020 (multiple references to “PEPRA test”); Memo to OCERS Board, Dec. 14, 2020 (same).

<sup>13</sup> Letter from Gina Ratto to Derek Foran, Nov. 5, 2020.

<sup>14</sup> See Bd. of Retirement Orange County Employees Retirement System, Resolution No. 98-001, adopted February 6, 1998; OCERS Compensation Earnable and Pensionable Compensation Analysis & Determination Procedure, adopted Dec. 11, 2018; OCERS Compensation Earnable Policy, adopted Mar. 18, 2019.

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constitutes “normal working hours” or how OCERS staff intends to determine whether those hours are worked by “all other members in the same grade or class of positions.” There is no reference in the draft memo (unlike early memos to the OCERS Board concerning the *Alameda County* review), to any requirement that the “grade or class of positions” be “identified in a Memorandum of Understanding (MOU), employment agreement, compensation resolution/ordinance or other official document of the employer.”

A blunt instrument, one-size-fits all approach that focuses exclusively on the “Classes” specified in Appendix A to the MOU would be a grave mistake, unwarranted by law or actual employment practices in the County. As the court in *Stevenson* explained, that the Legislature chose the “plural term ‘*positions*’ in section 31461 to modify ‘grade or class’ . . . strongly suggest[.]s that a particular grade or class is *not* limited to one specific type of position but might encompass more than one type of position.” *Stevenson*, 186 Cal. App. 4th at 509 (emphases added). Nor are the “Classes” identified in the Appendix to the MOU “dispositive in determining grade or class or positions under CERL.” *Id.* at 512. In addition, virtually every time the Supreme Court in *Alameda County* discussed the “same grade or class of positions” language in subdivision (a), it explained that as a “practical matter” that an employee’s “final compensation” is determined by reference to “the average number of days worked by his or her *peers* during the final compensation period.” *Alameda County*, 9 Cal. 5th at 1058 (emphasis added). The Supreme Court used the term “peers” ten separate times in *Alameda County* in reference to the statutory language.

We read the references in prior staff memos to “other official document[s]” as an acknowledgment of, and agreement with, the basic point that Appendix A to the MOU is not controlling, and that what is required is a proper understanding of the “class or grade of positions” to which the two Premium Pay items apply.

The two Premium Pay items subject to OCERS’ review are properly included in compensation earnable. As the Supreme Court explained, premium pay items compensate employees “for services that are expected to be performed with special skills or at a higher level of competence.” *Ventura County*, 16 Cal. 4th at 498. On-Call Duty Pay only applies to highly-specialized positions within highly-specialized units. These positions and units are specifically described and identified in numerous County and Department Policies and other documents. For the specialized units and positions to which it applies, On-Call Duty Pay is regularly-scheduled, mandatory, and not subject to pension spiking. Similarly, Canine Maintenance Handler Pay only applies to “Canine Handlers,” a unique position specifically called out in both the MOU and in Policy and other documents. It is a fixed rate, applies uniformly only to “Canine Handlers,” and is not subject to pension spiking.

**a. Regularly Scheduled, Mandatory On-Call Duty Assigned by the County.**



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The first Premium Pay item subject to OCERS' *Alameda County* review is on-call pay. On-Call Pay is specified in Section 4(B) of the MOU.

When a peace officer "is assigned on-call duty by the County" they are reimbursed at one-fourth (1/4) of "his or her basic hourly rate for the entire period" of the on-call assignment.<sup>15</sup> Members who are assigned on-call duty by the County contribute to their retirements based on their on-call pay (until OCERS recently paused those contributions). Members who are assigned to be on-call by the County cannot use their time freely. "On-call duty requires the employee so assigned: (1) to be reachable by telephone or other communications device; (2) to be able to report to work in a reasonable time; and (3) to refrain from activities which might impair his or her ability to perform assigned duties."<sup>16</sup> Members who are assigned on call duty in the specialized units organized by the County understand and accept the strain being on-call puts on their personal lives, but they do the job anyway.

"Assigned" on-call "duty by the County" per the MOU results in tremendous cost-savings to the County. Without it, the County would have to provide 24/7 coverage for mission-critical, highly-specialized details, including 24/7 coverage for the Homicide Detail, the Bomb Squad, and the District Attorney Special Assignments Unit responsible for investigating officer involved shootings, and others.

Pursuant to the Employee Relations Resolution of the County of Orange and the Meyers-Milias-Brown Act (Cal. Gov't Code § 3500 *et seq.*), AOCDS met-and-conferred with the County and agreed to the manner in which paid on-call operates for specialized units. This includes but is not limited to the number of paid on-call positions, the specialized units and positions to which paid on-call duty applies, the days of the week, the selection process for paid on-call. These conditions and requirements are specified not just in the MOU, but also in Department Policies and Protocols, descriptions of the specialized units and positions provided by the Sheriff's Department and others, recruitment memoranda, and numerous other documents (including time sheets and on-call rotational schedules and calendars maintained by the Departments).

Simply put, paid on-call is a mandatory, regularly-scheduled assignment for those specialized units and positions to which it applies. Unit supervisors control and approve the on-call schedule, typically on a rotational basis. While members of the specialized units to which paid on-call duty applies may have some say in their placement in the on-call rotation (for example, covering for their peers during scheduled vacation), they can neither "volunteer" for paid on-call duty, nor can they "opt out" of on-call duty assigned by the County. It is not subject to pension spiking. On-call duty for those members to whom it

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<sup>15</sup> *Id.* Section 4(B) ("On-Call Pay").

<sup>16</sup> *Id.*

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applies is an essential part of the services provided by the County. It is not an “additional service” rendered “outside normal working hours.” It is a core part of vital services provided by AOCDS members.

The units and positions to which mandatory, regularly-scheduled on call duty apply are highly specialized. The qualifications for these positions typically require years of service and specialized skills, experience and training. These requirements are imposed by the County as a condition for qualifying for these critically-important positions. AOCDS members who successfully apply for these positions are the best of the best.

By way of example, we provide below a description of how on-call duty per the MOU works for three specialized units: the Homicide Detail, the Bomb Squad, and the DA’s Special Assignments Unit. It bears emphasis that these descriptions are *illustrative*, they are not *exclusive*. Other specialized units operate in a largely similar manner, include without limitation the Special Victims Unit, the Major Accident Reconstruction Team (MART), and the Crisis Negotiations Team.

**The Homicide Detail:** The Criminal Investigation Bureau of the Orange County Sheriff’s Department is charged with responsibility for investigating and following up on serious criminal activity. The Bureau is organized into specialized details, one of which is Homicide. The Homicide Detail investigates high profile cases, including homicides, officer involved shootings, critical missing persons, child abductions, in custody deaths, cold case homicides, and major uses of force resulting in life threatening injuries. It also conducts the majority of internal criminal investigations at the direction of the Sheriff’s Administration.

The Homicide Detail has one Sergeant and thirteen Investigators. Its members are hand-picked to come to this detail due to their excellent track record, investigative experience, and skills. For many, becoming a Homicide Investigator is the pinnacle of their careers. The Homicide Sergeant and Homicide Investigators in the Detail have all received advance training. According to the Sheriff’s Department, “[t]he cases handled by the Homicide Detail are sensitive, complex, and often very labor intensive” and “investigators assigned to this team must possess tremendous skill and experience in their field of work in order to effectively work these high-profile cases.” Homicide Investigators “write and expedite search warrants, collect evidence, conduct extensive interviews and interrogations, attend autopsies, perform death notifications, and assemble all reports required for case filing and prosecution.”

It is, in short, a specialized unit which requires specialized skills, experiences, and training. To accomplish their mission, members of the Detail must complete rigorous training. This includes, but is not limited to, the following: ICI Core Course for Investigators; Coroner Death Investigation Course; Basic Homicide Investigation; Homicide Drowning

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Investigation; Interview and Interrogation, Advanced Interview and Interrogation; Death and Homicide Conference, FBI Violent Crime Behavioral Analysis Seminar; Officer Involving Shooting Course; Child Abduction Response Training; Amber Alert Training; Wiretap Training; ZETX Cell Phone Tracking and Mapping; Forensic Pathology; and the Annual California Homicide Investigator Association Seminar.

The Homicide Detail is required to provide coverage seven days a week for the Sheriff's Department. To accomplish this mission, the Sheriff's Department uses a weekend on-call system, guaranteeing that at least the Homicide Sergeant and two Homicide Investigators will respond in a timely manner. Department protocols specify that the Homicide Sergeant must be "available at all times to coordinate and expedite crime scene responses." Accordingly, absent special permission from Criminal Investigation Bureau Lieutenant (in which case a senior Homicide Investigator fills in), the Homicide Sergeant is required to be on-call every weekend. Homicide Investigators are required to be placed on-call at least one weekend ever five weeks. On-call for the Homicide Detail is not voluntary, it is mandatory. It is part-and-parcel of the Detail's responsibilities and normal tour of duty.

The foregoing is specified in Sheriff Department Policies, Manuals, and Memoranda. Sheriff Department Recruitment Memos emphasize that candidates for the position of Homicide Investigator "requires experienced investigators, who are highly motivated" and that the assignment "requires personnel to . . . be place on call on a rotational basis." Sheriff Department Policies emphasize that the Homicide Detail uses a "team approach" to "assist in the proper evaluation and processing of [a] crime scene and the investigation" and that members of the Detail must be available to "respond to calls for service promptly," including "life-threatening or serious crimes in-progress calls where assistance by patrol is requested." Accordingly, Criminal Investigation Bureau Investigators "will, as required, work beyond their normal work day or respond to call-outs as deemed necessary by the detail supervisor."

**The Bomb Squad:** The Orange County Sheriff's Department Hazardous Devices Section ("Bomb Squad"), is the only unit of its kind in the County, and provides services to 3.2 million residents and 34 cities.

It has approximately eighteen members: a Sergeant, six full-time Bomb Squad Technicians, and eleven ancillary Bomb Squad Technicians. Bomb Squad members are some of the most diversely and highly-trained individuals in law enforcement (not just in Orange County). While its membership—like other highly-specialized units within the Sheriff's Department—are made up of different "ranks" specified in the MOU, they are consistently referred to by the Sheriff's Department as "technicians," including in OCSD Policy 203.4.2. The section is accredited as a public safety bomb disposal unit through the FBI Bomb Data Center, with each member classified as a "Certified Bomb Disposal Technician." The Bomb Squad is located at the OCSD Katella Training Facility, in Orange.



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To be appointed as a Technician on the Bomb Squad, applicants must pass a rigorous testing process, including a physical test, board interview, and written test. Bomb Squad Technicians must undergo and clear a background investigation by the FBI. A Bomb Squad Technician assignment is considered a “career assignment.” The overwhelming majority of Bomb Squad Technicians remain so for the rest of their careers.

The Bomb Squad Technicians are expert explosive/bomb disposal technicians capable of immediate response to all government jurisdictions within Orange County. Bomb Squad Technicians are also one of the primary responders to incidents of actual or suspected weapons of mass destruction. Bomb Squad Technicians are charged with identifying and rendering safe explosive devices and other explosive materials along with providing post-blast forensic services for all communities within the county. The Bomb Squad averages 600-800 requests for service every year, which include rendering safe 50 to 80 improvised explosive devices every year.

Training is also a critical part of the Bomb Squad’s mission. Not only do all Bomb Squad Technicians participate in on-going training, they also conduct numerous annual “Officer Safety” and “Public Awareness” programs. Other government agencies and private companies are offered presentations on development of bomb threat response plans and key personnel training. Section members also instruct classes in basic and advanced bomb scene investigations through the FBI Bomb Data Center. Since September 11, 2001, the amount of instruction the Bomb Squad conducts has greatly increased to answer the needs of the county. The magnitude of the training program even reaches outside the United States. Orange County Bomb Squad Technicians have presented scene investigation classes to law enforcement and fire service personnel from Saudi Arabia, Kuwait and China. Through the International Association of Bomb Technicians and Investigators, the squad maintains a close professional liaison with other military and public safety bomb technicians around the world.

After September 11, 2001, the Sheriff’s Department increased Bomb Squad membership by 60 percent. Also after September 11, 2001, the Sheriff’s Department began using a normally-scheduled on-call system. Bomb Squad Standard Operating Procedure Section 29 specifies that Bomb Squad Technicians “must be readily available, on short notice, to respond throughout the County.” Accordingly, “every certified bomb tech will be required to sign up for a minimum of 5-days of on-call and at least one (1) of those days must be a weekend day. . . . There is no exemption to the 5-day [on-call] requirement,” unless approved in writing by the Bomb Squad Sergeant in advance.

All of the foregoing is specified in Sheriff Department Policies, Department Memoranda, and on the Sheriff’s Department Website.

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**The District Attorney Special Assignments Unit.** The Orange County District Attorney's Bureau of Investigations Special Assignment Unit (OCDASAU) responds to and investigates a number of highly-sensitive incidents, including officer involved shootings, custodial deaths, police officer criminal conduct allegations, public corruption and other sensitive and complex criminal investigations.<sup>17</sup> The OCDASAU is available 24/7 to twenty-one cities within its jurisdiction and the Sheriff Department to handle or assist in these sensitive, high-profile investigations.

The OCDASAU is comprised of one Supervising Investigator and five full-time Investigators, although the Unit also utilizes additional Investigators within the office that have been trained to conduct investigations into officer-involved incidents. The Unit is highly specialized. The Supervisor and Investigators are hand-picked for this unit based on their work ethic, extensive investigative experience, communication skills, professionalism and fit. Their mission is to maximize the effectiveness of an independent investigation by the District Attorney, eliminating any perceived conflict of interest that may otherwise result. Accordingly, the OCDASAU Supervisor and Investigators are required to attend and successfully complete a variety of specialized training in order to be the County leaders in these critical and highly-scrutinized investigations. Some of this training includes but is not limited to: Force Science Certification Courses; Department of Justice Officer-Involved Incident Courses, and Sudden Death In-Custody training. The entire Unit continually participates in ongoing training. All OCDASAU Investigators belong to the Orange County Homicide Investigators Association (OCHIA). OCHIA meets several times a year for specialized training and presentations related to homicides and related investigations including officer-involved incidents.

In order to provide 24/7 coverage, the District Attorney's Office has used an on-call system for decades. The on-call system guarantees that if a call out occurs on the weekend or a major holiday at least the OCDASAU Supervisor and two Investigators are able to respond in the short amount of time per the requesting agency's expectation. All SAU Investigators are required to be placed on-call on a rotational schedule. This schedule is maintained on a printed annual calendar retained in the Supervisor's office. The SAU Supervisor is required to be placed on-call every weekend. The on-call period runs from Friday afternoon at 5:00 p.m., through Monday morning at 7:00 a.m. If the coverage is due to a holiday, the on-call coverage starts at 5:00 p.m. the evening before the holiday and ends at 7:00 a.m., the day after the holiday.

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<sup>17</sup> See generally Orange County District Attorney, Bureau of Investigation Policy Manual, effective Nov. 24, 2020.



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The OCDASAU Supervisor is always on-call unless he or she obtains prior approval from the Bureau Assistant Chief, in which case the Supervisor delegates the supervisory role to another supervisor that has been properly trained to act in this role, along with several other arrangements and notifications.

For members of the OCDASAU, on-call is not voluntary, it is mandatory. While there is some flexibility in the rotation, OCDASAU members may not “opt out” of being placed on call, nor can they “volunteer” to be so. It is a part of the job, essential to the core values of this highly-skilled Unit that its members understand and accept as a part of their duties.

**b. AOCDS Presidential Leave.**

While OCERS staff has not identified this item as subject to its *Alameda County* review, its consideration of whether on-call pay should be included in compensation earnable may have drastic consequences for the AOCDS President position.

Pursuant to the MOU, the County agreed to grant Presidential Leave with pay and without loss of benefits to an AOCDS member and peace officer who is appointed President of the Association.<sup>18</sup> Serving as AOCDS President is a unique position like no other. It is a privilege and the appointment is typically reserved for senior members with years of experience. The safety and well-being of AOCDS members is the President’s top priority. In addition, the AOCDS President along with the Board of Directors of AOCDS works closely with all the units AOCDS represents, including the Orange County Sheriff’s Department, the District Attorney’s office, the Probation Department, and Orange County Parks.

Presidential Leave costs the County nothing. AOCDS reimburses the County for all AOCDS Presidential salary and expenses incurred during the Presidential Leave, including any retirement, insurance and P.O.S.T. benefit incurred during the Presidential Leave of Absence. While on Presidential Leave, however, the President remains a peace officer in the Sheriff’s Department, at the rank attained by the President specified in the MOU. For example, the recently retired President served in that role from 2011 to March 2020, when he retired. When he took leave to serve as AOCDS President he had attained the rank of Investigator. During the course of his career, the recently-retired President was a Certified Bomb Technician, Canine Handler, and member of the Bomb Squad for 16 years. He was awarded the Medal of Courage from the Sheriff’s Department in 2006 for his actions during a bomb incident in the city of Anaheim.

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<sup>18</sup> MOU, Section 12 (AOCDS Presidential Leave).



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While on leave, AOCDS reimbursed the County for all of the recently-retired President's salary and expenses incurred, including retirement expenses. When reimbursed, the Sheriff's Department credited the President for each pay period since late 2017 with "on-call pay," to be "compensated at one-fourth (1/4) of his basic hourly rate." Therefore, most if not all of his compensation during the final pay period used to calculate his retirement was denominated "on call" pay.

It goes without saying that a blunt instrument approach to on call pay and to the ranks specified in the MOU would have horrific consequences for the retired AOCDS President, and cannot and should not be countenanced. The position is a unique one, specifically identified as such in the MOU, and should be treated as such.

**c. Canine Handler Maintenance Pay.**

The second Premium Pay item subject to OCERS' review is Canine Handler Maintenance Pay.

Pursuant to the MOU, Peace Officers "who are assigned to a position of Canine Handler on a regular, full-time basis" are compensated for canine maintenance at one and one-half times their regular rate of pay for 30 minutes per day, seven days a week, "whenever the police service dog is kenneled at the handler's residence."<sup>19</sup> The formula specified in the MOU was agreed to by the County and AOCDS through negotiations pursuant to the Employee Relations Resolution of the County of Orange and the Meyers-Milias-Brown Act. Pursuant to those negotiations, Canine Handlers are compensated with a fixed-rate for maintenance, rather than requiring the County to pay Canine Handlers for actual time spent on maintenance (which in many circumstances would constitute far more than 45 minutes a day). By definition this pay item only applies to Canine Handlers, a unique position that is consistently referred to, both in the applicable MOU and in the Orange County Sheriff Department Policy Manual, as "Canine Handler." All Canine Handlers kennel a police service dog at their home, and all Canine Handlers receive this pay item, without exception. All Canine Handlers contribute to their retirement based on Canine Handler Maintenance Pay (until OCERS recently paused these contributions). Canine Handler Maintenance Pay has its own Pay Code in the payroll system ("K9PAY"), it is not recorded as overtime or on-call pay.

Canine Handlers receive Canine Handler Maintenance Pay to care for and maintain their assigned police service dogs (who remain the property of the County). This includes but is not limited to "feeding, watering, cleaning of kennels, cleaning canine patrol vehicles, grooming and/or bathing the canine, light exercise, training, and other miscellaneous

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<sup>19</sup> MOU, Section 4(N) (Canine Handler Maintenance Pay).

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duties.”<sup>20</sup> These requirements are explained in greater detail in the Orange County Sheriff Department Policy Manual.<sup>21</sup> Canine Handlers are “ultimately responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, and living conditions.”<sup>22</sup> This results in significant cost savings to the County. Without it, the Sheriff’s Department would be required to incur the substantial cost and expense of kenneling, caring for, and maintaining police service dogs at locations other than the Canine Handler’s residence.

More generally, the Canine Services Section, which was established in 1985, has resulted in massive cost savings and other benefits for the County. According to the Sheriff’s Department, Canine Handlers and their police service dog partners have “significantly reduced the man-hours used in searching for suspects, evidence, and narcotics.” The utilization of Canine Handlers has also allowed the Department “to reduce the man power needed to search large buildings and open rural areas by over 50%.” Additional benefits cited by the Department include “the reduction in property loss and injuries to deputies, as well as an increase in the number of arrests of subjects who were in the act of committing crimes.” The safety of Department members has also “significantly increased” because Canine Handlers are able “to locate dangerous suspects with the use of” police service dogs. The “high visibility” of Canine Handlers on patrol “acts as a powerful deterrent for criminal activity.” The overall cost savings as a result of Canine Handlers and their police service dog partners are incalculable.

The position of Canine Handler within the Department requires a high degree of experience and training. The Canine Handler selection process according to the Orange County Sheriff Department Policy Manual includes but is not limited to a personnel file review, resume review, oral interview, practical scenario testing, familiarization with canine (obedience training), decoy exercises (apprehension training), and physical fitness testing.<sup>23</sup> Canine Handlers are utilized by the Department across the following disciplines: Patrol, Special Investigations Bureau Narcotics Detection; Custody Operations Detection; Explosive Detection; and Search and Rescue.<sup>24</sup> Canine Handlers are required to undergo specialized training and a certification process depending on their area of specialty, and must undergo ongoing regular training for both the handler and the canine according to their area of specialty.

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<sup>20</sup> *Id.*

<sup>21</sup> Orange County Sheriff-Coroner Dep’t, Orange County Sheriff Department Policy Manual, Section 318.11 (Canine Handler Responsibilities).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*, Section 318.14.2.

<sup>24</sup> *Id.*, Section 318.1.





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In short, the skill sets and additional responsibilities required of Canine Handlers as specified in Department Policies distinctly separate them from other members of the Department, and that is reflected in the MOU as well as the Sheriff Department's Policy Manual. According to the Sheriff's Department, the "high levels of training and commitment of the canine deputies . . . has established the unit as one of the most highly respected in the state." Canine Handler Maintenance Pay is properly included in compensation earnable. It is not for "additional services" outside of "normal working hours." It is a part of the normal, regular responsibilities for Canine Handlers. The pay item is also unique to the position of Canine Handler, fairly earned by highly specialized and experienced Canine Handlers, results in substantial cost savings to the County, and not susceptible to pension spiking.

**5. OCERS Should Not Take Away Retirement Benefits Fairly and Honestly Earned by Retired AOCDS Members.**

The draft February 16 memo also recommends that OCERS should not only change its current policies (specifically adopted to comply with PEPRA), but that OCERS should collect what the memo refers to as "overpaid benefits" to retirees and their survivors since January 1, 2013.<sup>25</sup>

For the reasons explained above, AOCDS respectfully submits that no such changes are warranted, much less "mandated" by PEPRA or *Alameda County*. Regularly-scheduled On-Call Duty Pay and Canine Maintenance Handler Pay are properly included in compensation earnable. Accordingly, there are no "overpaid benefits" to address. However, if any changes are to be made to the treatment of regularly scheduled on-call pay and Canine Handler Maintenance Pay as compensation earnable, the case for OCERS to not to apply any such changes retroactively is overwhelming.

As an initial matter, the draft memo's recommendation that changes should be made retroactively is once again based on a misreading of *Alameda County*. While *Alameda County* held that employees who benefited from voluntary work assignments with the potential for pension spiking have no vested interest in resulting pension enhancements, nothing in the Court's decision states or even suggests that pension benefits based upon mandatory work performed by public employees in good faith can be retroactively abrogated.<sup>26</sup>

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<sup>25</sup> Draft Staff Memo, Feb. 16, 2020, p. 2.

<sup>26</sup> And as to voluntary items excluded by PEPRA that are not at issue here, even the State of California did not argue that the statute be applied retroactively to January 1, 2013. To the contrary, its position was that PEPRA "does not change the pension benefits of persons who have already retired or the pensionability of items of compensation earned by *county employees who are sufficiently near to retirement to have entered the final compensation period.*" *Alameda County*, 9 Cal. 5th at 1090 (emphasis added).

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Beyond that, the Board has the discretion not to make any changes to retirement benefits retroactively. Case law firmly establishes that a county retirement board “has discretion to decide whether, how and to what extent any overpayments made to . . . retirees should be repayable.” *City of Oakland v. Oakland Police & Fire Retirement Sys.*, 224 Cal. App. 4th 210, 244 (2014). That discretion, however, is “not unfettered,” it is “necessarily constrained by the requirements” of article XVI of the California Constitution. *Id.* at 245. That provision requires members of a retirement board to “discharge their duties with respect to the system *solely* in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system.” Cal. Const., art. XVI, § 17(b) (emphasis added). This same provision of the California Constitution specifies that “[a] retirement board’s duty to its participants and their beneficiaries *shall* take precedence over any other duty.” *Id.* (emphasis added).

It would be unconscionable for OCERS to apply any changes to mandatory Premium Pay items retroactively under the circumstances presented. AOCDS members made retirement decisions based on the good faith retirement calculations provided by OCERS, and many of them live on fixed incomes and rely exclusively on their retirement benefits. We need not belabor here the gross injustice, inequities, and life-altering consequences that would result. The consequences of any such decision would be devastating for many members and their survivors. To the extent staff’s recommendation in this regard is animated by concerns over the fiscal impact of supposed “overpayments” to the County—and we are aware of no findings or analysis of any kind in this regard—“the people of this state have already weighed the[] competing interests and have determined that [any] fiscal concerns” can and should be “trumped, in certain circumstances, by individual pension rights.” *City of Oakland*, 224 Cal. App. 4th at 242.

## 6. Conclusion

We are available to provide any additional information staff may find helpful to bring its review to a resolution with the best interests of all concerned. In particular, we would welcome an open dialogue with OCERS staff to help clarify and understand the County and Department processes, and to provide additional County and Department documents as they relate to these issues.

Sincerely,



Derek F. Foran

sf-4415702

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cc: Paul Bartlett, paul@aocds.org  
James P. Bennett, jbennett@mofa.com  
Susan Jenike, sjenike@ocers.org

REICH, ADELL & CVITAN  
A PROFESSIONAL LAW COPORATION

3550 WILSHIRE BOULEVARD, SUITE 2000  
LOS ANGELES, CALIFORNIA 90010  
TEL: (213) 386-3860 • FAX: (213) 386-5583  
WWW.RAC-LAW.COM

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ALEXANDER B. CVITAN	J. DAVID SACKMAN
MARIANNE REINHOLD	MARSHA M. HAMASAKI
LAURENCE S. ZAKSON	PETER A. HUTCHINSON
NEELAM CHANDNA	ZACK METH
WILLIAM Y. SHEH	ARTHUR N. FOUR
NATALIA BAUTISTA	ILISSA B. GOLD
AARON G. LAWRENCE	CHRISTOPHER J. FLEISSNER
	ZANE T. PRECIADO
JULIUS MEL REICH (1933-2000)	HIRSCH ADELL (1931-2018)

January 27, 2021

VIA U.S. MAIL AND EMAIL  
sdelaney@ocers.org

Steve Delaney, Executive Director  
Orange County Employees Retirement System  
2223 E. Wellington Avenue, Suite 100  
Santa Ana, California 92701

Re: Proposed OCERS Action in Response to Alameda County Deputy Sheriff's Assn. v. Alameda County Employees' Retirement Association

Dear Mr. Delaney:

As you may recall, this law firm is counsel to Orange County Attorneys Association (OCAA or Association). The purpose of this letter is to provide a preliminary response to draft memorandum concerning the decision of the California Supreme Court in Alameda County Deputy Sheriff's Association v. Alameda County Employees' Retirement Association (2020) 9 Cal.5th 1032 prepared by your office for presentation to the OCERS board.

Preliminary Comments

As communicated to you when the Association met with you and Ms. Jenike on September 24, 2020, the Association is concerned with the potential for any definitions or definitive construction of the pensionable compensation to adversely impact the inclusion of, or operate so as to effectively exclude, Attorney Special Duty Pay from pensionable compensation. To that end, the Association takes no position as to the treatment of special duty pay for other classifications, but, as explained more fully below, it is manifest that the exclusion of Attorney Special Duty Pay from pensionable compensation would be factually and legally unwarranted.

It is unclear whether the intent of the proposed definition, or test, for "normal working hours" is to exclude from pensionable compensation the pay that Attorneys in the Association's Attorney Unit receive for voluntarily undertaking the special duty assignments for which Attorney Special Duty Pay is paid. It is also unclear whether the effect of this proposed definition/test is to effectively exclude such pay from pensionable compensation.

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This lack of clarity arises because, on the one hand, the definition uses the term “hours” and attorneys receiving special duty pay are not paid for working additional hours, but rather are paid for taking on additional responsibilities and bringing specialized knowledge or expertise to the performance of certain task not performed by those who are not given these assignments. However, the references including in the definition/test “required as a part of the employee’s regular duties” and also including the phrase “are not and cannot be voluntarily worked by the employee” seem to suggest that the mere fact that the assignment is not universal in the employee’s classification, or that the assignment is made by means of volunteering rather than purely by virtue of assignment by management, suggest that the definition or test could be used to exclude Attorney Special Duty Pay from pensionable compensation. This concern is heightened by the unilateral discontinuation—without meaningful citation to authority—of the historical inclusion of Special Duty Pay as pensionable compensation as of September 11, 2020.

The Association, therefore, requests that the memorandum make clear that for salaried employees the fact that an assignment is made based on the fact that the employee volunteers rather than as a result of the employee’s classification is not grounds for finding that special pay for that assignment is not pensionable compensation. The Association further requests that the memorandum provide examples of the type of pay that would not be excluded from pensionable compensation by virtue of this definition, and that the examples include such items as bilingual premium pay and Attorney Special Duty Pay. Finally, the Association requests that the memorandum expressly note that, given its current structure under the Association’s MOU with the County, there is no basis for concluding that Attorney Special Duty should not have been pensionable in the past and will not be pensionable (under current law) going forward.<sup>1</sup>

If these requests are granted, the Association will feel that its concerns have been addressed. If these requests are not granted, the Association hereby requests that you provide it with a written explanation of the legal and factual basis for denying the request. And, in that event, the Association also requests that the OCERS Board consider and provide the Association with a definitive answer as to whether there are administrative procedures to exhaust as a precondition to seeking monetary or other relief from the courts should the OCERS board adopt the proposed definition/test in the draft memorandum.

In support of these requests, the Association provides the following information and analysis.

### Background

On August 19, 2020, the Association received an email from Suzanne Jenike concerning OCERS’s decision to “review” the inclusion of “Special Duty Pay” pay item as pensionable

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<sup>1</sup> It is notable that the current test omits the explicit reference to the applicable Memorandum of Understanding (MOU) included in the OCERS Compensation Earnable and Pensionable Compensation Analysis and Determination Procedure, adopted December 11, 2018, at p. 2. If this is a deliberate effort to read out of the analysis the characterization of payments or normal working hours contained in the applicable MOU, for the reasons discussed herein, that is legally and factually inappropriate and the reference should be a part of the final definition/test.

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compensation, and the unilateral decision (without meaningful citation to authority) to discontinue the inclusion of this historically pensionable compensation as such pending that review. According to Ms. Jenike's email, this discontinuation would be effective September 11, 2020. We are informed and believe that a letter with substantially the same information was sent to Attorney Unit members. Ms. Jenike also indicated that a similar review was underway for existing retirees and that this compensation would somehow be backed out of future pension payments as of October 1, 2020.

It is our understanding that these proposed actions, in fact, took place, but that they were taken without prejudice to rescission, and retroactive restoration (with interest, where appropriate) by OCERS once a full factual and legal analysis had been undertaken. After our meeting, Ms. Jenike informed the Association of the likely recommendation of OCERS's management to exclude Attorney Special Duty Pay from pensionable compensation.

#### Factual Background on Special Duty Pay

The attorneys in the Association's bargaining unit do not have regular hours of work and, as professional employees, they are "exempt" employees not eligible for overtime pay. Indeed, the MOU between OCAA and the County specifically provides, at Article 1, Section 1, that:

"Employees are not governed by the customary eighty (80) hour work period and may be expected to work more than eighty (80) hours in a given work period or allowed to work less than eighty (80) hours pursuant to the specific dictates of the assignment. The Department Head shall regulate said work periods based on the needs of the County with due regard to maintaining reasonable and equitable work periods for all employees."

As a result of their exempt status and the language in the MOU, it is customary practice—and the expectation of both unit employees and County management—for attorneys in the bargaining unit to work at night preparing cases, interviewing witnesses and otherwise preparing for trials; attorneys also regularly are required to work in the early morning hours on preparations for a day in court, witness preparation and the like. Witnesses may be in custody or only available for interview at night or on weekends and attorneys are expected to make themselves available for work whenever the circumstances of the particular assignment require—whether that is in the late evening, early morning, or during courthouse hours. In short, as professional employees, the attorneys are expected to work the number of hours and at nonstandard times in order to complete their assigned tasks.

In each of the Offices in which unit attorneys are employed (with the exception of Child Support Services), there are different tasks that are performed by the attorneys and compensated with Special Duty Pay. The particular assignments in each of the Offices are discussed hereinbelow.

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*Office of the District Attorney*

There are two types of special duty pay assignments in the District Attorney's Office—Parole Hearings and Search Warrant Duty. In order to be eligible, the attorney generally must be in a classification of an Attorney IV or Senior Deputy Attorney (the highest classification in the bargaining unit).<sup>2</sup> Attorneys with Parole Hearing duty appear at a Parole Hearing--which takes place at the custodial facility (usually the prison) in which an inmate is housed. Attorneys given this assignment receive specialized, in-house parole hearing training. Parole hearings frequently, but not always, take place during standard business hours and the attorney does not receive special duty pay for the actual parole hearing. The attorney receives 4 hours of special duty pay to prepare for the hearing. When the assigned attorney elects to perform the preparation work is up to the attorney, although the time is recorded on the time entries for the day prior to the hearing. The attorney also receives special duty pay for travel time. There is a table that establishes the amount of travel time to each prison. Attorneys can choose to travel during regular business hours or the night before a hearing. Thus, the pay for handling the parole hearing is based on the fact that the duty is onerous and requires travel, but not because the work is performed "outside regular business hours" (as it need not be).

Warrant Duty pay is also only available to an Attorney IV or a Senior Deputy Attorney. The attorney is assigned to cover calls for warrants that need approval from the hours of 5:00 pm until 8:00 am the next morning for the five work days of the week. In addition, the attorney is responsible for covering 24 hours a day during the weekend. The attorney receives a premium equal to the number of hours between 5 p.m. and 8 a.m. Monday through Friday plus weekend hours. This payment is made without regard to whether the attorney, in fact, works any hours and is paid at the rate of 1/3 of the attorneys' regular hourly rate. During the time the attorney is on a Warrant Duty assignment, he/she is not permitted to drink any alcoholic beverages or leave the area. As noted, the hours in question are hours when the attorney is ordinarily subject to being contacted for work and very well might be—and often is—already working on other assignments.

*Office of the Public Defender*

Juvenile Hotline assignments in the Office of the Public Defender follow the same schedule as District Attorney Warrant Duty, although it is connected solely to juvenile proceedings. The same restrictions on employee travel and beverage consumption apply and attorneys also receive additional compensation (in the form of special duty pay) at the same pay rate as attorneys given Warrant Duty in the Office of the District Attorney. It is not required that an individual be an Attorney IV or Senior Deputy Attorney to participate in this Juvenile Hotline assignment.

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<sup>2</sup> Under the February 18, 2019, Policy and Procedure for Parole Hearings (which can be provided upon request), the Office of the District Attorney does allow in some circumstances for special assignments to be made, or for a parole hearing to be assigned to the attorney who worked on the underlying conviction, even if those attorneys are not in the Attorney IV or Senior Deputy Attorney classifications.

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*Office of the County Counsel*

The Office of County Counsel has a similar Warrant Duty Pay assignment, but it is only available to attorneys assigned to juvenile trials or juvenile dependency proceedings and the attorney is required to have at least four years' experience in the juvenile assignment. It involves the same hours of coverage to review warrants when a child is being removed from a home or emergency petitions that are filed with the court. In the Office of the County Counsel, the attorneys' special duty pay is calculated based on the same formula as is used for special duty pay for the Offices of Public Defender and District Attorney.

Legal Argument Concerning Special Duty Pay Being Pensionable

As the foregoing demonstrates, any effort to exclude special duty pay from compensation earnable/pensionable compensation ignores the nature of attorney compensation. Not only are attorneys salaried employees who do not work scheduled hours, but, as both the County and the Association explicitly recognize in the MOU, attorneys lack "normal working hours" in the way that hourly employees, including firefighters, have such hours. In addition, inasmuch as attorneys are salaried, they have no "maximum workweek." In such circumstances, it is not appropriate to regard special duty pay as pay for "additional services rendered outside of normal working hours," or which "are in excess of the statutory maximum workweek or work period," within the meaning of Government Code Sections 31461(b)(3) and 31461.6. It is, rather, compensation for particularly onerous or demanding work, not different from premiums paid to employees given hazardous or other onerous assignments. See Government Code Section 31461.6 (exempts "premium pay for hours worked within the normally scheduled or regular working hours" from exclusion as "compensation earnable"); *Ventura Co. Deputy Sheriffs' Ass'n v. Board of Retirement of Ventura Co. Employees' Retirement Ass'n* (2019) 16 Cal.4th 483, 498 ("compensation" includes premium pay for services that are expected to be "performed with special skills or at a higher level of competence"). The propriety of construction of Attorney Special Duty Pay as pensionable premium pay is reinforced by the Supreme Court's notation in *Alameda County Deputy Sheriff's Association, supra*, 9 Cal.5th at 1097 that the purpose of the exclusion under Government Code Section 31461(b)(3) is to prevent an employee, shortly before retirement, from increasing her/his compensation by volunteering to provide additional services outside normal working hours in an effort to increase pensionable compensation through an increase in the number of hours worked.<sup>3</sup> And that the goal of the exclusions in Government Code Section 31461(b) was to provide additional pensionable compensation based on higher pay rates, not based on an increased number of hours worked, immediately prior to retirement. *Id.* At 1096.

This same analysis would appear to be applicable to PEPRAs employees because the exclusion appears to be rooted in the exclusion for "additional services rendered outside of

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<sup>3</sup> Importantly, the Court noted that the basis for excluding such pay from pensionable compensation is the reinforcement of the general exclusion of "overtime" by precluding "inflation" of earnings by volunteering to work extra hours/days. This rationale has nothing to do with increases in an employee's compensation for taking on additional responsibilities or duties that require specialized skills like Attorney Special Duty Pay.



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normal working hours” in Government Code Section 7522.34(c)(6)—an exclusion that uses wording identical to that in Government Code Section 31461(b)(3).

Request for Confirmation that There Is No Administrative Appeals Process

Should the OCERS Board finally determine that special duty pay is not pensionable, OCAA shall have no alternative except to consider its available remedies, including seeking a judicial remedy through a complaint for declaratory relief and/or a writ of mandamus. See *Ventura Co. Deputy Sheriffs' Ass'n, supra*, 16 Cal.4th at 487, 507 (Association filed writ petition seeking determination that premium pay was compensation earnable; Supreme Court reversed Court of Appeal with directions to grant petition for mandamus); *Shelden v. Marin Co. Employees Retirement Ass'n* (2010) 189 Cal.App.4th 458, 462 (ordinary mandamus was appropriate vehicle for challenge of retirement benefit); *Marin Ass'n of Public Employees v. Marin County Employees' Retirement Ass'n* (2016) 2 Cal.App.5th 674, 689, 694 (plaintiffs sought declaratory relief that retirement association's actions were unconstitutional impairments of vested rights protected by contract clause of constitution). For that reason, the Association wishes to assure that it has taken every step available to it administratively to vindicate its understanding of the facts and law applicable here.

And, for that reason, both prior to and during the meetings between OCERS's management and the Association, the Association has repeatedly attempted to ascertain whether the only time an administrative appeal can be taken of OCERS's position on whether such compensation is appealable only by the individual employee and only at the time of their retirement. While the answer is far from clear, it appears to the Association that the position of OCERS is that that neither affected employees nor their union can administratively appeal the determination that certain compensation is non-pensionable when that determination is made by the OCERS board, but, rather, any administrative appeal must be taken at the time of retirement. In addition, while it appears that the employing agency can file and pursue an appeal of a pay item determination, it also appears that other stakeholders, including the Association, cannot file such an appeal. By this letter, the Association asks that you provide a concrete answer about these administrative appeal rights issues and how to exhaust them, especially should the Association determine that it needs to seek judicial relief.

Conclusion

The Association appreciates that the California Supreme Court's *Alameda County Deputy Sheriff's Association* decision answered some questions about PEPRA and CERL, but also created some uncertainty about the correct treatment of others. However, special duty pay for attorneys is not one of those areas where uncertainty is warranted and, when the law and facts are properly considered, it is manifest that such special duty pay is compensable and pensionable. The Association trusts that, upon consideration of the information in this letter, you will modify

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your memorandum as requested and specifically recommend that the OCERS board include Attorney Special Duty Pay in pensionable compensation.

Very truly yours,



Laurence S. Zakson  
of REICH, ADELL & CVITAN

LSZ:caw

cc: Mena Guirguis, President, OCAA

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# Presentation on Behalf of AOCDS to OCERS Board of Directors

Feb. 16, 2021



## PEPRA Enacted to Prohibit “Pension Spiking”



- Public pension system **“tainted by a few individuals”** in “upper level positions” who **“spike’ their final compensation”**
- Abusive practices put retirement benefits “at risk for the vast majority of honest, hard-working public servants”
- Retirement Boards should deny compensation items included **“for the principal purpose of enhancing a member’s retirement”**

Assembly Comm. on Public Employees, Retirement and Social Security, Analysis of Assem. Bill No. 340 (2011-2012 Reg. Sess.) April 25, 2011, p.

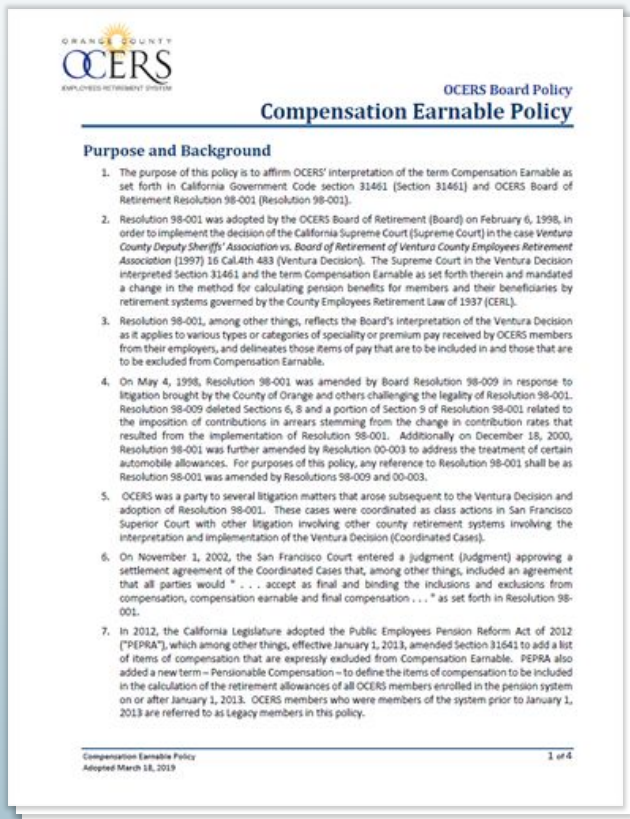
## PEPRA Enacted to Prohibit “Pension Spiking”



- Purpose of PEPRA was to “**reduce pension spiking**, the manipulation of an employee’s pattern of work and pay to produce inflated compensation during the final compensation period.”
- [T]he Legislature **sought to limit pension spiking** by eliminating practices that . . . are inconsistent with the statute’s overall concept of compensation earnable.”

*Alameda Cnty. Deputy Sheriff’s Ass’n v. Alameda Cnty. Emps. Ret. Ass’n*, 9 Cal. 5th 1032, 1061 (2020).

# OCERS Current Policies



- Adopted to comply with PEPRA.
- Ensures pay elements not paid to spike retirement benefit.
- Pay item must be earned for working “the ordinary time required of other employees in the same grade/class.”

## On-Call Pay and Canine Handler Maintenance Pay Are Included



### MEMORANDUM OF UNDERSTANDING

PEACE OFFICER UNIT  
AND  
SUPERVISING  
PEACE OFFICER UNIT

2019 – 2023

COUNTY OF ORANGE  
AND  
ASSOCIATION OF ORANGE COUNTY  
DEPUTY SHERIFFS

- Specifies Premium Pay items.
- Includes On-Call Pay “assigned by the County” and Canine Handler Maintenance Pay.
- Premium Pay compensates members “for services that are expected to be performed with special skills or at a higher level of competence.” *Ventura County*, 16 Cal. 4th at 498.

## Alameda County – Only Addressed Voluntary On-Call Pay



- What constitutes “additional services rendered outside of normal working hours” under PEPRRA.
- “Often-cited example” is “on-call duty pay, which is provided to employees **in return for voluntarily making themselves available** to be called to work outside their normal working hours.”
- “Accepting **voluntary on-call duty** . . . allowed an employee to . . . increase his or her pension benefit **by volunteering** for a large quantity of on-call duty . . . during the final compensation period.”
- PEPRRA “prevents employees from **volunteering, during their final compensation period**, to perform additional services outside normal working hours **in order to artificially inflate their daily rate of pay.**”

*Alameda County, 9 Cal. 5th at 1062-63, 1097*



## Alameda County – Did Not Address Mandatory On-Call Pay



- Trial Court: The “Attorney General is prepared to agree” that “**required stand by or on call time**” not excluded by PEPRAs. (Final Statement of Decision, May 12, 2014, p.48)
- Court of Appeals: “[T]he state has not really challenged” mandatory on-call pay, “focusing instead—in both the trial court and on appeal—on the problem of compensation for **voluntary** on call shifts.” (*Alameda County Deputy Sheriff’s Ass’n v. Alameda County*, 19 Cal. App. 5th 61, 108 (2018))

## OCERS Proposed Test for “Normal Working Hours”

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1. Required to be worked as part of the employee’s regular duties.
2. Are ordinarily worked by **all** other members in the same grade/class/rate of pay as **the employee.**
3. Are not and cannot be voluntarily worked by the employee.

## OCERS Proposed Test for “Normal Working Hours”

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Grade/class/rate of pay “will be determined . . . as specified in the applicable MOU and the County’s official list of job classifications.”

## OCERS Proposed Test for “Normal Working Hours”

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- Constantly changed and narrowed over time.
- No reference to “all” employees in earlier versions.
- Eliminated references to “other official documents” to determine grade/class.

## Inconsistent with PEPRA

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- “Payments for additional services rendered outside of normal working hours.”
- Does **not** say anything about same grade or class.
- Does **not** say pay item must be earned by “**all**” employees in same grade/class.
- Does **not** say grade/class can **only** be determined by MOU or County Job Classifications.
- None of this is required by PEPRA or *Alameda County*.

## Inconsistent with Controlling Law

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- Language in OCERS test re “same grade or class” comes from **subdivision (a) of CERL**.
- “Compensation earnable” determined “on the basis of the average number of days ordinarily worked by **persons** in the same grade or class of **positions**” during final compensation period. (Gov’t Code § 31461(a))
- No reference to “**all**” employees.
- OCERS test replaces the word “**positions**” with “employee.”

## Inconsistent with Controlling Law

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- “With the exception of overtime pay, items of ‘compensation’ paid in cash, **even if not earned by all employees in the same grade or class, must be included in . . . ‘compensation earnable.’**”
- “Nothing in the wording of section 31461 . . . requires that the amount of pay included in ‘compensation earnable’ **be only that received by all employees in the same job category.**”

*Ventura County Deputy Sheriffs’ Ass’n v. Bd. of Retirement of Ventura County Employee’s Retirement Ass’n*, 16 Cal. 4th 483, 501 (1997)

## Inconsistent with Controlling Law

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- That the legislature chose the plural term “positions” to modify “grade or class . . . strongly suggest[s] that a particular grade or class **is not limited to one specific type of position but might encompass more than one type of position.**”
- Classes identified in MOU are not “dispositive in determining grade or class of positions under CERL.”

*Stevenson v. Bd. of Ret. of Orange County Emps. Ret. Sys.*, 186 Cal. App. 4th 498, 509, 512 (2010)



# Classes in MOU Not Controlling



## MEMORANDUM OF UNDERSTANDING

PEACE OFFICER UNIT  
AND  
SUPERVISING  
PEACE OFFICER UNIT

**2019 – 2023**

COUNTY OF ORANGE  
AND  
ASSOCIATION OF ORANGE COUNTY  
DEPUTY SHERIFFS

### APPENDIX A

Classes included in the Peace Officer Unit as of July 1, 2019.

6128	Deputy Sheriff I
6130	Deputy Sheriff II
6124	Deputy Sheriff Trainee
6508	Investigator
6504	District Attorney Investigator

Classes included in the Supervising Peace Officer Unit as of July 1, 2019.

6528	Supervising Attorney's Investigator
6135	Sergeant

## On-Call Pay Assigned by the County

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- Mandatory and regularly-scheduled.
- Not subject to pension spiking.
- Normal working hours for highly-specialized, skilled units (Homicide, Bomb Squad, DA Special Assignment Unit).
- Ensures 24/7 coverage for mission-critical details.
- Terms & conditions agreed to between County and AOCDS.

# Mandatory On-Call Duties Specified in Numerous County Documents



## SECTION 29

### On Call Procedures

The Hazardous Devices Section (HDS) is extremely busy. Additionally, as the only HDS in Orange County, we must be readily available, on short notice, to respond throughout the County. For that reason and others, the HDS will make every attempt to have a minimum of three (3) certified bomb technicians on call outside normal business hours (e.g. after hours, weekends and holidays).

When necessary, the number of bomb technicians on call may be increased at the discretion of the HDS sergeant (with approval of the Special Enforcement Bureau Lieutenant) to cover specific circumstances (e.g. 4<sup>th</sup> of July, major events or elevated threat levels), on a limited basis.

Every certified bomb tech will be required to sign up for a minimum of 5-days of on-call and at least one (1) of those days must be a weekend day. The only exemption for the weekend day requirement will be those that work on both weekend days. There is no exemption to the 5-day requirement, unless approved, in writing by the HDS sergeant, received in writing (email) in advance.

Every HDS member shall provide the HDS sergeant and other personnel with no less than two (2) phone numbers by which he or she can be reached while on call.

HDS members shall notify the HDS sergeant whenever contact telephone numbers change.

Bomb technicians are expected to be available while on call for all the on call hours assigned to them. Splitting shifts with other bomb technicians is discouraged, but can be done in the case of emergencies, with approval, as far in advance as possible, of the HDS sergeant or designee.

If a bomb technician is on call, receives an HDS assignment during that time, and does not answer their phone, is unable to respond or is skipped due to the possibility the incident would put that person over the 48 hours of overtime during a pay period, that person will not receive on call pay during that portion they are unavailable (due to the reasons stated above).

If a bomb technician cannot work a scheduled on call shift, they will notify the HDS sergeant immediately. The HDS sergeant will attempt to re-assign the on call shift or portion thereof. Bomb technicians are not to swap shifts, portions of shifts or cover the on call of others without prior approval of the HDS sergeant.

Every attempt will be made to remind certified bomb technicians to sign up for on call each month and the deadline to do so, but in the absence of such a notice, it

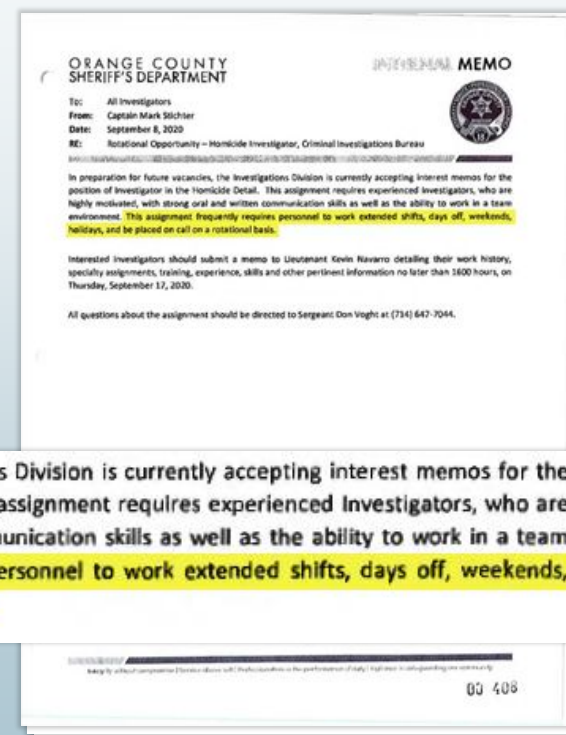
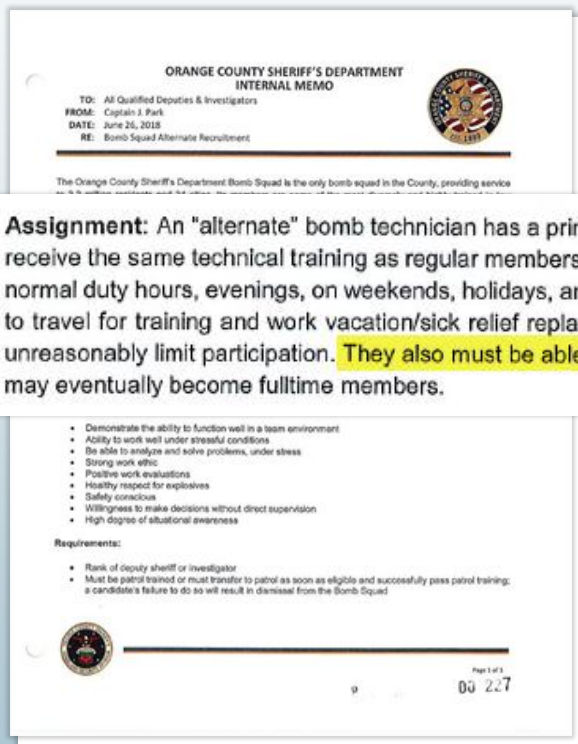
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## On Call Procedures

The Hazardous Devices Section (HDS) is extremely busy. Additionally, as the only HDS in Orange County, we must be readily available, on short notice, to respond throughout the County. For that reason and others, the HDS will make every attempt to have a minimum of three (3) certified bomb technicians on call outside normal business hours (e.g. after hours, weekends and holidays).

# Mandatory On-Call Duties Specified in Numerous County Documents



## Canine Handler Maintenance Pay

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- Only applies to Canine Handlers. **Not overtime.**
- Specialized position referred to in MOU (but not Appendix), and Sheriff Dep't Policy Manual.
- Not subject to pension spiking.
- Normal working hours for Canine Handlers.

# Canine Handler Maintenance Pay



## MEMORANDUM OF UNDERSTANDING

PEACE OFFICER UNIT  
AND  
SUPERVISING  
PEACE OFFICER UNIT

2019 – 2023

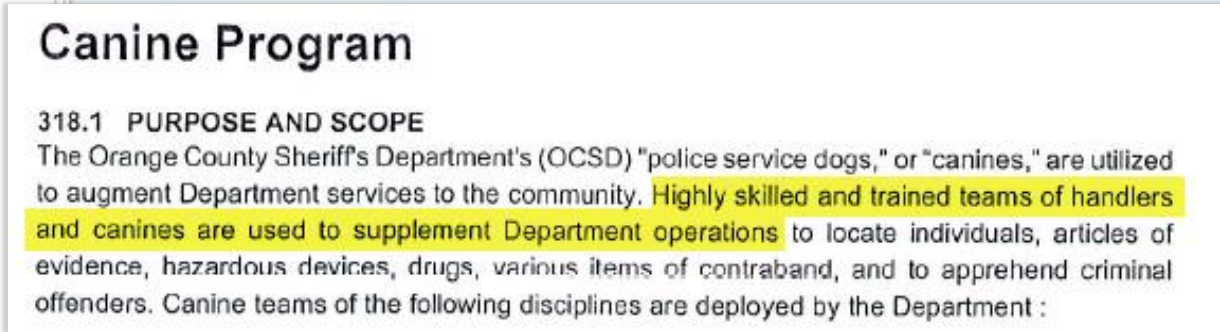
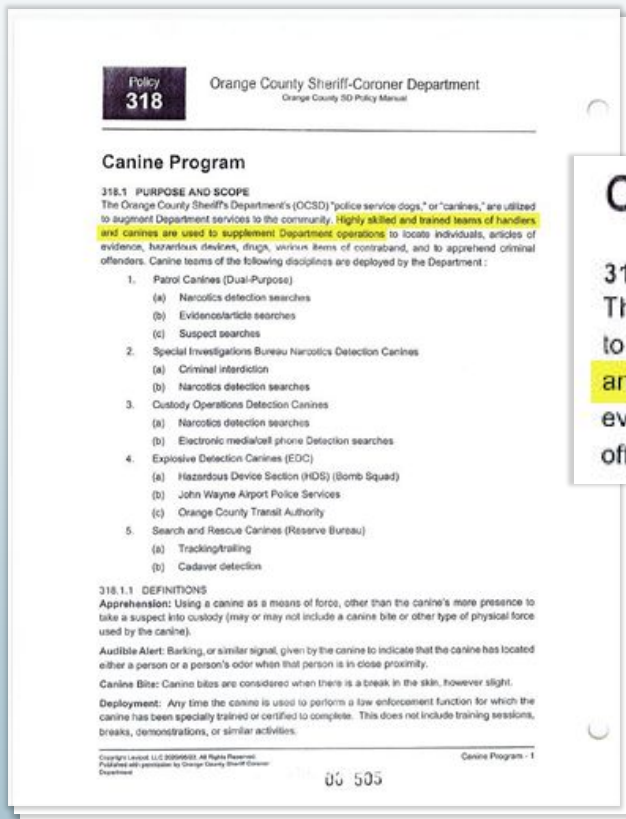
COUNTY OF ORANGE  
AND  
ASSOCIATION OF ORANGE COUNTY  
DEPUTY SHERIFFS

N. Canine Handler Maintenance Pay

Employees on pay status who are assigned to a position of Canine Handler on a regular, full-time basis shall be compensated for canine maintenance at one and one-half times their regular rate of pay for 30 minutes per day, seven days a week, whenever the police service dog is kenneled at the handler's residence. Canine maintenance will include feeding, watering, cleaning of kennels, cleaning canine patrol vehicles, grooming and/or bathing the canine, light exercise, training and other related miscellaneous duties.



# Canine Handler Maintenance Pay



# Presidential Leave

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- Unique position referred to in MOU.
- County is reimbursed for Presidential Leave pay.
- Credited in system for “on-call” pay.
- Blunt instrument approach would be devastating.



# Presidential Leave



## MEMORANDUM OF UNDERSTANDING

PEACE OFFICER UNIT  
AND  
SUPERVISING  
PEACE OFFICER UNIT

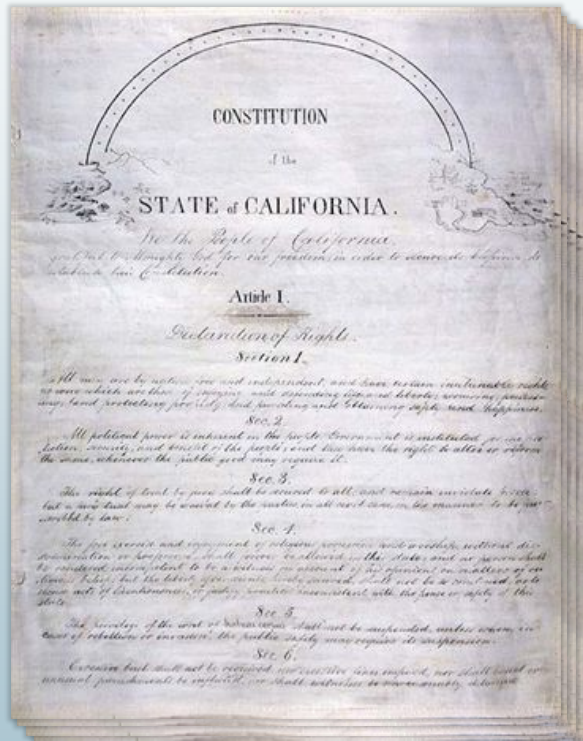
2019 – 2023

COUNTY OF ORANGE  
AND  
ASSOCIATION OF ORANGE COUNTY  
DEPUTY SHERIFFS

### Section 12. AOCDS Presidential Leave

- A. The County agrees to grant, if requested, Presidential Leave with pay and without loss of any benefits provided by the Memorandum of Understanding except as provided below to the President of AOCDS for the term of this Memorandum of Understanding provided that:
1. AOCDS promptly reimburses the County for all AOCDS President salary expenses\* incurred during the Presidential Leave.
  2. AOCDS promptly reimburses the County for all AOCDS President retirement, insurance and P.O.S.T. benefit expenses\* incurred during the Presidential Leave of Absence.
  3. The employee shall continue to participate in weapons qualification and any legally mandated training.
  4. The employee shall continue to conform to department rules, regulations and grooming standards that are not inconsistent with Presidential Leave.

# California Constitution, Article 16, Section 17(b)



## California Constitution Article XVI - Public Finance Section 17.

Universal Citation: CA Constitution art XVI § 17

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. **A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.**

Email to Mr. Steve Delaney from Larry M. Zurborg on February 15, 2021, at 9:24 AM

To OCERS Board Members,

First thank you for taking the time to read this email. I wanted you to know a little bit about myself, my career, and how your decision will impact myself and other retired OCERS members.

I have been married for over 31 years and have two children. I started my career with the Orange County Sheriff's when I was 22 years old. I was a Sheriff's Special Officer in 1986. I then went to the academy as a deputy in 1987. After the academy I was assigned to corrections for six years. While several deputies left the Sheriff's Department due to the extended time in corrections, I stayed with the department. I was later transferred to the Sheriff's Patrol Division where I worked for six years and became a field training officer and trained new deputy sheriffs for approximately three years. I then was transferred to the training division (Academy) in 1999, and was a Tactical Training Officer where I trained new recruits to become deputy sheriffs and police officers for Orange County and Los Angeles County agencies. I then was transferred to the Sheriff's Special Investigation Division where I worked the Gang Unit for five years. I promoted to Investigator in 2006 and stayed in Special Investigation as a narcotics investigator, In 2011 I received a Narcotics K9 and started Airport and Parcel Narcotics Interdiction. At this time Parcel Interdiction was new to the department, and airport interdiction was reborn. During this time with my K9 (Kirby) we seized 741 pounds of Marijuana, 11 pounds of Heroin, 92 pounds of Opium, 36.5 pounds of Cocaine, 79.5 pounds of Methamphetamine, over 3,777 Tablets of Ecstasy, 115 pounds of MDMA, and over \$4,345,842.00 seized in U.S. currency, (Narcotics Proceeds. I have broken several bones and have been injured several times throughout my career. Due to my assignments, I have spent more time at work than with my family, missing numerous holidays and special events with my family.

In November 2016 I was diagnosed with colon cancer. I had 29.5 years of service up to that point. Knowing I had cancer, I decided to retire from narcotics (Investigator) as a K9 handler. Prior to retirement, I met with an OCERS representative and went over my retirement numbers, which included K9 maintenance, which they told me would be included as part as my compensation earnings, as it has been for prior K9 handlers whom have retired. This was a major factor in my decision to retire. I accepted the terms of my retirement in good faith, I knew my family and I would be financially secure in my years of retirement. At no time did anyone advise me that the 2013 Alameda case could affect my retirement pension.

The OCERS board members' decision on this matter will be finally devastating to me and my family if you, the OCERS board members, take my K9 maintenance pay away. I now have been retired for five years. Since I am retired, I can't now promote to change my outcome. Due to my injuries I sustained while working, it will be difficult to find a job to be compensated for what I lose based on your decision.

From what I understand, this Alameda case was being looked at by the courts because of "pension spiking." I didn't receive a K9 to spike my retirement. I was a K9 handler for five years. K9 handlers receive K9

maintenance seven days a week. When we have our K9, the handlers are still working with K9's on the weekend, such as walking/exercising, bathing, cleaning, and obedience training. The K9 doesn't just stay in the kennel. It is my opinion upper management are the ones that are guilty of pension spiking by working holidays and turning in their county vehicle three years prior to their retirement and getting a vehicle allowance towards their pension.

Please remember that how you, OCERS, interpret the California Supreme Court's opinion on this case will have a huge financial impact on a large number of OCSD members and OCERS current retirees and their families.

Thank you

Larry M. Zurborg  
Retired OCSD Investigator



## Memorandum

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DATE: February 16, 2021  
TO: Members of the Board of Retirement  
FROM: Steve Delaney, Chief Executive Officer  
SUBJECT: **COVID-19 UPDATE**

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### **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 Tuesday, February 16<sup>th</sup> 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**

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Steve Delaney  
Chief Executive Officer

*Orange County Employees Retirement System  
Retirement Board Meeting  
February 16, 2021  
Application Notices*

<b>Member Name</b>	<b>Agency/Employer</b>	<b>Retirement Date</b>
<b>Acosta, Pete</b>	OC Public Works	12/18/2020
<b>Balderas, Patricia</b>	Probation	10/9/2020
<b>Ballard, Aaronlynn</b>	Social Services Agency	12/1/2020
<b>Bazmi, Khalid</b>	OC Public Works	12/4/2020
<b>Bellinger, Jocelyn</b>	Social Services Agency	12/4/2020
<b>Boelter, Pearl</b>	Health Care Agency	11/1/2020
<b>Bonvecchio, Tammy</b>	Probation	12/4/2020
<b>Carroll, Tracy</b>	Sheriff's Dept	12/10/2020
<b>Casario, George</b>	Fire Authority (OCFA)	12/18/2021
<b>Castillo, Norma</b>	Sheriff's Dept	12/10/2020
<b>Chacon, Maria</b>	Social Services Agency	12/4/2020
<b>Corral, Eugene</b>	Health Care Agency	11/6/2020
<b>Costley, Billy</b>	OCTA	8/22/2020
<b>Cross, Nathan</b>	Sheriff's Dept	12/5/2020
<b>De Anda, Luis</b>	Sheriff's Dept	11/20/2020
<b>Destro, Cheryl</b>	Health Care Agency	12/7/2020
<b>Eazor, Cynthia</b>	Social Services Agency	12/4/2020
<b>Galindo, Michele</b>	Social Services Agency	12/18/2020
<b>Garcia, Frank</b>	OC Public Works	12/18/2020
<b>Gassler, Alexander</b>	Sheriff's Dept	11/21/2020
<b>Gitana, Gina</b>	Superior Court	12/10/2020
<b>Hannaford, Diane</b>	Health Care Agency	12/10/2020
<b>Herrera Wilson, Sonya</b>	Superior Court	12/18/2020
<b>Hodqson, Paul</b>	OC Community Resources	12/18/2020
<b>Laros, Michael</b>	Sheriff's Dept	12/4/2020
<b>Martinez, Martha</b>	Health Care Agency	12/4/2020
<b>Mccaslin, Laurie</b>	Health Care Agency	12/8/2020
<b>Mikkelsen, Enriqueta</b>	Social Services Agency	12/4/2020
<b>Miller, Ronald</b>	Sheriff's Dept	12/8/2020
<b>Milliot, Daryll</b>	Fire Authority (OCFA)	12/10/2020
<b>Molfetta, Elizabeth</b>	District Attorney	11/13/2020
<b>Munoz, Robert</b>	Social Services Agency	12/4/2020
<b>Petropulos, John</b>	Sheriff's Dept	12/4/2020
<b>Prado, Frank</b>	County Executive Office (CEO)	12/4/2020
<b>Price, Samuel</b>	OCTA	12/20/2020
<b>Rakich, Mark</b>	Public Defender	11/14/2020
<b>Reinke, Kelly</b>	Superior Court	12/4/2020
<b>Rodriguez, Kelly</b>	Sheriff's Dept	11/14/2020
<b>Rodriguez, Soledad</b>	Social Services Agency	12/18/2020
<b>Rogers, Donald</b>	Sheriff's Dept	12/8/2020
<b>Sanchez, Pedro</b>	Sheriff's Dept	12/10/2020
<b>Sand, Tatiana</b>	Assessor	12/4/2020
<b>Schnoor, Darlene</b>	County Executive Office (CEO)	12/10/2020
<b>Sewell, Louis</b>	OCTA	12/6/2020
<b>Sharp, Bruce</b>	City Of San Juan Capistrano	11/3/2020
<b>Thompson, Jeffrey</b>	Sheriff's Dept	12/10/2020
<b>Tran, Mary Ann</b>	Health Care Agency	12/21/2020
<b>Virgen, Adriana</b>	Sheriff's Dept	11/13/2020
<b>Warrior, Vanetta</b>	Social Services Agency	12/4/2020

<i>Member Name</i>	<i>Agency/Employer</i>	<i>Retirement Date</i>
<b>Winters, Alison</b>	Auditor Controller	12/11/2020
<b>Wyffels, Alan</b>	Sheriff's Dept	12/18/2020

*Orange County Employees Retirement  
Retirement Board Meeting  
February 16, 2021  
Death Notices*

<b><i>Active Members</i></b>	<b><i>Agency/Employer</i></b>
<b>Ebreo, Charles</b>	Social Services Agency
<b>Bennett, Tom</b>	Superior Court
<b>Burciaga, Paul</b>	OCTA
<b>Chew, Mark</b>	Health Care Agency
<b>Kaplowitz, Michelle</b>	Social Services Agency
<b>Losurdo, Linda</b>	Sanitation District
<b>Stamm, Philip</b>	Health Care Agency

<b><i>Retired Members</i></b>	<b><i>Agency/Employer</i></b>
<b>Abasto, Lilia</b>	Social Services Agency
<b>Allen, James</b>	Health Care Agency
<b>Andre, Lillian</b>	Auditor Controller
<b>Andrews, John</b>	Probation
<b>Atchison, Collen</b>	Probation
<b>Becker, Elsa</b>	Treasurer - Tax Collector
<b>Campbell, Edward</b>	Probation
<b>Carlson, Nona</b>	OC Public Works
<b>Chizek, Stephen</b>	Sheriff's Dept
<b>Choi, Deanna</b>	Health Care Agency
<b>Colgan, Larry</b>	Fire Authority (OCFA)
<b>David, Raul</b>	Social Services Agency
<b>Ditte, Helen</b>	OC Community Resources
<b>Dyer, Richard</b>	OC Public Works
<b>Emery, Joyce</b>	Social Services Agency
<b>Evans, William</b>	Sheriff's Dept
<b>Firth, Sandra</b>	Superior Court
<b>Flores, Rodrigo</b>	Sheriff's Dept
<b>Fox, William</b>	Sanitation District
<b>Ghobrial, Evone</b>	Auditor Controller
<b>Guyette, Diane</b>	Social Services Agency
<b>Halim, Arif</b>	Probation
<b>Harris, Sylvia</b>	OC Community Resources
<b>Heneghan, Martin</b>	Superior Court
<b>Heyser, Marlene</b>	OCTA
<b>Hinshaw, Charlene</b>	District Attorney
<b>Hutchens, Sandra</b>	Sheriff's Dept
<b>Ingamells, Andrea</b>	Social Services Agency
<b>Kaiwi, Ruthanne</b>	OCTA
<b>Kelley, Donna</b>	OC Public Works
<b>Kesler, Leeta</b>	Sheriff's Dept
<b>Lane, Helen</b>	Probation



<b>Langlie, Kirsten</b>	OC Community Resources
<b>Le, Tin</b>	Child Support Services
<b>Lee, Deborah</b>	OC Public Works
<b>Letuligasenoa, Soli</b>	Social Services Agency
<b>Martinez, Estella</b>	Social Services Agency
<b>McGarry, Lauren</b>	Sheriff's Dept
<b>Meisamifard, Hossein</b>	OC Public Works
<b>Mendez, Mary</b>	Assessor
<b>Miller, Lee</b>	Social Services Agency
<b>Miller, Raymond</b>	OC Public Works
<b>Montgomery, Gerald</b>	Sheriff's Dept
<b>Navarro, Sheila</b>	Superior Court
<b>Nettleton, Dorothy</b>	Superior Court
<b>Olmstead, Marcella</b>	County Executive Office (CEO)
<b>Paquin, Wally</b>	OC Public Works
<b>Pham, Hongxuan</b>	District Attorney
<b>Pniewski, Rosemary</b>	OC Public Works
<b>Reichard, Vernon</b>	Sanitation District
<b>Rubino, Carol</b>	UCI
<b>Rutherford, Judi</b>	Sheriff's Dept
<b>Saenz, Michael</b>	OC Public Works
<b>Santiago, Nilda</b>	Social Services Agency
<b>Schmidt, Donald</b>	Assessor
<b>Scott, Robert</b>	Sheriff's Dept
<b>Smith, George</b>	OC Public Works
<b>Taylor, Joyce</b>	District Attorney
<b>Weger, Richard</b>	OC Public Works

<b><i>Surviving Spouses</i></b>	
<b>Aaron, Susan</b>	
<b>Beal, Barbara</b>	
<b>Braden, Erwin</b>	
<b>Capen, Barbara</b>	
<b>Dickason, Dixie</b>	
<b>Frey, Margaret</b>	
<b>Mac Intyre, Albertina</b>	
<b>Martinez, Cecilia</b>	
<b>McCullough, James</b>	
<b>Mullen, Janet</b>	
<b>Nelson, Maxine</b>	
<b>Ogden, Dolores</b>	
<b>Poudevigne, Georgianna</b>	
<b>Stevens, Leah</b>	
<b>Symonds, Barbara</b>	



## Memorandum

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**DATE:** February 03, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Cynthia Hockless, Director of Human Resources  
**SUBJECT:** **ADMINISTRATIVE OVERSIGHT – PERSONNEL COMMITTEE MEETING MINUTES**

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**Written Report**

**Background:**

OCERS formulated administrative rules to assist with the organization and communication of Committee Meeting minutes.

OCERS practice is to have the minutes from the Committee Meetings approved by each Committee and then shared with the full Board each month after those minutes are approved.

Staff would like to notify the Board that although our practice is to share the approved meeting minutes with the full Board, we noticed during a recent check and balance that not all of the approved Personnel Committee minutes were uploaded to the monthly Board books.

We believe this administrative oversight took place for the following Personnel Committee Meeting minutes:

Personnel Committee Meeting Minutes	
April 2019	January 2020
November 2019	February 2020
October 2019	August 2020

To assist with the correction to this oversight, we have provided the Personnel Committee minutes for the meetings that took place from April 2019 to August 2020.

As a note of reference, the minutes for the aforementioned meetings were uploaded and available on the OCERS website after each meeting took place.

**Submitted by:**



C.H. – APPROVED

Cynthia Hockless  
Director of Human Resources

**Attachment:**

Personnel Committee Meeting Minutes April 2019-August 2020

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

**PERSONNEL COMMITTEE MEETING  
April 23, 2019  
1:00 p.m.**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; Brittany Cleberg, Recording Secretary; and Nichol Forbes, Temporary Assistant Recording Secretary

The Chair called the meeting to order at 1:37 p.m.

**ACTION ITEMS**

**NOTE:** Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Committee's discussion of the item.

**A-1 2019 OCERS PERSONNEL COMMITTEE PLANNING SESSION AND MEETING CALENDAR**  
*Presentation by Steve Delaney, Chief Executive Officer*

**Recommendation:** Approve the 2019 OCERS Personnel Committee Meeting Calendar.

Mr. Delaney presented the upcoming items requiring the Committees' attention. The Committee will receive the outcome of the Compensation Study specific to OCERS Direct Employees.

***Mr. Hilton arrived at 1:39 p.m.***

Orange County Employees Retirement System  
April 23, 2019  
Personnel Committee Meeting - Minutes

Page 2

Mr. Delaney discussed the Employee Handbook for OCERS Direct staff. The Governance Committee previously discussed this handbook and it was decided to be a matter for the Personnel Committee.

Mr. Delaney reviewed the Classification Study of County Staff assigned to OCERS. Previously, OCERS executive staff met with Brenda Diederichs, Chief Human Resources Officer, County of Orange, who agreed to include OCERS assigned County staff in their classification and compensation study process. The goal would be to have OCERS specific classifications for all County staff assigned to OCERS. Ms. Diederichs has since left her position with the County of Orange. A meeting with Tom Hatch, the current Chief Human Resources Officer, County of Orange; is scheduled for April 24, 2019.

Mr. Prevatt requested an Employee Handbook for Mr. Lindholm to review.

Mr. Delaney discussed how the Board previously handled OCERS Direct Staff related topics.

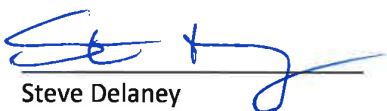
The Committee discussed the 2019 proposed meeting dates month by month. The agreed upon dates were May 20, 2019; June 17, 2019; July 11, 2019; July 31, 2019; August 19, 2019; October 31, 2019; November 18; 2019; November 25, 2019; December 16, 2019; and December 19, 2019. The executive staff will bring forth a proposed schedule at the next meeting for approval.

**COMMITTEE MEMBER/CEO /STAFF/COUNSEL COMMENTS**

None

**ADJOURNMENT:** The Chair adjourned the meeting at 1:56 p.m.

Submitted by:



Steve Delaney  
Secretary to the Committee

Approved by:



Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
May 20, 2019  
1:00 p.m.**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Javier Lara, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 1:37 p.m.

**CONSENT AGENDA**

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

A **motion** was made by Mr. Lindholm and **seconded** by Mr. Hilton to approve the Consent Agenda. The **motion carried unanimously**.

**C-1 COMMITTEE MEETING:**

**Approval of Meeting and Minutes**  
Personnel Committee Meeting

April 23, 2019

**Recommendation:** Approve minutes.

**ACTION ITEMS**

**NOTE:** Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Committee's discussion of the item.

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

**A-2 REVIEW OF PROPOSED REVISIONS TO THE OCERS EMPLOYEE HANDBOOK**

*Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS*

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

Ms. Shott reviewed the proposed revisions to the OCERS Employee Handbook with the Committee. She provided a reminder of OCERS split staff structure. The terms and conditions of County staff assigned to OCERS are set by the MOU between the County of Orange and Orange County Employees Association (OCEA) and the County's Personnel Policies. The Personnel Policies and Regulations, adopted by the Board of Retirement in November 2002, currently govern the terms and conditions of employment for OCERS Direct employees. OCERS has an MOU with the County of Orange, in order for them to administer benefits for OCERS Direct employees; OCERS will emulate the County's benefit program. OCERS had implemented changes by the County's Personnel and Salary Resolution but had not updated the OCERS Personnel Policies and Regulations documentation. The updated documentation is the OCERS Employee Handbook for OCERS Direct Staff.

A discussed took place regarding At-Will and the process of promotion and termination.

Mr. Delaney recommended grandfathering in current OCERS Direct Employees.

Mr. Eley commented that cleanup is needed in the Employee Handbook in reference to probation.

Ms. Jenike clarified that the classification of the OCERS Direct position be At-Will.

Chair Prevatt and Ms. Shott addressed the management, discipline, and documentation HR best practices.

Ms. Ratto advised that the day-to-day management of the personnel reside with the CEO.

Ms. Shott clarified the termination of At-Will employees would not take place without a review by CEO.

Ms. Shott discussed the Annual Leave accrual and recommendation of the maximum annual leave balance will be limited to two times the highest annual accrual rate of 592 hours.

Chair Prevatt suggested raising the maximum annual leave balance to 600 hours.

Orange County Employees Retirement System  
May 20, 2019  
Personnel Committee Meeting - Minutes

Page 3

Chair Prevatt stated for the record, a cap should be established. Any hours accumulated over the cap, would be paid out in non-pensionable compensation. No one who is over the cap would be able to accrue additional hours.

Mr. Delaney stated for the record, employees would be losing the ability to grow and pushes for grandfathering.

Mr. Hilton requested to see surveys of other California systems to have good governance.

Ms. Shott highlighted discipline, grievance and appeal, and merit increases.

Mr. Hilton and Chair Prevatt discussed At-Will status and the need for use of best practices in Human Resources Management will negate the need for a probation period.

Chair Prevatt was open to increasing the leave accrual to up to six months.

**A-3 2019 OCERS PERSONNEL COMMITTEE MEETING CALENDAR**  
*Presentation by Steve Delaney, Chief Executive Officer, OCERS*

**Recommendation:** Approve the 2019 OCERS Personnel Committee meeting schedule.

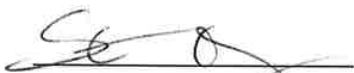
The Committee discussed the schedule of future meetings.

Chair Prevatt directed staff to review the calendar.

**COMMITTEE MEMBER/CEO /STAFF/COUNSEL COMMENTS**  
**None**

**ADJOURNMENT:** The Chair adjourned the meeting at 2:36 p.m.

Submitted by:

  
Steve Delaney  
Secretary to the Committee

Approved by:

  
Chris Prevatt  
Chair



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

**PERSONNEL COMMITTEE MEETING  
June 17, 2019  
12:30 p.m.**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 12:48 p.m.

**CONSENT AGENDA**

**MOTION** by Lindholm, **seconded** by Hilton, to approve staff's recommendation on all of the following items on the Consent Agenda:

**C-1 COMMITTEE MEETING:**

Personnel Committee Meeting

May 29, 2019

**Recommendation:** Approve 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.

Orange County Employees Retirement System  
June 17, 2019  
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**A-2 2019 OCERS TOTAL COMPENSATION STUDY**

Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations & Cynthia Hockless, Director of Administrative Services, Admin/HR, OCERS; Jennifer Ramos, Consultant CPS – HR Manager, Classification and Compensation

After discussion by the Committee, staff was directed to bring this item back to the Committee in July.

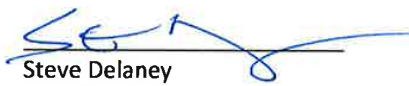
**A-3 REVIEW OF PROPOSED REVISIONS TO THE OCERS EMPLOYEE HANDBOOK**

A-3 was pulled from the agenda.

**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**

The meeting ADJOURNED at 1:32 p.m.

Submitted by:



Steve Delaney  
Secretary to the Committee

Approved by:



Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
July 31, 2019  
9:00 p.m.**

**Members of the Committee**  
Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 9:06 a.m.

**CONSENT AGENDA**

**MOTION** by Lindholm, **seconded** by Hilton, to approve staff's recommendation on all of the following items on the Consent Agenda:

**C-1 COMMITTEE MEETING:**

Personnel Committee Meeting

June 17, 2019

**Recommendation:** Approve 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.

Orange County Employees Retirement System  
July 31, 2019  
Personnel Committee Meeting - Minutes

**A-3 TRIENNIAL REVIEW OF THE CEO PERFORMANCE EVALUATION POLICY**

Agenda item A-3 was taken out of order.

Presentation by Cynthia Hockless, Director of Administrative Services, OCERS

After discussion by the Committee, **MOTION** by Lindholm, **seconded** by Hilton, to approve and recommend that the Board of Retirement approve revisions to the CEO Performance Evaluation Policy as presented in the committee materials.

The motion passed **unanimously**.

After discussion by the Committee, **MOTION** by Lindholm, **seconded** by Hilton, to approve the timeline for the 2019 CEO Performance Evaluation process.

The motion passed **unanimously**.

**A-2 REVIEW OF PROPOSED REVISIONS TO THE OCERS EMPLOYEE HANDBOOK**

Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS

The Committee received comments from Frank Eley, Mark Adviento, Jon Gossard, and Dave Beeson.

After discussion by the Committee, staff was directed to bring this item back to the Committee in August.

The Committee recessed for a break at 11:07 a.m.  
The Committee reconvened at 11:25 a.m.

**A-4 REVIEW UPCOMING TOPICS FOR PERSONNEL COMMITTEE**

Presentation by Brenda Shott, Assistant Chief Executive Officer, Internal Operations, OCERS

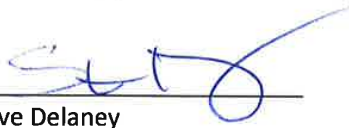
After discussion by the Committee, no action was taken.

**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**

None

The meeting **ADJOURNED** at 11:54 a.m.

Submitted by:



Steve Delaney  
Secretary to the Committee

Approved by:



Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
October 1, 2019  
11:30 a.m.**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investment Officer; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 11:35 a.m.

**CONSENT AGENDA**

**MOTION** by Lindholm, **seconded** by Hilton, to approve staff's recommendation on all of the following items on the Consent Agenda:

**C-1 COMMITTEE MEETING:**

Personnel Committee Meeting

July 31, 2019

**Recommendation:** Approve 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.

**A-2 EMPLOYEE HANDBOOK**

Presentation by Steve Delaney, Chief Executive Officer, OCERS

After discussion by the Committee, **MOTION** by Hilton, **seconded** by Lindholm, to approve, and recommend that the Board approve, the OCERS Employee Handbook with the revisions to be made as presented, removing the At Will Policy and Annual Leave Policy for further discussion.

The motion passed **unanimously**.

**A-3 2020 SALARIES AND BENEFITS BUDGET AND STAFFING PLAN RECOMMENDATIONS**

Presentation by Steve Delaney, Chief Executive Officer, and Cynthia Hockless, Director of Administrative Services, OCERS

After discussion by the Committee, **MOTION** by Lindholm, **seconded** by Hilton, to approve the following items related to the 2020 Salaries and Benefits Budget and Staffing Plan in the 2020 Proposed Budget to be presented to the full Board of Retirement at the Budget Workshop:

1. Create five career ladder positions as proposed.
2. Change the organizational structure of the Administrative Services Department by dividing the department into two separate departments: Human Resources Department and Operations Support Services Department as proposed, which includes:
  - a. Adding a position of Director of Operations Support Services; and
  - b. Dropping a position of Staff Assistant.
3. Change the titles of four positions as proposed.
4. Implement the 2020 Performance Management structure as proposed.
5. Adjust all OCERS direct employee salary ranges by 2.5% to reflect inflationary impacts to the region.

Staff was directed to bring the following item back to the Committee on October 31, 2019.

6. Add the Certified Information Systems Security Professional (CISSP), Society for Human Resource Management Certified Professional (SHRM-CP), Society for Human Resource Professional Senior Certified Professional (SHRM-SCP), and Certified Internal Auditor certifications to OCERS' certification pay program.

The motion passed **unanimously**.

**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**

None

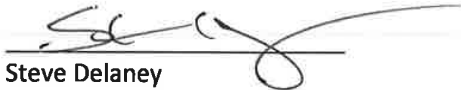
The meeting **ADJOURNED** at 12:44 p.m.

Orange County Employees Retirement System  
October 1, 2019  
Personnel Committee Meeting - Minutes

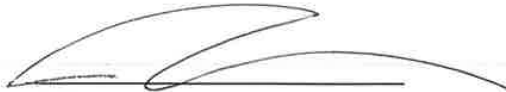
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Submitted by:

Approved by:



Steve Delaney  
Secretary to the Committee



Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
November 7, 2019  
1:30 p.m.**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investment Officer; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 1:33 p.m.

**CONSENT AGENDA**

**MOTION** by Lindholm, **seconded** by Hilton, to approve staff's recommendation on all of the following items on the Consent Agenda:

**C-1 COMMITTEE MEETING:**

Personnel Committee Meeting

October 1, 2019

**Recommendation:** Approve 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.



## **A-2 STAFFING PLAN RECOMMENDATIONS**

Presentation Cynthia Hockless, Director of Administrative Services and Steve Delaney, Chief Executive Officer

After discussion by the Committee, **MOTION** by Lindholm, **seconded** by Hilton, to approve the following items related to the Staffing Plan Recommendations:

1. Approve the creation of two career ladder positions one in the Member Services department and one in the Administrative Services department.
2. Create a HR Analyst position to allow for additional skilled assistance to facilitate the OCERS Learning and Development initiatives, cross-training throughout the department and other high-level HR related tasks.
3. Change the organization structure of the Administrative Services Department by dividing the department into two separate departments: Human Resources, Operations Support Services (see the organizational chart for assignment of positions reporting in each newly created department – no change to total headcount).
  - a. Add a position of Senior Manager of Operations Support Services.
  - b. Drop a position of Staff Assistant.
4. Change the titles of four positions:
  - a. Director of Administrative Services - change to Director of Human Resources
  - b. IT Manager - change to Information Security Manager
  - c. Director of Cyber Security - change to Director of Information Security
  - d. Training Manager – change to Learning and Organizational Development Manager

The motion passed **unanimously**.

## **A-3 OCERS CERTIFICATION INCENTIVE PROGRAM**

Presentation by Steve Delaney, Chief Executive Officer

After discussion by the Committee, staff was directed to gather more information to evaluate the additional certifications for OCERS' certification pay program:

Certified Information Systems Security Professional (CISSP), Society for Human Resource Management Certified Professional (SHRM-CP), Society for Human Resource Professional Senior Certified Professional (SHRM-SCP), and Certified Internal Auditor

## **A-4 APPOINTMENT OF CEO AS OCERS' LABOR NEGOTIATOR**

Presentation Gina M. Ratto, General Counsel

After discussion by the Committee, **MOTION** by Lindholm, **seconded** by Hilton, to appoint Chief Executive Officer, Steve Delaney, as OCERS' labor negotiator to negotiate the terms and conditions of employment with OCERS direct employees.

Orange County Employees Retirement System  
November 7, 2019  
Personnel Committee Meeting - Minutes

The motion passed **unanimously**.

**CLOSED SESSION**

The Committee **ADJOURNED** to Closed Session at 2:50 p.m. for item E-1.

The Committee **reconvened** in Open Session at 3:53 p.m. and reported out the following actions taken during closed session on item E-1.

**E- 1 CONFERENCE WITH OCERS' LABOR NEGOTIATOR (Government Code section 54957.6)  
Adjourn into closed session pursuant to Government Code section 54957.6 to confer with  
Labor Negotiator**

OCERS' Designated Representative: Steve Delaney, CEO  
Unrepresented Employees: All OCERS Direct Employee

There was **no reportable action taken** in closed session.


**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**


None

The meeting **ADJOURNED** at 3:54 p.m.

Submitted by:

Approved by:

  
Steve Delaney  
Secretary to the Committee

  
Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
January 31, 2020  
11:00 a.m.**

**Members of the Committee**  
Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 11:06 a.m.

**CONSENT AGENDA**

**C-1 COMMITTEE MEETING:**

-None

**ACTION ITEMS**

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

No items were trailed from the Consent Agenda.

**INFORMATION ITEMS**

The following informational items were presented to the Committee:

Orange County Employees Retirement System  
January 31, 2020  
Personnel Committee Meeting - Minutes

**I-1 REVIEW OF PERSONNEL COMMITTEE CHARTER**

Presentation Cynthia Hockless, Director of Human Resources

**I-2 PERSONNEL GOVERNANCE TASKS IN 2020**

Presentation Steve Delaney, Chief Executive Officer

**I-3 OCERS COMPENSATION PHILOSOPHY**

Presentation Cynthia Hockless, Director of Human Resources and Steve Delaney, Chief Executive Officer

**ACTION ITEMS**

**A-2 PROPOSED 2020 PERSONNEL COMMITTEE MEETING SCHEDULE**

Presentation Steve Delaney, Chief Executive Officer

The Committee discussed the 2020 proposed meeting dates month by month. The agreed upon dates were February 26, 2020; March 25, 2020; April 15, 2020; May 7, 2020; June 24, 2020; July 29, 2020; August 26, 2020; October 28, 2020; November 18, 2020; December 1, 2020. The executive staff will bring forth a proposed schedule at the next meeting for approval.

**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**


None

The meeting **ADJOURNED** at 12:04 p.m.

Submitted by:

Approved by:

  
Steve Delaney  
Secretary to the Committee

  
Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
February 26, 2020  
12:30 P.M. OR UPON ADJOURNMENT OF THE INVESTMENT COMMITTEE MEETING,  
WHICHEVER IS LATER**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

Attendance was as follows:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investment Officer; Gina Ratto, General Counsel; Cynthia Hockless, Director of Administrative Services; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

The Chair called the meeting to order at 12:51 p.m.

**CONSENT AGENDA**

**MOTION** by Lindholm, **seconded** by Hilton, to approve staff’s recommendation on all of the following items on the Consent Agenda:

**C-1 COMMITTEE MEETING:**

Personnel Committee Meeting	November 7, 2019
Personnel Committee Meeting	January 31, 2020

**Recommendation:** Approve minutes.

The motion passed **unanimously**.

Orange County Employees Retirement System  
February 26, 2020  
Personnel Committee Meeting - Minutes

**ACTION ITEMS**

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

No items were trailed from the Consent Agenda.

**A-2 PROPOSED 2020 PERSONNEL COMMITTEE MEETING SCHEDULE**

Presentation Steve Delaney, Chief Executive Officer

After discussion by the Committee, **MOTION** by Lindholm, **seconded** by Hilton, to approve the 2020 OCERS Personnel Committee Meeting Schedule.

The agreed upon dates were March 25, 2020; April 22, 2020; May 7, 2020; June 24, 2020; July 29, 2020; August 26, 2020; October 28, 2020; November 18, 2020; and December 1, 2020.

The motion passed **unanimously**.

**INFORMATION ITEMS**

The following informational items were presented to the Committee:

**I-1 COMPENSATION WORKSHOP**

Presentation Igor Shegolev, CPS-HR Consultant

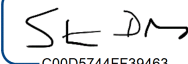
After discussion by the Committee, the Committee directed staff to review the data presented to ensure accuracy. The Committee also directed staff to work with the consultant to design a pay structure for the OCERS Direct positions that takes into consideration the County employees pay ranges so to promote a single employer structure and bring the proposed pay structure and data to the next Committee meeting. Mr. Hilton noted that he would like to see the County of Orange and another employer brought in to discuss compensation methodology.

**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**

None

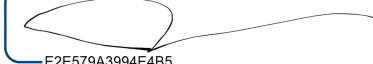
The meeting **ADJOURNED** at 2:22 p.m.

Submitted by:

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Steve Delaney  
Secretary to the Committee

Approved by:

DocuSigned by:  
  
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Chris Prevatt  
Chair

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

**PERSONNEL COMMITTEE MEETING  
August 19, 2020  
10:00 A.M.**

**Members of the Committee**

Chris Prevatt, Chair  
Wayne Lindholm, Vice Chair  
Roger Hilton

**MINUTES**

*This meeting replaces the meeting originally scheduled for Monday, August 17, 2020 at 1:30 p.m., but which was adjourned pursuant to California Government Code § 54955.*

Chair Prevatt called the meeting to order at 10:05 a.m.

Recording Secretary administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom video teleconference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Present: Chris Prevatt, Chair; Wayne Lindholm, Vice Chair; Roger Hilton

Also

Present: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Molly Murphy, Chief Investment Officer; Manuel Serpa, Counsel; Cynthia Hockless, Director of Human Resources; Anthony Beltran, Visual Technician; and Brittany Cleberg, Recording Secretary

**ACTION ITEMS**

**A-1 2020 OCERS DIRECT PERFORMANCE MANAGEMENT PROGRAM**

Presentation by Steve Delaney, Chief Executive Officer

After discussion by the Committee, **MOTION** by Prevatt, **seconded** by Hilton, to include two options for the 2020 Performance Management Program provision related to merit based salary adjustments for OCERS Direct employees to be recommended to the Board of Retirement for approval as part of the OCERS 2021 Budget.

Orange County Employees Retirement System  
 August 19, 2020  
 Personnel Committee Meeting - Minutes

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**Option 1:**

Use the same approach as was used in the past two years. The approach includes awarding an increase based on inflation for the previous twelve months for all employees who receive a performance rating of “meets expectations” or better. The actual amount to be awarded would be updated based on the published data available at the time the Budget is developed (it is anticipated that data through September would be publically available).

In addition to the inflation based increase, award a merit adjustment (2.75%) for employees who are rated “Exceed Expectations” and award two (2) merit adjustments (2.75% + 2.75% = 5.5%) for employees who are rated “Exceptional”.

**Option 2:**

The alternative approach includes awarding an increase based on inflation for the previous twelve months for all employees who receive a performance rating of “meets expectations” or better. The actual amount to be awarded would be updated based on the published data available at the time the Budget is developed (it is anticipated that data through September would be publically available).

In addition to the inflation based increase, award a merit adjustment that is lower than was awarded in the past two years, (1.75%) for employees who are rated “Exceed Expectations” and award two (2) merit adjustments (1.75% + 1.75% = 3.5%) for employees who are rated “Exceptional”.

The motion passed **unanimously**, pursuant to a Roll Call vote, as follows:

**AYES****NAYS****ABSTAIN****ABSENT**

Mr. Lindholm  
 Mr. Hilton  
 Chair Prevatt

After discussion by the Committee, **MOTION** by Hilton, **seconded** by Lindholm, to approve and recommend that the Board of Retirement approve an adjustment to the OCERS Direct salary schedule, increasing each position’s published salary range by the CPI as published by the U.S. Bureau of Labor Statistics for the Los Angeles-Long Beach-Anaheim area for the previous twelve months.

The motion passed **unanimously**, pursuant to a Roll Call vote, as follows:

**AYES****NAYS****ABSTAIN****ABSENT**

Mr. Lindholm  
 Mr. Hilton  
 Chair Prevatt



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Orange County Employees Retirement System  
August 19, 2020  
Personnel Committee Meeting - Minutes

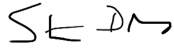
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**COMMITTEE MEMBER/CEO/CONSULTANT/COUNSEL COMMENTS**

None

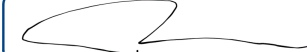
The meeting **ADJOURNED** at 11:04 a.m.

Submitted by:

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Steve Delaney  
Secretary to the Committee

Approved by:

DocuSigned by:  
  
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Chris Prevatt  
Chair



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** David Kim, Director of Internal Audit  
**SUBJECT:** **UPDATED OCTOBER 13, 2020 MINUTES**

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### Background/Discussion

The minutes to the October 13, 2020 Audit Committee meeting have been updated to further clarify the direction provided by the Audit Committee regarding the Quarterly Audit of Final Average Salary Calculations (Action Item A-4). Specifically, the underlined wording below has been added:

Upon discussion of the errors identified during Internal Audit's review resulting in a 6% error rate among the population audited, the Audit Committee directed Member Services to review a sample of the remaining Q1/Q2 population not reviewed by Internal Audit and to report their findings back to the Committee. Internal Audit will continue to test from the sample of Q3/Q4 population.

Submitted by:

DK - Approved

\_\_\_\_\_  
David Kim  
Director of Internal Auditor

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

**AUDIT COMMITTEE MEETING  
October 13, 2020  
9:00 a.m.**

**MINUTES**

**OPEN SESSION**

The Chair called the meeting to order at 9:00am.

Attendance was as follows:

Present via Zoom Video conference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Frank Eley, Chair; Shari Freidenrich, Vice Chair; Charles Packard;

Also Present via Zoom:

David Kim, Director of Internal Audit; Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operations; Matt Eakin, Director of Information Security; Jenny Sadoski, Director of Information Technology; Mark Adviento, Internal Auditor; Sonal Sharma, Recording Secretary; Anthony Beltran, Audio Visual Technician.

**PUBLIC COMMENT**

None.

**C-1 APPROVE AUDIT COMMITTEE MINUTES**

Updated Audit Committee Meeting Minutes	January 13, 2020
Audit Committee Meeting Minutes	June 4, 2020

**MOTION** was made by Packard, **seconded** by Vallone to approve the minutes.

The motion passed **unanimously**.

**A-2 REVIEW OF CLOUD RISK AND READINESS ASSESSMENT**

Presentation by David Kim, Director of Internal Audit and RSM

**Recommendation:** Receive and file.

**MOTION** was made by Packard, **seconded** by Vallone to receive and file.

Audit Committee Meeting  
October 13, 2020

The motion passed **unanimously**.

**A-3 ACTUARIAL EXTRACT AUDIT**

*Presentation by David Kim, Director of Internal Audit*

**Recommendation:** Receive and file.

**MOTION** was made by Packard, **seconded** by Freidenrich to receive and file.

The motion passed **unanimously**.

**A-4 QUARTERLY AUDIT OF FINAL AVERAGE SALARY CALCULATIONS**

*Presentation by David Kim, Director of Internal Audit and Mark Adviento, Internal Auditor*

Upon discussion of the errors identified during Internal Audit's review resulting in a 6% error rate among the population audited, the Audit Committee directed Member Services to review a sample of the remaining Q1/Q2 population not reviewed by Internal Audit and to report their findings back to the Committee. Internal Audit will continue to test from the sample of Q3/Q4 population.

**Recommendation:** Receive and file.

**MOTION** was made by Freidenrich, **seconded** by Packard to receive and file.

The motion passed **unanimously**.

**A-5 REVIEW OF CONTROLS IMPACTED BY TELECOMMUTING**

*Presentation by David Kim, Director of Internal Audit*

**Recommendation:** Receive and file.

**MOTION** was made by Packard, **seconded** by Vallone to receive and file.

The motion passed **unanimously**.

**A-6 ETHICS, COMPLIANCE, AND FRAUD HOTLINE UPDATE**

*Presentation by David Kim, Director of Internal Audit*

**Recommendation:** Receive and file.

**MOTION** was made by Packard, **seconded** by Freidenrich to receive and file.

The motion passed **unanimously**.

**INFORMATION ITEMS**

Audit Committee Meeting  
October 13, 2020

**I-1 AUDIT COMMITTEE AGENDA - INTERNAL AUDIT REPORT PRESENTATIONS**

*Presentation by David Kim, Director of Internal Audit*

**I-2 MANAGEMENT ACTION PLAN VERIFICATION**

*Written Report*

**I-3 STATUS UPDATE OF 2020 AUDIT PLAN**

*Written Report*

*The Committee recessed into Closed Session at 11:46am.*

*The Committee resumed at 12:16am.*

**CLOSED SESSION**

**E-1. THREAT TO PUBLIC SERVICES OR FACILITIES (GOVERNMENT CODE SECTION 54957)**

*Adjourn into Closed Session pursuant to Government Code section 54957 to consult with Steve Delaney, CEO, Brenda Shott, Asst. CEO; Matthew Eakin, Director of Information Security; Jenny Sadoski, Director of Information Technology; Jon Gossard, Information Security Manager; and Gina M. Ratto, General Counsel*

**Recommendation:** Take appropriate action.

**\*\*\*\*\* END OF CLOSED SESSION AGENDA \*\*\*\*\***

**COMMITTEE MEMBER COMMENTS**

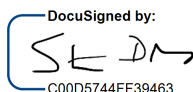
**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

**COUNSEL COMMENTS**

**ADJOURNMENT**

The Chair adjourned the meeting at 11:15 am.

Submitted by:

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Steve Delaney  
Secretary to the Board

Approved by:

DocuSigned by:  
  
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Frank Eley  
Chair

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

**AUDIT COMMITTEE MEETING  
December 17, 2020  
10:00 a.m.**

**MINUTES**

**OPEN SESSION**

The Chair called the meeting to order at 10:01am.

Attendance was as follows:

Present via Zoom Video conference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Frank Eley, Chair; Shari Freidenrich, Vice Chair; Charles Packard;

Also Present via Zoom:

David Kim, Director of Internal Audit; Steve Delaney, Chief Executive Officer; Gina Ratto, General Counsel; Suzanne Jenike, Assistant CEO, External Operations; Brenda Shott, Assistant CEO, Internal Operations; Jenny Sadoski, Director of Information Technology; Mark Adviento, Internal Auditor; Sonal Sharma, Recording Secretary; Anthony Beltran, Audio Visual Technician.

**PUBLIC COMMENT**

None.

**C-1 APPROVE AUDIT COMMITTEE MINUTES**

Audit Committee Meeting Minutes

October 13, 2020

**MOTION** was made by Packard, **seconded** by Freidenrich to approve the minutes.

The motion passed **unanimously**.

**A-2 EXTERNAL AUDITOR PERFORMANCE REVIEW AND CONTRACT EXTENSION**

*Presentation by Brenda Shott, Assistant CEO, Finance and Internal Operations and Jim Doezie, Contracts, Risk and Performance Administrator*

**Recommendation:** Approve an amendment to the MGO contract to exercise the one year optional extension for auditing the financial statements of OCERS for the year ending December 31, 2020. The one year extension has a cost not to exceed \$128,011.

Audit Committee Meeting  
December 17, 2020

**MOTION** was made by Freidenrich, **seconded** by Packard to approve the staff recommendation.

The motion passed **unanimously**.

*The Committee recessed into Closed Session at 10:29am.*

*The Committee resumed at 11:29am.*

**OPEN SESSION**

**A PUBLIC EMPLOYEE PERFORMANCE EVALUATION (GOVERNMENT CODE §54957(b))**

**Title: Director of Internal Audit**

Adjourn pursuant to Government Code section 54957(b) to evaluate the performance of the Director of Internal Audit

**Recommendation:** Take appropriate action.

The Audit Committee took no reportable action.

**COMMITTEE MEMBER COMMENTS**

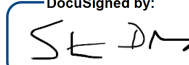
**CHIEF EXECUTIVE OFFICER/STAFF COMMENTS**

**COUNSEL COMMENTS**

**ADJOURNMENT**

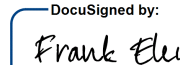
The Chair adjourned the meeting at 11:32 am.

Submitted by:

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Steve Delaney  
Secretary to the Board

Approved by:

DocuSigned by:  
  
9F34288D95E2472...

Frank Eley  
Chair



## Memorandum

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DATE: February 16, 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

##### MARCH

- 2021 STAR COLA Final Approval
- Alameda Case – Possible OCERS Board Determination*
- Business Continuity Disaster Recovery Update
- GFOA awards
- OCFA UAAL Paydown Plan Update (Tentative Date)
- Quarterly 2021-2023 Strategic Plan Review

##### APRIL

- Annual Fiduciary Training
- Brown Act Training (bi-annual)
- CEM Benchmarking Presentation
- OCERS Different Benefit Plans – An Overview
- SACRS Board of Directors Election (direction to voting delegate)

##### MAY

- Preliminary December 31, 2020 Valuation

##### 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
<b>System Oversight</b>		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 CAFR (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)	
<b>Board Governance</b>				Brown Act Training (I)					Annual Review of Succession Plan (I)			Adopt Annual Work Plan for 2022 (A)
				Fiduciary Training (I)								Vice-Chair Election (A)
<b>Regulation / Policies</b>	Communication Policy Fact Sheet (I)											
<b>Compliance</b>	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

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Jim Doezie, Contracts, Risk and Performance Administrator  
**SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS**

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### 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 an Accounting System (ERP) was released October 30<sup>th</sup>. We need to replace our current, unsupported system so this RFP is to solicit bids for this effort. Five bids were received. Finalists were selected with continued evaluations in process.
- An RFP for the Named Services Provider for Fiduciary Counsel Services was distributed January 22nd. Responses are due March 5<sup>th</sup>. Per the Contracting & Procurement Policy, we must do an RFP for Named Service Providers at least every six years. The contract with our current services provider, ReedSmith, will expire on June 30, 2021, the term having been extended by the Board for two months in order to give time for the RFP process. (After being in place for six years.)

### Submitted by:

Jim Doezie  
Contracts, Risk and Performance Administrator



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Steve Delaney, Chief Executive Officer  
**SUBJECT:** BOARD COMMUNICATIONS

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### 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:

#### Former OCERS Trustee Russell Baldwin:

- Mr. Baldwin wrote immediately following last month's events at the US Capitol, and in discussion later agreed to amend his request and have this note shared with the full Board <https://www.youtube.com/watch?v=FNQSM4ipZog&feature=youtu.be>

Attached:

- OCERS Activities for December 2020

#### Submitted by:

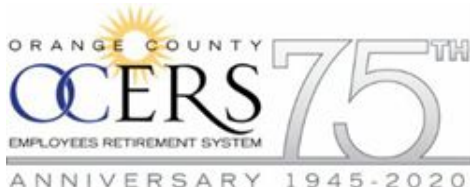


**SD - Approved**

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Steve Delaney

Chief Executive Officer



# Monthly Team Update December 2020

To the members of the OCERS Board of Retirement,

The following is my regular monthly summary of OCERS’ Teams activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for the month of December 2020.

## MEMBER SURVEY RESPONSE

“I came in to get a copy of my benefits for the Social Security Office. My request was handled promptly and I received exactly what I needed.”

**February 2020**

“OCERS was extremely helpful and very professional. The OCERS representative went above and beyond my expectations.”

**March 2020**

“I want to express my gratitude to OCERS for their efforts in helping me purchase service credit. OCERS team members were courteous, patient, thorough and responsive. They were outstanding!!!”

**April 2020**

“Thank you so much for your kindness on the telephone and your prompt response to my request. Everyone one of you at the Board, and in this case, especially you are amazing. “

**May 2020**

“My retirement appointment was one of the easiest meetings I have ever had.”

**June 2020**

“OCERS is a mom and pop retirement system that has legendary employees from top to bottom.”

**July 2020**

“Representative was very informative, helpful and patient.”

**August 2020**

“Representative was the most professional, caring, efficient and helpful team member I have ever met. They went beyond my expectations.”

**September 2020**

“I just wanted to drop you a quick note to convey my satisfaction with the assistance I received from OCERS on October 15. When I called your office, I had no idea what to expect, but the OCERS representative’s genuine interest in helping me was a pleasant surprise. Before I spoke to her, I was running out of options, but she reached out to my employer and put me on track to getting the information I need. Whenever I get superior customer service, I like to speak up, and this was definitely one of those occasions.”

**October 2020**

“OCERS Representative was very nice, supportive and accommodating. Very knowledgeable, could answer all my questions. Was very patient with me.”

**November 2020**

“Customer Support Rep was absolutely amazing! OCERS is lucky to have this team member representing their agency.”

**December 2020**

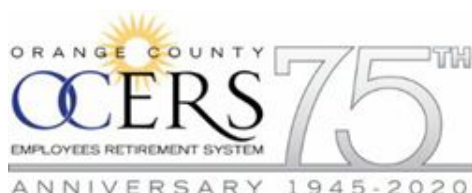
## Customer Service Statistics

**Member Approval:** 100%

**Un-Planned Recalculations:** 1

### Retirement Applications Received:

Dec - 2020	66
Nov - 2020	52
Oct - 2020	57
Sept - 2020	114
Aug - 2020	229
Jul - 2020	288
Jun - 2020	63
May - 2020	47
Apr - 2020	33
Mar - 2020	80
Feb - 2020	169
Jan - 2020	249
Dec - 2019	75
Nov - 2019	54
Oct - 2019	69
Sept - 2019	38
Aug - 2019	62
July - 2019	53
June - 2019	50
May - 2019	43
Apr - 2019	37
Mar - 2019	107
Feb - 2019	199



# Monthly Team Update

## December 2020

### MEMBER SERVICES TELEPHONE METRICS

Member Services Call History			
Month / Year	Incoming Calls Through Queue	Incoming Calls Direct to Extension	Total Calls (Queue + Direct)
December 2020	*	*	7442
December 2019	**	1816	1816
December 2018	1158	1650	2808

\*Developing Revised reports for 2021

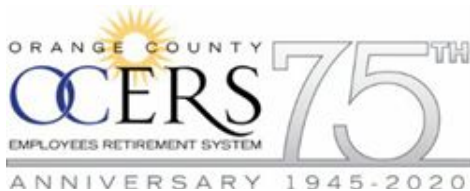
\*\*Queue call metrics unavailable this month due to sporadic issues with Mitel's Phone Reporting.

### ACTIVITIES

#### INVESTMENT DIVISION

We know now that calendar year 2020 has been a great year for the OCERS investment portfolio. Mr. Beeson here reports on the activities that took place in that final month of December 2020:

As of November 30, 2020, the portfolio year-to-date is up 7.2%, while the one-year return is up 9.1%. The fund value now stands at \$18.6 billion. The OCERS Investment Team continues to work effectively remotely during the coronavirus pandemic. The December 14<sup>th</sup> Investment Committee meeting took place via video/teleconference on Zoom. Molly Murphy began the meeting discussing the recent strong performance and resiliency in the markets despite the rise in COVID cases. Mike Krems from Aksia TorreyCove and Molly Murphy next presented a follow-up co-investment education session from the September Strategic Workshop. This session focused on how to structure a successful program and sample programs from other pension plans. Co-investments can provide similar exposure as fund investments, but with lower fees and other potential benefits such as greater control over the pace of investment and j-curve mitigation. Shanta Chary, David Beeson, and Tarek Turiagi then presented the monthly manager selections and terminations report. OCERS invested \$140 million in the Alpstone Global Macro Fund within the risk mitigation asset class. Alpstone's strategy includes discretionary global macro and relative value trading strategies. OCERS committed \$75 million to Digital Colony Partners II, a digital infrastructure managers within the real assets space that will invest in data centers, macro cell towers, fiber



# Monthly Team Update

## December 2020

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networks, and small cell businesses. OCERS invested \$50 million in CarVal Investors Credit Value Fund V. The fund is a multi-strategy opportunistic and distressed credit fund within private credit. Tarek Turiagi next presented the fixed income and credit asset class review. OCERS' fixed income and credit portfolios outperformed their benchmarks generating a year-to-date return of 7.2% and 2.4%, respectively. Mary Bates from Meketa then presented the private credit pacing plan. The Investment Committee voted to approve the private credit pacing plan of \$125 - \$200 million per year on a rolling three year basis.

### STAFF TRAINING

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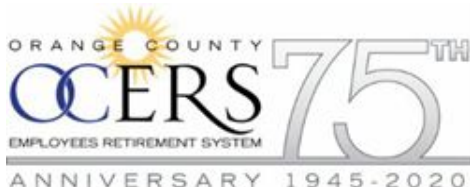
With the CDC and County of Orange Department of Health continuing to advocate for employees to work from home if at all possible, I've been pleased to see individual staff members continuing to pursue educational advancement that adds to their value to this system and their service to our members. Ms. Jenike shares an update on two staff members who are well known to those of you who have served on the Disability Committee:

Megan Cortez and David Acuna completed the coursework required to become certified professionals in Disability Management ( CPDM). They began these courses in 2019. In early December they completed the last of a three part series of courses to obtain this certification. The certification has given them the knowledge and skills needed to manage disability and absence in the workplace. By learning the concept of integrating various components of disability management to achieve cost and administrative efficiencies for the both employers and employees, they are qualified to implement an Integrated Disability and Absence Management program for OCERS, or any other organization. Disability Management is complex, there are a number of laws and programs to navigate ( ADA, FMLA, STD/LTD, Work Comp, just to name a few) and this certification gives them a broader understanding of the challenges our employers face when they have an employee with a disability claim, and that understanding helps us better communicate with them.

### OCERS WEBSITE INFORMATIONAL OPPORTUNITIES

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With the OCERS Headquarters building closed through December, and OCERS staff unable to provide in-person counseling sessions, the OCERS Communication Department continued their



# Monthly Team Update

## December 2020

efforts to provide information to our members via the OCERS website. Mr. Kinsler here reports on one of their most recent accomplishments:

Working with an outside production company (Ydraw), the Communications and IT Departments produced a new video “How To Use OCERS’ Benefits Calculator”. This video uses our now familiar whiteboard animation as well as the use of screen capture video that we completed here at OCERS. It is just over 2 minutes, but provides a quick overview of how to use all three calculators available to OCERS members.

Here is the link:

<https://www.ocers.org/instructional-video/how-use-ocers-benefits-calculator>

### UPDATES

#### OCERS INFORMATIONAL UPDATE ZOOM MEETING

For the December monthly OCERS Informational Update meeting, I had Ms. Murphy join us and speak directly to the stakeholders in attendance regarding the portfolio as the year came to a close. Mr. Turaigi shares highlights of the Investment Committee meetings, as well as investment activities every month, and does a fine job. I have decided however that it would be good on a quarterly basis to have Ms. Murphy join these meetings so she can have direct interaction with our employer and labor representatives on a regular basis.

#### MEETING WITH THE COUNTY OF ORANGE

As shared in my CEO comments, Ms. Jenike and I had an excellent year end meeting with the County of Orange Executive Department representatives. We discussed the ALAMEDA case in detail, the possibility of OCERS introducing legislation in 2021 pertaining to organizational hierarchy, and other issues of general interest. The meeting went well. We always appreciate the open and direct communications we are able to engage in with the County.



As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the February 16 meeting of the OCERS Board of Retirement.





## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Gina M. Ratto, General Counsel  
**SUBJECT:** LEGISLATIVE UPDATE

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### Written Report

#### *State Legislative Update*

The California Legislature was set to reconvene on January 4, 2021, but given the surge in COVID-19 cases in the state, the Legislature delayed reconvening until January 11, 2021. Legislators will have until February 19, 2021 to introduce bills. It remains to be seen if legislative proceedings will be curtailed by the pandemic in a manner similar to the 2019-2020 legislative session.

Since there are currently only three bills of interest that we are monitoring we have not attached the typical longer list of bills to this memo.

#### SACRS Sponsored Bills

The SACRS Legislative Committee has started working on the next SACRS sponsored CERL clean-up bill.

#### Bills That Would Amend the CERL or Other Laws That Apply to OCERS

- **AB 361 (R. Rivas)**  
Would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency during a declared state or local emergency, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency, provided the legislative body makes certain determinations by majority vote.  
(STATUS: Introduced 02/01/21. Read first time on 02/01/21.)
- **SB 274 (Wieckowski)**  
The Brown Act requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This bill would require a local agency with an internet website, or its designee, to email a copy of, or website link to, the agenda

or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. If a local agency determines it to be technologically infeasible to send a copy of the documents or a link to a website that contains the documents by mail or by other electronic means, the bill would require the legislative body or its designee to send by mail a copy of the agenda or a website link to the agenda and to mail a copy of all other documents constituting the agenda packet, as specified.

(STATUS: Introduced 01/29/21. To Committee on RLS for Assignment. Read first time on 02/01/21.)

### **Other Bills of Interest**

None to report.

### **Bills that Apply to CalPERS and/or CalSTRS Only**

- **SB 278 (Leyva)**

The Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system to modify its plan document to comply with PEPRA. Among other things, PEPRA establishes new defined benefit formulas and caps on pensionable compensation. This bill would establish new procedures under the Public Employees Retirement Law (PERL) for cases in which CalPERS determines that the benefits of a member or annuitant are, or would be, based on disallowed compensation that conflicts with PEPRA and other specified laws and thus impermissible under PERL. The bill would also apply these procedures retroactively to determinations made on or after January 1, 2017, if an appeal has been filed and the employee member, survivor, or beneficiary has not exhausted their administrative or legal remedies. At the threshold, after determining that compensation for an employee member reported by the state, school employer, or a contracting agency is disallowed, the bill would require the applicable employer to discontinue the reporting of the disallowed compensation.

(STATUS: Introduced 01/29/21. To Committee on RLS for Assignment. Read first time on 02/01/21.)

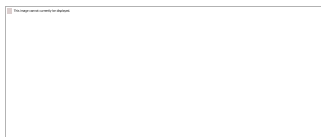
### **Divestment Proposals (CalPERS and CalSTRS Only)**

None to report.

#### Attachment:

2021 Tentative Legislative Calendar

#### **Submitted by:**



Gina M. Ratto  
General Counsel

**2021 TENTATIVE LEGISLATIVE CALENDAR**  
 COMPILED BY THE OFFICES OF THE SECRETARY OF THE SENATE AND THE CHIEF CLERK  
 Revised 12-21-2020

**DEADLINES**

JANUARY						
S	M	T	W	TH	F	S
					<u>1</u>	2
3	4	5	6	7	8	9
<u>10</u>	<u>11</u>	12	13	14	15	16
17	<u>18</u>	19	20	21	<u>22</u>	23
24	25	26	27	28	29	30
31						

FEBRUARY						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	<u>15</u>	16	17	18	<u>19</u>	20
21	22	23	24	25	26	27
28						

MARCH						
S	M	T	W	TH	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	<u>25</u>	26	27
28	29	30	<u>31</u>			

APRIL						
S	M	T	W	TH	F	S
				1	2	3
4	<u>5</u>	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	<u>30</u>	

MAY						
S	M	T	W	TH	F	S
						1
2	3	4	5	6	<u>7</u>	8
9	10	11	12	13	<u>14</u>	15
16	17	18	19	20	<u>21</u>	22
23	24	25	26	27	28	29
30	<u>31</u>					

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12 (a)).
- [Jan. 11](#) Legislature **reconvenes** (J.R. 51(a)(1)).
- [Jan. 18](#) Martin Luther King, Jr. Day.
- [Jan. 22](#) Last day to submit **bill requests** to the Office of Legislative Counsel.

- [Feb. 15](#) Presidents' Day
- [Feb. 19](#) Last day for bills to be **introduced** (J.R. 61(a)(1)), (J.R. 54(a)).

- [Mar. 25](#) **Spring Recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).
- [Mar. 31](#) Cesar Chavez Day.

- [Apr. 5](#) Legislature reconvenes from **Spring Recess** (J.R. 51(a)(2)).
- [Apr. 30](#) Last day for **policy committees** to hear and report to Fiscal Committees **fiscal bills** introduced in their house (J.R. 61(a)(2)).

- [May 7](#) Last day for **policy committees** to hear and report to the Floor **non-fiscal** bills introduced in their house (J.R. 61(a)(3)).
- [May 14](#) Last day for **policy committees** to meet prior to June 7 (J.R. 61(a)(4)).
- [May 21](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61 (a)(5)). Last day for **fiscal committees** to meet prior to June 7 (J.R. 61 (a)(6)).
- [May 31](#) Memorial Day.

\* Holiday schedule subject to final approval by Rules Committee

**2021 TENTATIVE LEGISLATIVE CALENDAR**  
 COMPILED BY THE OFFICES OF THE SECRETARY OF THE SENATE AND THE CHIEF CLERK  
 Revised 12-21-2020

JUNE						
S	M	T	W	TH	F	S
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	5
6	<u>7</u>	8	9	10	11	12
13	14	<u>15</u>	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

- [June 1-4](#) **Floor Session Only.** No committee, other than Conference or Rules, may meet for any purpose (J.R. 61(a)(7)).
- [June 4](#) Last day for bills to be **passed out of the house of origin** (J.R. 61(a)(8)).
- [June 7](#) Committee meetings may resume (J.R. 61(a)(9)).
- [June 15](#) **Budget bill** must be passed by **midnight** (Art. IV, Sec. 12 (c)(3)).

JULY						
S	M	T	W	TH	F	S
				1	<u>2</u>	3
4	5	6	7	8	9	10
11	12	13	<u>14</u>	15	<u>16</u>	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

- [July 2](#) Independence Day observed.
- [July 14](#) Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).
- [July 16](#) **Summer Recess** begins upon adjournment of this day's session, provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST						
S	M	T	W	TH	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	<u>16</u>	17	18	19	20	21
22	23	24	25	26	<u>27</u>	28
29	<u>30</u>	<u>31</u>				

- [Aug. 16](#) Legislature reconvenes from **Summer Recess** (J.R. 51(a)(3)).
- [Aug. 27](#) Last day for **fiscal committees** to meet and report bills to the Floor (J.R. 61(a)(11)).
- [Aug. 30-Sept. 10](#) **Floor Session only.** No committees, other than conference committees and Rules Committee, may meet for any purpose (J.R. 61(a)(12)).

SEPTEMBER						
S	M	T	W	TH	F	S
			<u>1</u>	<u>2</u>	<u>3</u>	4
5	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

- [Sept. 3](#) Last day to **amend** bills on the Floor (J.R. 61(a)(13)).
- [Sept. 6](#) Labor Day.
- [Sept. 10](#) Last day for **each house to pass bills** (J.R. 61(a)(14)).  
**Interim Study Recess** begins at end of this day's session (J.R. 51(a)(4)).

**IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS**

**2021**  
[Oct. 10](#) Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 10 and in the Governor's possession after Sept. 10 (Art. IV, Sec. 10(b)(1)).

**2022**  
[Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).

[Jan. 3](#) Legislature reconvenes (J.R. 51 (a)(4)).

\*\* Holiday schedule subject to final approval by Rules Committee



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Adina Bercaru, Member Services Manager  
**SUBJECT:** **OVERPAID AND UNDERPAID PLAN BENEFITS – 2020 REPORT**

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### Written Report

#### Background/Discussion

In accordance with the Board of Retirement Overpaid and Underpaid Plan Benefits Policy adopted by the Board on May 16, 2016, this memorandum serves as the annual report covering the calendar year 2020.

#### Benefit Overpayments/Underpayments:

In the V3 pension software system, benefit overpayments and repayments are tracked in the system. When an action that triggers an overpayment occurs, a transaction in the total amount owed is created and the outstanding balance is reduced as benefit deductions are applied or check payments are posted. A benefit recoupment report in V3 displays all overpayments created in the system, the current balance, and the last payment date and amount. By using this report, OCERS is able to monitor the status of overpayments, and to identify accounts that need additional action. Underpayments are less common, and those that occur are paid to members in the form of one-time benefit adjustments upon discovery.

In 2020, among 19,000 monthly payees at OCERS, 86 benefit overpayments occurred. Of this number, 53 have been paid in full, 6 have been written off as per write off policy and 10 are in the active repayment process via monthly benefit deductions. Efforts seeking repayment are underway for 17 deceased payee accounts.

The most significant cause of benefit overpayments this year remains the late reporting of payee deaths, 68.51%, with 59.07% being fully recouped.

The remaining overpayments were a result of a variety of account activities: unreported deaths, approved member appeals, updated payroll information received, team member error or other changes.

#### Submitted by:



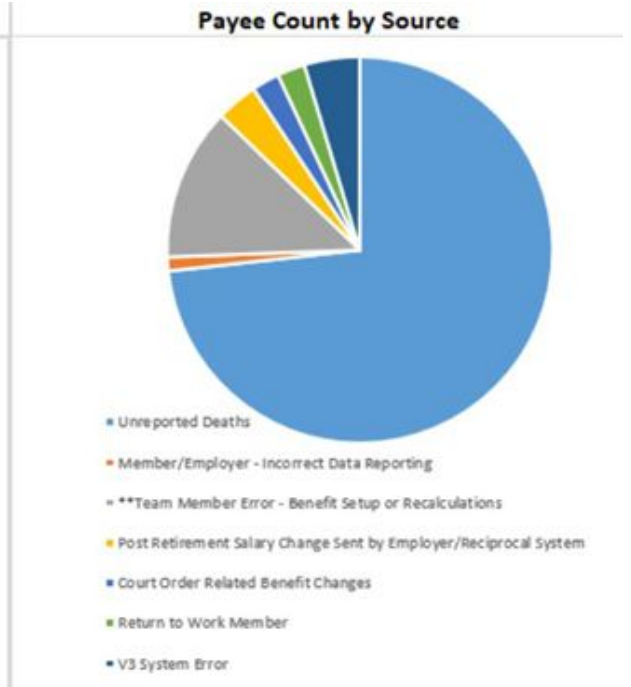
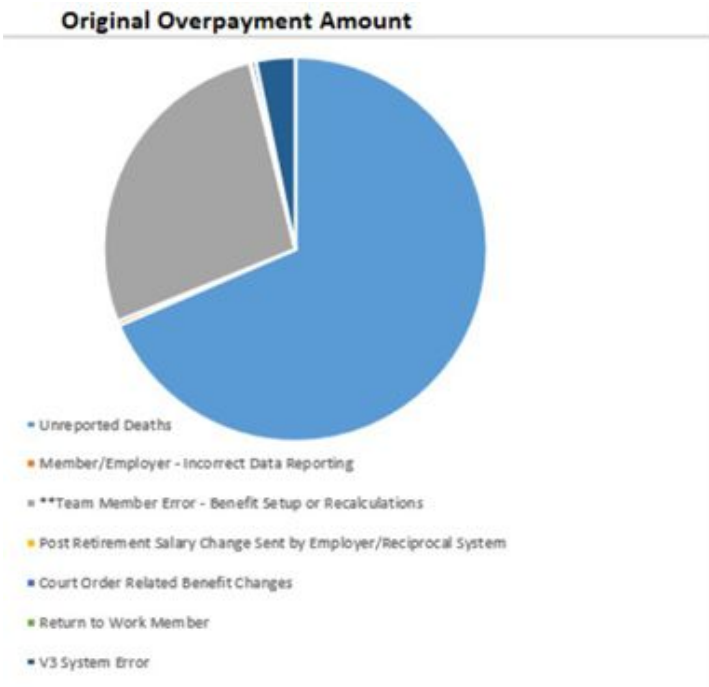
AB - Approved

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Adina Bercaru, Member Services Manager

OVERPAYMENT - 1/1/2020 TO 12/31/2020									
Overpayment Source	Original Overpayment Amount	Amount Recouped	Amount Still Owed	Payee Count	Paid in Full	Payment Plan Active	Collection Efforts Underway	*Write Off	
Unreported Deaths	\$405,160.50	\$239,329.89	\$165,830.61	63	46	0	17	0	
Member/Employer - Incorrect Data Reporting	\$2,183.52	\$218.34	\$1,965.18	1	0	1	0	0	
**Team Member Error - Benefit Setup or Recalculations	\$161,274.78	\$8,163.54	\$153,111.24	11	2	5	0	4	
Post Retirement Salary Change Sent by Employer/Reciprocal System	\$814.00	\$485.36	\$328.64	3	0	1	0	2	
Court Order Related Benefit Changes	\$2,333.64	\$887.66	\$1,445.98	2	0	2	0	0	
Return to Work Member	\$114.38	\$42.76	\$71.62	2	1	1	0	0	
V3 System Error	\$19,450.63	\$19,450.63	\$0.00	4	4	0	0	0	
<b>Totals</b>	<b>\$591,331.45</b>	<b>\$268,578.18</b>	<b>\$322,753.27</b>	<b>86</b>	<b>53</b>	<b>10</b>	<b>17</b>	<b>6</b>	

\*Less than \$100 benefit overpayment, write off policy applied  
 \*\*Larger amount due to benefit recalculation retroactive to 2004





## OCERS Board Policy

# Overpaid and Underpaid Plan Benefits Policy

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### 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

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### 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 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 charging "appropriate interest," as defined 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).
  - 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.
  - b. 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 Systems 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.
  - c. 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. 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 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.
8. 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:
    - 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.





## OCERS Board Policy

# Overpaid and Underpaid Plan Benefits Policy

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- 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.
  - e. *Reporting*: Every year, for cases involving benefit overpayments the Director of Member Services shall provide a report to the Board.
9. 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; and
    - iii. Unless otherwise determined by the Board, the CEO, or the Director of Member Services (see sections 8.a. and 8.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" (as that phrase is defined in section 6 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 6 above) applied during the overpayment period.
  - b. 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



## OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

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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.

- c. OCERS will maintain a permanent record of all amounts of such overpaid Plan benefits and the repayment to OCERS of those overpaid benefits.

### Policy Procedures for Underpaid Benefits

10. 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 necessary to correct the error, 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.
11. If a member who was underpaid benefits has died prior to payment of the lump sum amount due, the payment will be made according to OCERS' standard procedures for paying residual amounts following the death of the member (*e.g.*, to the designated beneficiary, estate, personal representative, trustee of the member trust, etc.).
  - a. If, after following its standard procedures, Plan staff 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 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.
12. 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 the reasonable direct costs of processing and delivering the distribution to the member would exceed the amount of the distribution.

### Member Appeal Rights

13. A member shall have the right to appeal any decision regarding corrective actions that the plan takes with respect to recovering and/or returning over and underpayments of Plan benefits.
14. The appeal process will generally follow the same pattern as benefit appeals.
  - 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.



## OCERS Board Policy

# Overpaid and Underpaid Plan Benefits Policy

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- 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 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. Offsets and other collection efforts will be stayed during the pendency of the above-outlined appeals process; provided, however, that the Board shall have the discretion to suspend implementing its recovery from the member in whole or in part during any ensuing court action. Interest will continue to accrue on all amounts owed to OCERS during the appeals process and litigation.

### Policy Review

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

### Policy History

- 16. This policy was adopted by the Board of Retirement on May 16, 2016 and amended on October 21, 2019.



## OCERS Board Policy Overpaid and Underpaid Plan Benefits Policy

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### Secretary's Certificate

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

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

Steve Delaney  
Secretary of the Board

10/21/19

Date



## Memorandum

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**DATE:** February 16, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Suzanne Jenike, Assistant CEO, External Operations  
**SUBJECT:** **2021 STAR COLA COST POSTING**

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### Written Report

#### Background/Discussion

In accordance with Government Code section 7507, a public meeting will occur on March 15, 2021, to consider the STAR COLA ad hoc adjustment to applicable retirement allowances.

STAR COLA stands for Supplemental Targeted Adjustment for Retirees, Cost of Living Adjustment. The purpose is to restore purchasing power for retirees who have lost more than 20% of their purchasing power since retirement, as measured by the accumulation in a retired member's COLA bank. The STAR COLA brings those individuals back to 80% of purchasing power. It applies to those retirees or their beneficiaries who began receiving a benefit on or before April 1, 1980, and is granted in accordance with Government Code section 31874.3(c).

Before the Board votes on whether to grant the STAR COLA, the costs must be posted at a separate public meeting, in accordance with Government Code Section 7507. As such, this item is providing the required notice that on March 15, 2021, the Board will consider the granting of the STAR COLA. The total cost is projected to be \$356,419 and applies to 186 payees.

- County of Orange \$354,043 -183 payees
- UCI \$264 - 1 payee
- Sanitation District \$2,112 - 2 payees

As in the past, the Board will provide each employer with STAR COLA recipients the opportunity to pay their share of the cost in a lump sum, over a period of 12 months or add it to the unfunded liability for that employer.

#### Submitted by:



S. J. – APPROVED

Suzanne Jenike  
Assistant CEO, External Operations



Andy Yeung, ASA, MAAA, FCA, EA  
Vice President & Actuary  
T 415.263.8283  
ayeung@segalco.com

180 Howard Street  
Suite 1100  
San Francisco, CA 94105-6147  
segalco.com

**Via Email**

January 28, 2021

Mr. Steve J. Delaney  
Chief Executive Officer  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

**Re: Orange County Employees Retirement System (OCERS)  
Supplemental Targeted Adjustment for Retirees Cost-of-Living Adjustment  
(STAR COLA) Payment Projections as of April 1, 2021**

Dear Steve:

As requested by the System, we have projected the cost of continuing the STAR COLA benefit over the next ten years from April 1, 2021.

**BACKGROUND**

The Retirement Board grants a STAR COLA benefit to maintain a minimum of 80% of a retiree's or beneficiary's purchasing power. The STAR COLA benefit is calculated by first taking the balance in a member's COLA bank that is in excess of 20% and multiplying that times the member's benefit.

The 1937 Act allows the Board either to advance fund the STAR COLA benefit subject to the availability of excess earnings above 1% of OCERS' assets or to grant this benefit on an annual basis. We understand that the Board's current policy is to grant this benefit on an annual basis.

**RESULTS AND ANALYSIS**

On April 1, 2021, only those members who retired on or before April 1, 1980 have COLA banks in excess of 20% and hence are eligible to receive the STAR COLA.

The attached Exhibit A shows a ten-year projection of the STAR COLA benefits, expressed as a percentage of the benefit payable effective April 1 of the next ten years. In Exhibit B, we show the annual benefit payment based on who is eligible for the STAR COLA benefit as of April 1, 2021 (i.e., members who retired on or before April 1, 1980) and those who may become eligible after April 1, 2021. In Exhibit C, we have included a schedule that provides the breakdown of the anticipated STAR COLA benefits from April 1, 2021 to March 31, 2022 based on members who retired from each employer.

Mr. Steve J. Delaney  
 January 28, 2021  
 Page 2

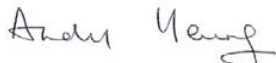
Our projections are based on the following assumptions provided below.

1. The existing 80% purchasing power cap will remain unchanged.
2. In adjusting the purchasing power banks after April 1, 2021, we have used the assumed retiree COLA assumption of 2.75% previously adopted by the Board for the upcoming December 31, 2020 valuation. As OCERS provides a maximum annual COLA of 3.0%, the COLA banks will decrease in the future under the 2.75%<sup>1</sup> retiree COLA assumption (see attached Exhibit A) and thus no other additional members will be expected to become eligible.<sup>2</sup> We assume that future STAR COLA benefits, adjusted to reflect inflation for the prior calendar year, will be paid commencing April 1 of the subsequent year.
3. Our projections were based on the latest membership data used in the valuation as of December 31, 2019, but updated through January 13, 2021 to exclude those members who have passed away since the prior valuation. For conservatism, we assumed no deaths would have occurred among retirees and beneficiaries from January 13, 2021 to April 1, 2021. Effective April 1, 2021, we applied the life expectancies previously adopted by the Board for the upcoming December 31, 2020 valuation in projecting members who will be entitled to payments in the ten-year period.
4. The projections are based on proprietary actuarial modeling software. Our Actuarial Technology and Systems unit, comprised of both actuaries and programmers, is responsible for the initial development and maintenance of these models. The models have a modular structure that allows for a high degree of accuracy, flexibility and user control. The client team programs the assumptions and the plan provisions, validates the models, and reviews test lives and results, under the supervision of the responsible actuary.

I'm a member of the American Academy of Actuaries and I meet the Qualification Standard of the American Academy of Actuaries to render the actuarial opinion herein.

Please give us a call if you have any questions.

Sincerely,



Andy Yeung, ASA, MAAA, FCA, EA  
 Vice President & Actuary

JY/hy

Enclosures

cc: Suzanne Jenike  
 Brenda Shott

<sup>1</sup> It should be noted that 2.75% is assumed to be the average annual COLA during the next ten years. In practice, actual COLAs are granted annually in increments of 0.5% according to the 1937 Act.

<sup>2</sup> It should be noted that in determining the liabilities for those retirees with COLA banks in the funding valuation, we have been assuming that a COLA of 3.00% would be paid on each April 1 following the date of the valuation until their COLA banks are depleted.

Exhibit A

**Ten-Year Projection of STAR COLA Benefits**

(Expressed as a Percent of the Benefit Payable Effective April 1 of the Year Indicated)

<b>Date of Retirement</b>	<b>April 1, 2021</b>	<b>April 1, 2022</b>	<b>April 1, 2023</b>	<b>April 1, 2024</b>	<b>April 1, 2025</b>	<b>April 1, 2026</b>	<b>April 1, 2027</b>	<b>April 1, 2028</b>	<b>April 1, 2029</b>	<b>April 1, 2030</b>
On or Before 04/01/1972	26.50%	26.25%	26.00%	25.75%	25.50%	25.25%	25.00%	24.75%	24.50%	24.25%
04/02/1972 to 04/01/1973	26.00%	25.75%	25.50%	25.25%	25.00%	24.75%	24.50%	24.25%	24.00%	23.75%
04/02/1973 to 04/01/1974	26.00%	25.75%	25.50%	25.25%	25.00%	24.75%	24.50%	24.25%	24.00%	23.75%
04/02/1974 to 04/01/1975	25.50%	25.25%	25.00%	24.75%	24.50%	24.25%	24.00%	23.75%	23.50%	23.25%
04/02/1975 to 04/01/1976	20.00%	19.75%	19.50%	19.25%	19.00%	18.75%	18.50%	18.25%	18.00%	17.75%
04/02/1976 to 04/01/1977	14.50%	14.25%	14.00%	13.75%	13.50%	13.25%	13.00%	12.75%	12.50%	12.25%
04/02/1977 to 04/01/1978	11.00%	10.75%	10.50%	10.25%	10.00%	9.75%	9.50%	9.25%	9.00%	8.75%
04/02/1978 to 04/01/1979	7.00%	6.75%	6.50%	6.25%	6.00%	5.75%	5.50%	5.25%	5.00%	4.75%
04/02/1979 to 04/01/1980	2.00%	1.75%	1.50%	1.25%	1.00%	0.75%	0.50%	0.25%	0.00%	0.00%

Based on the ten-year projection, members who retired after April 1, 1980 are not eligible for STAR COLA.



*Exhibit B***PROJECTED BENEFIT PAYMENTS**

The expected benefit payments for the current and new STAR COLA recipients for the next ten years, commencing April 1, 2021, are provided in the following table:

	Benefit Payments		
	(1) Eligible for STAR COLA as of April 1, 2021	(2) Not Yet Eligible for STAR COLA as of April 1, 2021	(1) + (2)
1. April 1, 2021 - March 31, 2022	\$356,419	\$0	\$356,419
2. April 1, 2022 - March 31, 2023	323,671	0	323,671
3. April 1, 2023 - March 31, 2024	291,940	0	291,940
4. April 1, 2024 - March 31, 2025	261,972	0	261,972
5. April 1, 2025 - March 31, 2026	234,191	0	234,191
6. April 1, 2026 - March 31, 2027	208,764	0	208,764
7. April 1, 2027 - March 31, 2028	185,691	0	185,691
8. April 1, 2028 - March 31, 2029	164,863	0	164,863
9. April 1, 2029 - March 31, 2030	146,106	0	146,106
10. April 1, 2030 - March 31, 2031	<u>130,554</u>	<u>0</u>	<u>130,554</u>
Total Benefit Payments	\$2,304,171	\$0	\$2,304,171
Discounted Benefit Payments <sup>(1)</sup>	\$1,775,568	\$0	\$1,775,568

<sup>(1)</sup> At 7.00% annual investment return assumption.

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*Exhibit C***PROJECTED BENEFIT PAYMENTS BY EMPLOYER**

The expected benefit payments for the current STAR COLA recipients from April 1, 2021 to March 31, 2022 broken down by employer, are provided in the following table:

	Benefit Payments			
	Orange County	U.C.I. (Bi-weekly)	Sanitation District	Total
April 1, 2021 - March 31, 2022	\$354,043	\$264	\$2,112	\$356,419

**§31874.3. Determination; application of excess to allowances; effect on subsequent increases**

(a)(1) Whenever the percentage of annual increase in the cost of living as of January 1 of each year as shown by the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers exceeds the maximum benefit increase provided in Section 31870, 31870.1, 31870.2, or 31870.3, whichever is applicable, the board of retirement may provide that all or part of the excess percentage increase shall be applied to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3. The board shall determine the amount of the excess to be applied, which amount shall not exceed an amount that can be paid from earnings of the retirement fund that are in excess of the total interest credited to contributions and reserves plus 1 percent of the total assets of the retirement fund.

(2) The supplemental increases in excess of the increases applied to the retirement allowances, optional death allowances, or annual death allowances pursuant to Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances, or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(b)(1) The board of retirement may, instead of taking action pursuant to subdivision

(a), provide supplemental cost-of-living increases, effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, that only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 shall equal or exceed 20 percent as of January 1 of the year in which the board of retirement adopts an increase under this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall not become a part of the retirement allowances, optional death allowances or annual death allowances to be increased by subsequent increases under Section 31870, 31870.1, 31870.2, or 31870.3.

(3) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(c)(1) The board of retirement may, instead of taking action pursuant to subdivision (a) or (b), provide supplemental cost-of-living increases, on a prefunded basis and effective on a date to be determined by the board, to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3; provided however, only those members shall be eligible for this increase whose accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3 equal or exceed 20 percent as of January 1 of the year in which the board of retirement takes action pursuant to this subdivision.

(2) The supplemental increases to the retirement allowances, optional death allowances, or annual death allowances increased in Section 31870, 31870.1, 31870.2, or 31870.3 shall become a part of the retirement allowances, optional death allowances, or annual death allowances and shall serve to reduce the accumulations established by Section 31870, 31870.1, 31870.2, or 31870.3, as applicable, by the same percentage as the payment that is made pursuant to this Section.

(3) Before the board of retirement provides benefits pursuant to this subdivision, the costs of the benefits shall be determined by a qualified actuary and the board of retirement shall, with the advice of the actuary, provide for the full funding of the benefits utilizing funds in the reserve against deficiencies established pursuant to Section 31592.2, using surplus earnings that exceed 1 percent of the total assets of the retirement system.

(4) This subdivision shall be operative in any county that has elected by a majority vote of the board of supervisors to make either Section 31870, 31870.1, 31870.2, or 31870.3 applicable in that county.

(d) Upon adoption by any county providing benefits pursuant to this section, of Article 5.5 commencing with Section 31610) of this chapter, the board of retirement shall, instead, pay those benefits from the Supplemental Retiree Benefit Reserve established pursuant to Section 31618.

(Amended (as amended by Stats. 1983, Ch. 147, Sec. 2) by Stats. 1983, Ch. 886, Sec. 11)

(Amended by Stats. 2000, Ch. 317 (AB 2176), Sec. 4)

CA Govt Code § 7507 (2017)

(a) For the purpose of this section:

(1) "Actuary" means an actuary as defined in Section 7504.

(2) "Future annual costs" includes, but is not limited to, annual dollar changes, or the total dollar changes involved when available, as well as normal cost and any change in accrued liability.

(b) (1) Except as provided in paragraph (2), the Legislature and local legislative bodies, including community college district governing boards, when considering changes in retirement benefits or other postemployment benefits, shall secure the services of an actuary to provide a statement of the actuarial impact upon future annual costs, including normal cost and any additional accrued liability, before authorizing changes in public retirement plan benefits or other postemployment benefits.

(2) The requirements of this subdivision do not apply to:

(A) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(B) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(c) (1) (A) With regard to local legislative bodies, including community college district governing boards, the future costs of changes in retirement benefits or other postemployment benefits, as determined by the actuary, shall be made public at a public meeting at least two weeks prior to the adoption of any changes in public retirement plan benefits or other postemployment benefits. If the future costs of the changes exceed one-half of 1 percent of the future annual costs, as defined in paragraph (2) of subdivision (a), of the existing benefits for the legislative body, an actuary shall be present to provide information as needed at the public meeting at which the adoption of a benefit change shall be considered. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(B) The requirements of this paragraph do not apply to:

(i) An annual increase in a premium that does not exceed 3 percent under a contract of insurance.

(ii) A change in postemployment benefits, other than pension benefits, mandated by the state or federal government or made by an insurance carrier in connection with the renewal of a contract of insurance.

(2) With regard to the Legislature, the future costs as determined by the actuary shall be made public at the policy and fiscal committee hearings to consider the adoption of any changes in public retirement plan benefits or other postemployment benefits. The adoption of any benefit to which this section applies shall not be placed on a consent calendar.

(d) Upon the adoption of any benefit change to which this section applies, the person with the responsibilities of a chief executive officer in an entity providing the benefit, however that person is denominated, shall acknowledge in writing that he or she understands the current and future cost of the benefit as determined by the actuary. For the adoption of benefit changes by the state, this person shall be the Director of Human Resources.

(e) The requirements of this section do not apply to a school district or a county office of education, which shall instead comply with requirements regarding public notice of, and future cost determination for, benefit changes that have been enacted to regulate these entities. These requirements include, but are not limited to, those enacted by Chapter 1213 of the Statutes of 1991 and by Chapter 52 of the Statutes of 2004.

*(Amended by Stats. 2016, Ch. 415, Sec. 4. (AB 2375) Effective January 1, 2017.)*



## Memorandum

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DATE: February 16, 2021  
TO: Members of the Board of Retirement  
FROM: Steve Delaney, Chief Executive Officer  
SUBJECT: **2020 BUSINESS PLAN – END OF YEAR REPORT**

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### Written Report

#### Background/Discussion

Attached you will find the 2020 OCERS Business Plan, as approved by the OCERS Board in October 2019.

With 2020 now concluded, per the Board's reporting policy, the OCERS team has updated the business plan to show the status of each goal. The work accomplished in 2020 is reflected in the red highlighted language that appears with each Plan Initiative, Objective and Goal.

#### Submitted by:



**SD - Approved**

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Steve Delaney  
Chief Executive Officer

Orange County Employees Retirement System  
2223 East Wellington Avenue | Santa Ana | 92701

# 2020 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

# 2020-2022 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. Conduct and begin implementation of a triennial asset allocation study – **Completed**
2. Conduct a competitive procurement for an investment/risk management system – **Procurement completed**

Objective B: Prudent Use and Security of Resources

*Executive Lead – Molly Murphy*

1. Investigate Custodial Bank Services options – **In process, information only in 2020 with action to take place in 2021**

# EXCELLENT SERVICE AND SUPPORT

## **GOAL: ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND EMPLOYERS**

### *Business Plan Initiatives*

#### Objective A: Provide Accurate and Timely Benefits

*Executive Lead – Suzanne Jenike*

1. Streamline the service retirement process by implementing;
  - a. LEAN action items – **Certain processes such as FAS calculations reviewed and completed**
  - b. Application packets – **Retirement application revised, completed**
2. Improve customer service standards by enhancing V3 workflows, monitoring and reporting (year two) – **Completed with future continuous improvement opportunities**

#### Objective B: Provide Education to our Members and Employers

*Executive Lead – Suzanne Jenike*

1. Design and implement a bi-annual employer workshop – **Completed**
2. Create white board videos that will provide education to members and stakeholders about OCERS benefits (year two) – **Completed with future continuous improvement opportunities**

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 – **In process (COVID-19 challenges)**
2. Identify additional business process to implement LEAN principles – **Completed, Finance, HR and IT have identified additional business processes**
3. Procure and begin conversion to new accounting software – **Procurement complete, in contract negotiations**

## RISK MANAGEMENT

### **GOAL: CULTIVATE A RISK-INTELLIGENT ORGANIZATION**

#### ***Business Plan Initiatives***

Objective A: Provide System and Data Security and a Robust Business Continuity Solution

*Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski*

1. Continue implementation plan for security and operational best practice controls – **Completed with future continuous improvement opportunities**

2. Continuously assess current Information Security environment and address identified risks:
  - a. Implement software application whitelisting solution to prevent the installation and execution of unknown programs on OCERS systems – **Deferred to 2021, dependent upon completion of item 2b below**
  - b. Implement a Privileged Account Management (PAM) solution to secure, control, manage and monitor privileged accounts – **Deferred to 2021**
  - c. Perform review of firewall solutions and migrate to new firewall solution if warranted – **Completed**
  - d. Continue development of OCERS data map, data classification structure and data exchange flows and identify associated risks (year two) – **Deferred to 2021**
  - e. Develop a process for mitigating risks associated with external third party IT business partners – **In process, will continue in 2021**
  
3. Implement tools and processes to mitigate the risk of data or financial loss or information disclosure:
  - a. Implement an Identity and Access Management (IAM) solution incorporating Single Sign-On (SSO) and Multi-Factor Authentication (MFA) – **Completed**
  - b. Implement tools to secure OCERS cloud based environments – **Deferred to future year due to industry changes**
  - c. Implement automated hardware and software inventory tool – **Deferred to 2021 due to vendor negotiations**
  - d. Enhance processes between Managed Security / Managed Detection & Response vendor and Information Security staff – **Completed**
  - e. Determine alternative methods of exchanging member identification protocols – **In process, will continue in 2021**
  
4. Enhance the Business Continuity and Disaster Recovery Program:
  - a. Establish alternate work space / work site plan (year two) – **Completed**
  - b. Expand the Business Continuity and Disaster Recovery test plan – **In process, will continue in 2021**

Objective B: Ensure a Safe and Secure Workplace and Public Service Facility  
*Executive Lead – Brenda Shott*

1. Plan and implement building security, safety and health upgrades and space management projects (year three) – **Completed, building made compliant with COVID guidelines. Future space management under discussion with Building Committee.**

## 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. Enhance onboarding and transitioning of new hires into the organization
  - a. Continue to expand the newly implemented onboarding process – **Completed**
2. Expand advertising and outreach sources in order to continue to encourage diversity in recruitments – **Completed with future continuous improvement opportunities**

3. Implement recommendations from workforce analysis (year three) – **Partial implementation. Some items have been implemented such as the continuation of career ladders throughout the agency, while other strategic items have been delayed due to additional organizational priorities.**
4. Implement recommendations of the Personnel Committee regarding staff retention strategies – **Continuing work with Personnel Committee into 2021**

Objective B: Develop and Empower Every Member of the Team

*Executive Lead – Steve Delaney*

1. Design and develop a comprehensive training program that embeds a talent management mindset throughout the organization – **Completed through such actions as realigned learning modules to accommodate remote working orders with future continuous improvement opportunities**
2. Customize training programs based on individual needs and career goals within OCERS – **Completed activities such as creation of a leadership academy with future continuous improvement opportunities**
3. Create succession plans across the agency (year three) – **Ongoing**
4. Develop a comprehensive standardized library of procedure manuals accessible on the OCERS Intranet – **Paused mid-year due to special project needs with continuation into 2021**

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

*Executive Lead – Steve Delaney*

1. Explore methods to measure OCERS culture of engagement and continuous improvement – **Completed through processes such as CEOs individual One-on-One sessions with entire OCERS staff with future continuous improvement opportunities**
2. Provide inclusion training to staff – **Completed with future continuous improvement opportunities**
3. Celebrate OCERS 75<sup>th</sup> Anniversary – **Completed**



# 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 – **Review of consultant materials in 2020 with possible Board interaction in 2021**

Objective B: Improve the Governance and Management of OCERS' Records  
*Executive Lead – Gina Ratto*

1. Develop and implement, over multiple years, a records retention program that reflects best practices and identifies appropriate retention periods for each category of records – **In process**
2. Identify “best practices” in record retention – **In process**
3. Establish storage protocols and automate destruction schedules for electronic mail – **In process**
4. Establish an alternative “work space” and/or storage place for emails – **Dependent upon completed of In Process steps noted above**
5. Systematically bring each department within OCERS into compliance with the records retention program – **Dependent upon completed of In Process steps noted above**

6. Establish procedures to maintain and audit compliance with the record retention program - **Dependent upon completed of In Process steps noted above**



ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
[www.ocers.org](http://www.ocers.org)



## Memorandum

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**DATE:** February 04, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Cynthia Hockless, Director of Human Resources  
**SUBJECT:** **BOARD ELECTION, SAFETY MEMBER AND ALTERNATE SAFETY MEMBER**

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### Written Report

#### Background:

On December 28, 2020, Administrative Services contacted the Registrar of Voters requesting them to conduct an election for the Safety Member and Alternate Safety Member whose terms expire on June 30, 2021. We received a response informing us that the elections will be held on May 18, 2021. The Registrar of Voters has provided OCERS with an election schedule.

As per the attached schedule, we are in the process of notifying eligible members of the elections. The Election Notices will be distributed with the February 05, 2021 and February 19, 2021 payrolls as well as mailed to the home of each Safety member via US mail.

The nomination period begins on February 16, 2021 and will close at 5:00 p.m. on March 19, 2021.

We are currently on schedule and will continue to provide updates as we progress through the process.

#### Attachments:

Response letter from the Registrar of Voters with calendar of events

#### Submitted by:



C.H. – APPROVED

Cynthia Hockless  
Director of Human Resources



**NEAL KELLEY**  
Registrar of Voters

Mailing Address:  
P.O. Box 11298  
Santa Ana, California 92711

**REGISTRAR OF VOTERS**  
1300 South Grand Avenue, Bldg. C  
Santa Ana, California 92705  
(714) 567-7600  
FAX (714) 567-7627  
ocvote.com

February 3, 2021

Ms. Cynthia Hockless  
Director of Administrative Services  
Orange County Employees Retirement System  
2223 Wellington Avenue, Suite 100  
Santa Ana, CA 92701

Dear Ms. Hockless:

This is in response to your December 28, 2020 letter requesting the Registrar of Voters' Office to conduct a Special Election for the positions of Safety Member and Alternate Member for the term of office from July 1, 2021 through June 30, 2024.

The election schedule is as follows:

- |   |   |
|---|---|
| February 5<br>and<br>February 19<br>(E-102 and<br>E-88) | The Orange County Retirement office shall notify the Safety Members of the Retirement System that an election will be conducted on May 18, 2021. The notice shall include the filing period, qualifications and requirements to be a candidate for Safety Member and Alternate Member of the Orange County Retirement Board of Directors and shall be provided with the payrolls on February 5, 2021 and February 19, 2021. |
| February 10<br>(E-97)                                   | The Retirement Office shall provide the number of eligible Safety Members to the Registrar of Voters' Office.   |
| February 10<br>(E-97)                                   | The Retirement Office shall provide the Registrar of Voters' Office with Willingness to Serve forms.  |
| February 16<br>(E-91)                                   | First day the Nomination Petition is available for pick up from the Registrar of Voters' Office. A Safety Member requires 75 nomination signatures.   |
| March 19<br>(E-60)                                      | Last day to file the Nomination Petition, Willingness to Serve Form, and Biographical Statement with the Registrar of Voters' office by 5:00 p.m.   |

March 22 (E-57)	Random draw will be held to determine the candidate placement on the ballot.
April 1 (E-47)	Retirement Office shall provide the Registrar of Voters with names and addresses of eligible Safety Members in an electronic format.
April 12 (E-36)	Mailing of ballots begins.
May 18 (E-0)	Tally voted ballots at the Registrar of Voters' Office.
May 25 (E+7)	Certificate of Election on Board of Supervisors' agenda.
July 1 (E+45)	Term begins for Safety Member and Alternate Member. Term expires on June 30, 2024.

If you have any questions, I can be reached at (714) 567-7568.



Sincerely, Marcia Nielsen  
Candidate and Voter Services Manager



## Memorandum

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**DATE:** February 4, 2021  
**TO:** Members of the Board of Retirement  
**FROM:** Brenda Shott, Assistant CEO Finance and Internal Operations  
**SUBJECT:** **ANNUAL REPORT OF CONTRACTS GREATER THAN \$50,000**

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### Written Report

#### Background/Discussion

In accordance with the Board of Retirement Monitoring and Reporting Policy adopted by the Board on October 15, 2001 and most recently revised on January 16, 2019, this memorandum serves as the annual report of Vendor Contracts greater than \$50,000.

The attached schedule provides a list of all vendor contracts with an annual value in excess of \$50,000 along with a brief description of the services provided, actual amount spent in 2020, contract start and end dates and notes. Those contracts that are coming due for renewal are highlighted in yellow.

Submitted by:



Brenda Shott  
Assistant CEO Finance and Internal Operations

**Orange County Employee Retirement System**  
**Vendors contracts valued at more than \$50,000**  
**For the Year Ended December 31, 2020**

Vendors Name	Description	Contract Value for 2020	Amount Expensed in 2020	Difference between 2020 Contract Value and 2020	Contract Effective Date	Contract Expiration Date	Comments
AKSIA TORREYCOVE CAPITAL PARTNERS LLC	Private equity and private real assets consulting services. Named Service Provider	834,560	834,560	-	4/1/2018	3/30/2021	Contract price is adjusted annually by CPI as recorded in May
ALLIANT INSURANCE SERVICES, INC.	Insurance services broker	Broker Fees	110,148		7/18/2016	7/19/2021	Not a set contract value. Fee paid are based on the negotiated broker fees for insurance put in place. Total annual cost limited by approved budget
AMERICAN MAILING, PRINTING & LIST SERVICE	Contracted Supplier for printing and mail services	SOW's	87,637	N/A	6/10/2013	N/A	Non Disclosure Agreement only. Individual work is done through a Statement Of Work (SOW). Annual value is limited to approved budget.
AMERICAN SOLUTIONS FOR BUSINESS	Contracted Supplier for printing and print-design broker services	SOW's	56,709	N/A	12/1/2019	11/30/2022	General Master Services Agreement only. Individual work through Statements Of Work. Annual value is limited to approved budget.
BACKSTOP SOLUTIONS GROUP, LLC	Contact Relationship Management (CRM) solution for Investments.	114,160	83,700	30,460	12/22/2017	12/29/2023	Master Agreement is multi-year. Annual Ordering agreement. Subscription, Maintenance and Support Agreement \$48,000 per year, and can increase by CPI up to 5%.
CDW GOVERNMENT, INC.	Contracted Supplier for hardware and software	PO's	180,479	N/A	N/A	N/A	Total annual costs are limited by approved budget.
COUNTY OF ORANGE	Sole Source provider of HR and Payroll services and VPN access	N/A	53,755	N/A	N/A	N/A	
CROWN CASTLE INTERNATIONAL CORP.	Internet connection between data centers	N/A	77,762	N/A	2/1/2020	11/30/2023	Monthly Ethernet
DIALPAD, INC	Cloud based telephone system and call center services	102,747	118,918	(16,171)	12/1/2019	11/30/2022	Difference represents telephone hardware cost not part of the contract.
DILIGENT CORPORATION	Board portal software	51,450	55,952	(4,502)	12/10/2019	12/10/2021	Difference represents December 2019 monthly cost expensed in 2020. Costs incurred in 2020 did not exceed contract value
FIREEYE, INC (Mandiant)	Data systems consulting services and Cyber Security review	75,000	67,500	7,500	6/17/2016	6/17/2021	Master Agreement is multi-year. Annual Ordering agreement
FOLEY & LARDNER	Legal (investment) counsel services	T&M	220,638	N/A	7/1/2018	6/30/2021	Total annual costs are limited by approved budget.
FOSTER GARVEY PC	Legal (investment) counsel services	T&M	80,170	N/A	7/1/2018	7/1/2021	Total annual costs are limited by approved budget.
GARTNER INC.	I.T. Security and Technology advisory consultants and research firm	176,730	176,730	-	7/1/2020	6/30/2021	There are 3 separate contracts included here, which are on a 7/1-6/30 renewal.
JIGSAW SOFTWARE, INC.	I.T. programming consultant	290,290	273,390	16,900	1/1/2020	12/10/2021	
MACIAS GINI & O'CONNELL LLP	External Auditor. Named service provider	128,011	122,389	5,622	2/19/2016	12/31/2021	
MEKETA INVESTMENT GROUP, INC	Investment Consultant Services. Named service provider	814,000	814,000	(0)	6/1/2019	5/31/2021	
NATIONAL DISABILITY EVALUATIONS INC	Medical examiner organization	T&M	288,200	N/A	2/14/2019	12/31/2021	Total annual costs are limited by approved budget.
NOSSAMAN LLP	Legal (investment) counsel services	T&M	203,621	N/A	7/1/2018	7/1/2021	Total annual costs are limited by approved budget.
ORACLE USA, INC.	Technical support services for V3	66,085	60,602	5,483	3/1/2020	2/28/2021	Annual contract
RAPID7 LLC	IT Vulnerabilities software and Managed Detection & Response services	64,621	55,510	9,111	1/16/2020	1/9/2022	Master Agreement is multi-year. Annual Ordering agreement
REED SMITH LLP	Legal counsel services (Fiduciary). Named service provider	T&M	263,231	N/A	4/1/2015	6/30/2021	Total annual costs are limited by approved budget.
RSM US LLP	I.T. auditor for general controls and cyber security	207,860	110,619	97,241	6/1/2019	N/A	Multiple contracts that overlap years.
SIDEPATH, INC.	Contracted Supplier IT equipment and support	SOW's	402,703		7/15/2016	N/A	Total annual costs are limited by approved budget.
STATE STREET CORPORATION	Fund Custodian & Securities Lending Manager. Named Service Provider	575,000	580,000	(5,000)	7/1/2017	6/30/2023	Contract excludes \$5,000 for analytics purchased separately.
THE SEGAL COMPANY	Actuarial services. Named Service Provider	189500 plus T&M	415,160		8/25/2016	12/31/2022	Contract value represents only scheduled costs for specific reports. Contract also includes negotiated rates for additional consulting as requested. Total annual cost is limited to approved budget.
TOWNSEND HOLDINGS LLC	Real Estate Investment Consultant. Named service provider	279,497	279,497	-	4/1/2018	3/30/2021	Contract value is adjusted by CPI annually.
VITECH SYSTEMS GROUP, INC.	Pension administration software provider & consultant	396,000	396,000	-	2/25/2016	N/A	



## Memorandum

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DATE: February 16, 2021  
 TO: Members of the Board of Retirement  
 FROM: Steve Delaney, Chief Executive Officer  
 SUBJECT: **2021 POLICY COMPLIANCE REPORT**

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### Written Report

#### Background/Discussion

Beginning in 2019, at the Board's request, OCERS' executive staff produces an annual report relating to Board policy compliance. Different from the triennial review process whereby every policy is considered for current applicability and possible update or modification, this report addresses whether OCERS staff has been compliant with each of the OCERS Board policies.

Attached is a list of each policy, and the executive manager assigned to determine compliance.

The OCERS executive team can here attest to agency compliance with all policies except two:

1. Monitoring and Reporting Policy
  - a. Performance Review of Real Estate Investment
 

The policy requires this report be provided quarterly. In recent years, with the divestment of actual brick and mortar buildings in the real estate portion of the portfolio, the report changed to a semi-annual item. The Monitoring and Reporting Policy will be reviewed at a future Governance Committee meeting to consider and possibly codify that practice.
  - b. Vendor Contracts (above \$50,000 annually)
 

This report has not been produced in recent years. We cannot determine when that first occurred or why. This report performs an important oversight function, and has been restored to the Board's administrative packet with the February 16, 2021 Board materials. This report will be produced annually as directed by policy, and will be presented to the Board each February hereafter.
2. Record Retention
 

Record retention is an ongoing challenge. The OCERS Board's multi-year strategic plan directs staff work to develop and implement a comprehensive records retention program that reflects best practices, systematically brings each OCERS division and department into compliance, and establishes procedures to maintain such compliance. That process continues into 2021 as noted in this year's Business Plan.



**Submitted by:**



**SD - Approved**

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Steve Delaney, Chief Executive Officer

02-16-2021 REGULAR BOARD MEETING - R-12 Policy Compliance



**Policy Compliance Review Status Report**

This report details the Status and Compliance of Board Policies and Charters.

Committee: ALL  
Assigned To: ALL  
No. of Records: 49

From Date:  
To Date:

*"We provide secure retirement and disability benefits with the highest standards of excellence."*



DOCUMENT TITLE	COMMITTEE	ASSIGNED TO	REVIEWER ROLE	LAST BOARD REVIEW DATE	NEXT BOARD REVIEW DATE	LAST INTERNAL AUDIT REVIEW DATE **	COMPLIANCE REVIEWED DATE	IN COMPLIANCE?
<a href="#">Withdrawing Employer Continuing Obligation Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External Operations	12/16/2019	12/15/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Actuarial Valuation Policy</a>	Governance	Brenda Shott	Assistant CEO, Internal	8/17/2020	8/17/2023	11/14/2018	1/29/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Administrative Review and Hearing Policy (for cases filed on or after August 18, 2020)</a>	Governance	Gina Ratto	General Counsel	8/17/2020	8/17/2023		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Adjudication Policy and Administrative Hearing Rules (for cases filed between June 1, 2018 to August 17, 2020)</a>	Governance	Gina Ratto	General Counsel	1/16/2018	1/15/2021		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Budget Approval Policy</a>	Governance	Tracy Bowman	Finance Director	4/20/2020	4/20/2023		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">CEO Performance Evaluation Policy</a>	Personnel	Cynthia Hockless	Director of Administrative Services	8/19/2019	8/18/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Code of Ethics and Standards of Professional Conduct Policy</a>	Investments	Molly Murphy	CIO	1/24/2018	1/23/2021		2/1/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Communications Policy</a>	Governance	Robert Kinsler	Communications Manager	4/20/2020	4/20/2023		2/2/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Compensation Earnable Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	3/18/2019	3/17/2022	11/12/2018	2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Conflict of Interest Code</a>	Governance	Gina Ratto	General Counsel	8/21/2020	8/21/2023		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Cost Impacting Policy</a>	Governance	Gina Ratto	General Counsel	8/20/2018	8/19/2021		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Declining Employer Payroll Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External Operations	12/16/2019	12/15/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Disability Retirement Reemployment Policy</a>	Disability	Suzanne Jenike	Assistant CEO, External	7/17/2017	7/16/2020		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Disposition of Surplus Property Policy</a>	Governance	Brenda Shott	Assistant CEO, Internal	10/15/2018	10/14/2021		2/2/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Election Procedures</a>	Governance	Gina Ratto	General Counsel	11/16/2020	11/16/2023		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Ethics Compliance and Fraud Hotline</a>	Audit	Brandon Johnson	Director of Internal Audit	5/18/2020	5/18/2023		2/5/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Extraordinary Expense Recovery Policy</a>	Governance	Gina Ratto	General Counsel	8/20/2018	8/19/2021		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Hearing Officer Selection and Retention Policy</a>	Disability	Suzanne Jenike	Assistant CEO, External	1/16/2018	1/15/2021		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Indemnity and Defense Policy</a>	Governance	Gina Ratto	General Counsel	6/17/2019	6/16/2022		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Investment Policy Statement</a>	Investments	Molly Murphy	CIO	12/16/2019	12/15/2022		2/1/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Legislative Policy</a>	Governance	Gina Ratto	General Counsel	8/20/2018	8/19/2021		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Member Services Customer Service Policy</a>	Governance	Jeff Lamberson	Director of Member Services	10/15/2018	10/14/2021		2/4/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Membership Eligibility Requirements</a>	Governance	Jeff Lamberson	Director of Member Services	7/20/2020	7/20/2023	11/12/2018	2/4/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Monitoring and Reporting</a>	Governance	Steve Delaney	CEO	1/16/2019	1/15/2022		2/5/2021	<input checked="" type="checkbox"/> No
<a href="#">OCERS Compensation Philosophy</a>	Personnel	Steve Delaney	CEO	10/11/2017	10/10/2020		1/26/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Operational Risk Policy</a>	Audit	Brenda Shott	Assistant CEO, Finance and Internal Operations	2/19/2019	2/18/2022		1/29/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Overpaid and Underpaid Contributions Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	1/16/2019	1/15/2022	10/23/2018	2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Overpaid and Underpaid Plan Benefits Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	10/21/2019	10/20/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Pay Item Review Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	3/18/2019	3/17/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Pensionable Compensation Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	3/18/2019	3/17/2022	11/12/2018	2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Placement Agent Disclosure Policy</a>	Investments	Molly Murphy	CIO	1/24/2018	1/23/2021		1/29/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Planning Policy</a>	Governance	Steve Delaney	CEO	4/20/2020	4/20/2023		1/26/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Procurement and Contracting</a>	Governance	Cynthia Hockless	Director of Administrative Services	10/15/2018	10/14/2021		2/3/2021	<input checked="" type="checkbox"/> Yes

Executed: 2/5/2021 2:05:15 PM  
Executed By: OCERS\ctorres

\*\* Dates represent Internal Audit reports or Management Action Plan follow-ups in which portions of the policies/charters were reviewed. Does not confirm that the policy in its entirety was reviewed.

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<a href="#">Proxy Voting</a>	Investments	Molly Murphy	CIO	1/24/2018	1/23/2021		1/29/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Public Records and Data Request Policy</a>	Governance	Robert Kinsler	Communications Manager	4/20/2020	4/20/2023		2/2/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Quiet Period Policy</a>	Governance	Brenda Shott	Assistant CEO, Internal	4/20/2020	4/20/2023		1/29/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Record Retention Policy and Guidelines</a>	Governance	Gina Ratto	General Counsel	4/17/2017	4/16/2020		1/6/2021	<input checked="" type="checkbox"/> No
<a href="#">Reserves and Interest-Crediting Policy</a>	Governance	Brenda Shott	Assistant CEO, Internal	12/18/2017	12/17/2020		2/2/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Retirement Enhancement Review Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	3/18/2019	3/17/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Rules of Parliamentary Procedure</a>	Governance	Gina Ratto	General Counsel	3/18/2019	3/17/2022		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">SACRS Voting Authority Policy</a>	Governance	Steve Delaney	CEO	4/20/2020	4/20/2023		1/26/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Securities Litigation Policy</a>	Governance	Gina Ratto	General Counsel	8/17/2020	8/17/2023		1/6/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Succession Policy</a>	Personnel	Steve Delaney	CEO	1/19/2016	1/18/2019		1/26/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Travel Policy</a>	Governance	Brenda Shott	General Counsel	10/21/2019	10/20/2022		1/29/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Trustee Education Policy</a>	Governance	Cynthia Hockless	Director of Administrative Services	10/21/2019	10/20/2022		1/26/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Whistleblower Policy</a>	Governance	Cynthia Hockless	Director of Administrative Services	1/16/2019	1/15/2022		1/26/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Withdrawing Employer Policy Fully Satisfied Obligation Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External Operations	12/16/2019	12/15/2022		2/3/2021	<input checked="" type="checkbox"/> Yes
<a href="#">Write off Policy</a>	Governance	Suzanne Jenike	Assistant CEO, External	11/19/2018	11/18/2021	6/5/2019	2/3/2021	<input checked="" type="checkbox"/> Yes